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Georgia 2023 Report

Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions**

2023 Communication on EU Enlargement policy

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1. INTRODUCTION

1.1. CONTEXT

Following Georgia's application for EU membership in March 2022, the Commission issued an opinion¹ on the application where it identified 12 priorities for the country to continue proceed on its accession process. These priorities relate to the EU's values and standards, in particular: democracy and the rule of law, including justice reform and public administration reform, as well as fundamental rights. On 23 June 2022, the European Council expressed its readiness to grant the status of candidate country to Georgia², once the 12 priorities have been addressed and invited the Commission to report on the implementation of the twelve priorities. To complement the opinion, in February 2023 the Commission published the analytical reports on Georgia's alignment with the EU *acquis*³.

This report is the Commission's first annual enlargement report on Georgia, replacing the previous annual Association Implementation Reports. At the invitation of the European Council, it includes a detailed assessment of Georgia's fulfilment of the 12 priorities laid down in the Commission opinion on Georgia's application for membership.

The Georgian Parliament prepared a Strategy for EU Membership Candidacy in July 2022. Parliamentary committees and dedicated working groups have been set up to implement the strategy, with support from the government. Civil society organisations and political parties also took part in policy processes to bring the formulation and implementation of reforms forward.

The Georgian government has declared that EU membership is its strategic goal and is making efforts in reforms and legislative alignment. In this context, coherent action and sustained effort are needed. In April 2023, the government approved the 2023 action plan for EU integration of Georgia, including the activities to be carried out in 2023, expected outcomes, timeframes, and sources of funding.

Regarding the EU's common foreign and security policy (CFSP), following Russia's war of aggression against Ukraine, Georgia has aligned itself with international and EU initiatives in support of Ukraine, including on Resolutions adopted by the UN General Assembly and Human Rights Council and the Council of Europe. Georgia did not align with the EU's restrictive measures against Russia and Belarus, nor with the related statements by the High Representative on behalf of the EU. In May 2023, the Georgian government's decision to resume flights with Russia also raised concerns in terms of its commitment to align with the EU in its foreign policy, as per the EU-Georgia Association Agreement.

Georgia has continued to steadily implement the Association Agreement (AA), including a Deep and Comprehensive Free Trade Area (DCFTA).

The EU supports Georgia's sovereignty and territorial integrity within its internationally recognised borders and has been engaged since 2008 in peaceful conflict resolution efforts, including through the EU Monitoring Mission and the work of the EU Special Representative for the South Caucasus and the crisis in Georgia. The Georgian government does not exercise effective control over Georgia's regions of Abkhazia and South Ossetia⁴.

¹ COM(2022) 405 final

² EUCO 24/22

³ SWD(2023) 31 final

⁴ This report does not address the situation in both regions.

1.2. SUMMARY OF THE REPORT⁵

As regards the **political criteria**, overall, the legislative framework, institutional setup and vibrant civil society provide Georgia with some level of preparation to further democratic and rule of law reforms. Nevertheless, the reform process has been hampered by continuing political tensions, deep polarisation, the absence of constructive engagement between political parties and the challenges of building consensus on key matters of national interest.

Cross-party tensions between the ruling majority and the opposition, as well as limited consultation with civil society affected decision-making processes and the implementation of reforms. Parliament led the efforts to address the 12 priorities laid down in the Commission opinion and in July 2022, soon after the opinion was published, it set up working groups to debate the necessary reforms.

Substantive cross-party work in Parliament was hampered by limited inclusion (by the ruling party) of the opposition in drawing up legislation, as well as by on-and-off boycotts by parts of the opposition. Nevertheless, there were good examples of cross-party cooperation and votes, including amendments to the Parliament's rules of procedure that were adopted in November 2022 to moderately increase the level of parliamentary oversight.

A number of crucial laws for the EU integration path were taken through Parliament in the second and third quarter of 2023 with overall limited consultations, nor thorough analysis of compliance with EU or Council of Europe standards. With most of the work on the 12 priorities left to the Parliament, government action to accelerate the reform process and strengthen good governance led to limited progress in some reforms and some progress in others. The President vetoed several laws she assessed as contrary to the country's European integration process.

Civil society is well developed, diverse, vibrant and continues to enjoy the freedom to operate. The involvement of civil society in decision-making processes (opinion priority 10), at first promoted by Parliament through inclusion in working groups on the 12 priorities, was tainted by the March 2023 draft law creating a registry for 'agents of foreign influence'. The draft law, which was eventually withdrawn following large protests in Tbilisi and strong international reactions, sowed distrust among civil society for the government and triggered a boycott of consultations on key reforms. This has persisted even after the law was withdrawn, although the government and Parliament held two conferences with civil society on 25 July and 13 September to re-establish good cooperation and announced to continue coordination meetings with CSOs. The Speaker of the Parliament took up the chairmanship of the Permanent Parliamentary Council on Open Governance in September 2023.

A Memorandum on cooperation between the Parliament of Georgia and the Georgian National Platform of the Eastern Partnership Civil Society Forum was signed in October 2023.

Georgia is moderately prepared in the area of **public administration reform**. Some progress has been achieved in preparing and adopting the strategies for public administration and public finance management, and their related actions plans. The regulatory and procedural foundation

⁵ This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of Georgia, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law. The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

for evidence-based policy making needs to be enforced. Efforts need to be maintained to ensure a stable, accountable and transparent civil service system.

The judicial system of Georgia has some level of preparation and limited progress has been achieved. On the functioning and overall capacity of **the judiciary**, four consecutive waves of reform have improved the legal framework. Some legislative changes were adopted, including on the accessibility of court decisions, the quality of reasoning for judicial appointments and on increasing the professional experience requirement to 10 years for the selection of Supreme Court nominees. Parliament adopted amendments to the Law on Common Courts in June 2023 and drafted additional amendments in September 2023 implementing some of the recommendations of the Venice Commission including on the suspension of judges from office and, restrictions of the grounds of judge's disciplinary liability. However, the amendments did not address the most important recommendations of the Venice Commission (stated in its opinions of March 2023 and October 2023) regarding a comprehensive reform of the High Council of Justice (HCJ) and the binding nature of the decisions of the Supreme Court on appeal against HCJ decisions in the selection process of the Supreme Court judges. Namely, further broader reforms to ensure the full independence, accountability and impartiality of all judicial and prosecutorial institutions, especially the HCJ need to be undertaken in line with European standards and the recommendations of the Venice Commission. In particular, improvements and additional safeguards concerning the functioning and powers of the HCJ are needed and an effective right of appeal for the selection of Supreme Court judges should be ensured by clarifying the binding nature of the Supreme Court decision for the HCJ. Parliament elected two remaining non-judge members to the High Council of Justice with some concerns raised regarding the selection procedure. Finally, the pending amendments concerning the nomination procedure of the Prosecutor General through qualified majority in Parliament should be adopted.

Georgia has made some progress in the **fight against corruption** and has some level of preparation. In line with recommendations in the opinion, an Anti-corruption Bureau was established, combining several anti-corruption functions in a single body. Legislation on the Anti-Corruption Bureau was sent to the Venice Commission in September 2023.

Georgia endorsed an action plan on de-oligarchisation on 14 September and sent the action plan to the Venice Commission for opinion in September 2023. The action plan builds on the European Commission's recommendations and the Venice Commission's opinion of June 2023 to follow a systemic approach, including by reinforcing the rules on competition policy, media diversity and the financing of political parties. The action plan has been revised in October strengthening the co-ordination and setting clearer timelines for actions. The draft law on de-oligarchisation which envisaged a 'personal' approach was voted down in third reading in Parliament on 19 September. Overall, prosecutions and convictions on corruption cases have increased compared to 2021. Further action is needed to further complete the de-oligarchisation action plan and start its implementation, to establish a track record of investigations, prosecution, adjudication and final convictions of corruption cases, notably at high-level and, in particular, to address the challenge of large-scale vested interests and their influence in both the political, judicial and economic spheres.

Georgia made some progress in **fighting organised crime** and has some level of preparation. It participated in an increasing number of joint operations with EU Member States and neighbouring countries. A new national strategy for combating organised crime, together with an action plan, is in place. The anti-money laundering legislation partially reflects the recommendations made by the Financial Action Task Force, as well as relevant international legislation. The Government adopted the Report on Money Laundering and Terrorism

Financing Assessment Risks in Georgia on 3 October 2023.

There are still outstanding recommendations from the Council of Europe's Moneyval to be addressed. A national counterterrorism strategy for 2022-2026 and the corresponding action plan were adopted in 2022. More effort is needed to improve the coordination and effectiveness of law enforcement in fighting certain forms of crime, such as money laundering and financial crimes.

On **fundamental rights**, Georgia has ratified most international human rights conventions and instruments, and complies overall with its obligations under international human rights law. A national strategy for human rights protection was adopted in March 2023. A draft action plan was elaborated and was submitted for civil society consultations. The strategy contains some positive elements concerning economic and social rights. However, several key issues remain to be addressed, notably discrimination on grounds of sexual orientation and gender identity as well as the independence, accountability and transparency of the judiciary. The amendments remain to be aligned with the recommendations of the Venice Commission issued on 9 October 2023.

As regards the safeguard of fundamental rights, the amendments to the Criminal Procedure Code, which raised serious concerns regarding compliance with European standards were adopted, overruling Georgia President's veto. The amendments remain to be aligned with the recommendations of the Venice Commission opinion of October 2022. Parliament adopted a legislative package with amendments to eleven legislative acts that make reference to the ECtHR. The new Public Defender was appointed in February 2023, including with votes from the opposition. Challenges remain in adopting national strategies to fight all forms of hatred and discrimination and to protect minorities.

On **freedom of expression**, Georgia has some level of preparation and achieved limited progress. The right to freedom of expression is respected and upheld. Georgia improved its position in the World Press Freedom Index by 12 places (from 89th position in 2022 to 77th in 2023). There are no restrictions on the online media environment, which is increasingly diverse. Civil society actively contributes to political dialogue.

Georgia has continued to align its legislation with the key principles of the Audio-visual Media Services Directive (AVMSD) and in October adopted related amendments to the law on broadcasting. The effective independence of the national regulator, the Communication Commission remains to be ensured. The Parliament is currently discussing amendments in this regard. The media environment is largely pluralistic, but also highly polarised and working in a hostile environment. The intersection of business and political interests continued to hamper media independence.

Intimidation and physical and verbal attacks on media professionals have taken place, especially in the context of demonstrations and election rallies. Follow-up investigations are not yet effective. Strong language against media emanates also from senior government officials.

Court proceedings and investigations against opposition media owners have become frequent. Recent verdicts have a negative effect on critical media reporting.

Challenges persist regarding the exercise of the right to freedom of assembly, notably for persons in the most vulnerable situations, and this includes the right to peaceful protest, as seen during the violent attacks against participants in the Tbilisi Pride on 8 July 2023. On 5 October, the Georgian Parliament adopted amendments to the Law on Assemblies in expedited

procedure, without prior consultations. The civil society and the Public Defender expressed concerns with this Law and the President vetoed it on 17 October.

During the reporting period, Georgia adopted a series of strategic documents and legislation on **gender equality**, including on gender-based violence against women and domestic violence. The package of adopted laws introduced a gender impact assessment for all legislative acts and aimed to ensure compliance with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (“Istanbul Convention”). The legal definition of ‘rape’ needs to be brought in line with the Istanbul Convention (as it is based on the absence of consent). On an institutional level, response to gender-based violence is well defined and operational. However, protective measures, survivors support services and post-shelter support need further improvement.

The legal framework on **migration** is partially aligned with the EU *acquis* but needs further alignment. Georgia strengthened its institutional resources and capacity to manage migration. Georgia’s visa liberalisation framework should be further improved and benchmarks met.

Legislation on **asylum** is broadly in line with the EU *acquis*. The asylum management system has been put under increased pressure with the influx of Ukrainian nationals into Georgia and the issue of stranded migrants. The implementation and enforcement capacity of the asylum management system in Georgia needs further strengthening.

On the **economic criteria**, Georgia is moderately prepared to establish a functioning market economy. Real GDP growth exceeded 10% for the second year in a row, the external position improved significantly, inflation moderated and the fiscal deficit and public debt fell significantly.

Georgia also demonstrates a satisfactory track record in carrying out sound macroeconomic policies, and the institutional and regulatory environment is favourable overall. Regarding the capacity to cope with competitive pressure and market forces within the EU, Georgia has some level of preparation. The structure of the economy is relatively well diversified, albeit with a high share of low value-added sectors. The EU remains Georgia’s largest trade partner but the share has been gradually decreasing in favour of geographically closer economies.

On **public procurement**, Georgia has some level of preparation. Good progress was made in adopting the new Law on public procurement in February 2023. Further work is needed to align its legislative framework with the EU public procurement *acquis*, including utilities and concessions. On **statistics**, Georgia has some level of preparation, with limited progress made with adopting the Law on official statistics. The adequacy of Geostat, Georgia’s National Statistics Office – in terms of human, financial and IT resources – needs substantial improvement. Georgia has some level of preparation in the area of **financial control**, where the country made no progress, notably on public internal financial control and internal audit.

On **good neighbourly relations and regional cooperation**, Georgia is committed to improving bilateral relations with candidate countries, potential candidates and neighbouring EU Member States. Georgia remains committed to the Eastern Partnership and maintained its engagement in several regional cooperation initiatives. Georgia enjoys a strategic partnership with Türkiye and Azerbaijan. Relations with neighbouring EU Member States Romania and Bulgaria are good, with a strong focus on connectivity in the Black Sea.

On Georgia’s ability **to assume the obligations of EU membership**, the country continued its work on alignment with the EU *acquis* in many areas; overall there was some progress.

Regarding **cluster 2 on the internal market** Georgia is moderately prepared in the areas of right of establishment and freedom to provide services, although no progress was registered in

the reporting period. The country has some level of preparation in terms of the free movement of goods, on which there was limited progress, and in terms of company law, notably with the strengthening of auditing. Georgia is at an early stage of preparation when it comes to the free of movement of workers, with limited progress on circular migration. Limited progress can also be reported on intellectual property with the adoption of amendments to the Law on patent. There is some level of preparation on consumer and health protection, where the country made limited progress. Significant efforts are still needed on ensuring quality healthcare coverage for all. The national competition agency responsible for enforcement of consumer protection measures should be properly staffed. No progress can be reported on competition policy, where the Georgian State Aid Commission still lacks operational independence. There was limited progress on free movement of capital, where Georgia needs to follow up on outstanding recommendations from the MONEYVAL report. Georgia has some level of preparation in the area of financial services and made limited progress during the reporting period.

In **cluster 3, competitiveness and inclusive growth**, Georgia is moderately prepared in economic and monetary policy; enterprise and industrial policy; science and research; education and culture and the customs union. Georgia has some level of preparation in digital transformation and media, social policy and employment and is in between some and moderate level of preparation in taxation. The country has made some progress in digital transformation and media, taxation and science and research. Georgia has shown limited progress on enterprise and industrial policy.

In **cluster 4, green agenda and sustainable connectivity**, Georgia is at an early stage of preparation in environment and climate change. Georgia finalised its long-term low-emission development strategy. It has some level of preparation in the areas of energy, transport policy and trans-European networks. A new market-based support scheme for renewable energy production was introduced. Some progress was achieved on trans-European networks and more effort is needed to improve transport and energy infrastructure. Georgia achieved some progress with the adoption of the new National Transport and Logistics Strategy, the adoption of the Railway Strategy in February and the adoption of the Maritime code. More effort is needed in the transport sector, with a notable focus on road safety, rail sector reform, and incorporating the principles of the smart and sustainable mobility strategy.

In **cluster 5, resources, agriculture and cohesion**, Georgia is at an early stage of preparation in the chapters on agriculture and rural development and financial and budgetary provisions. Georgia is in between an early stage and some level of preparation regarding regional policy and coordination of structural instruments. It has some level of preparation in food safety, veterinary and phytosanitary policy and fisheries. Some progress was made in regional policy and limited progress in agriculture and rural development, with the amendment of the Law on agricultural cooperatives. No progress was registered in fisheries and on financial and budgetary rules. More effort is needed to increase human and administrative capacity in the field of fisheries and aquaculture. It is also important to adopt the new regional development strategy and consider expanding its coverage to the whole country.

In **cluster 6, external relations**, Georgia is moderately prepared. Limited progress was made on external relations, where Georgia is expected to align its legislation on export controls on dual use goods with the EU *acquis*. Limited progress was made on foreign, security and defence policy. In line with its long-standing policy, Georgia did not align with the EU's restrictive measures (sanctions) regarding Russia, including airspace closure.

In the area of Common Foreign and Security Policy, following Russia's war of aggression against Ukraine, Georgia has aligned itself with international and EU initiatives in support of Ukraine, including on Resolutions adopted by the UN General Assembly and Human Rights

Council and the Council of Europe. Georgia did not align with the EU's restrictive measures against Russia and Belarus nor with the related statements by the High Representative on behalf of the EU. Georgia's alignment with EU statements and Council decisions under the CFSP remained largely the same (44% in 2022, 43% in August 2023).

Georgia is expected to considerably increase its alignment rate with EU statements and Council decisions under the CFSP. Georgia has shown active engagement in ensuring that the territory of Georgia and/or legal entities registered in Georgia are not used to circumvent these sanctions, including sanctions in the financial sector.

1.3. ASSESSMENT OF THE IMPLEMENTATION OF THE 12 PRIORITIES IN THE COMMISSION'S OPINION

Priority 1: address the issue of political polarisation, through ensuring cooperation across political parties in the spirit of the April 19 agreement.

Most Members of Parliament have ended their boycott of Parliament and a few laws were passed with cross-party support. Regular ministers' question times take place in Parliament with attempts aiming to start cross-party discussion notably on EU-path related reforms. Parliament voted against impeaching the President of Georgia. The use of harsh rhetoric continues with incidents of disinformation regarding the EU.

Cooperation, compromise-building and inclusive consultations with opposition parties and civil society, notably with regards to reforms that relate to Georgia's EU agenda, should be further pursued. All parties and stakeholders should build on the broad consensus towards Georgia's European path in line with the will of the vast majority of Georgian citizens.

Priority 2: guarantee the full functioning of all state institutions, strengthening their independent and effective accountability as well as their democratic oversight functions; further improve the electoral framework, addressing all shortcomings identified by OSCE/ODIHR and the Council of Europe/Venice Commission in these processes".

Amendments to the rules of procedure strengthened parliamentary oversight functions and led to increased ministerial hearings. The use of these oversight prerogatives should be enacted including by enabling the setting up of parliamentary investigative committees and the participation of opposition parties in the "trust group" overseeing the security services. Parliament adopted, in an expedited manner and by later overruling a veto by the President, amendments on the functioning of the National Bank of Georgia which raised concerns in relation to the Bank's independence. The Government adopted a public administration reform strategy and an action plan. Investigations into the large-scale wiretapping revealed in 2021 are still outstanding. Georgia should ensure effective parliamentary oversight, notably of security services, and independence and impartiality of its key institutions.

The electoral code and the law on political associations were amended to align with some Venice Commission and ODIHR recommendations and with support from some opposition MPs. Parliament later voted to reverse the amendments to the Electoral Code changing the appointment procedure of the Central Election Commission chairperson and overriding a veto by the President. Georgia sent these amendments to the Venice Commission for consultation in September 2023. Georgia should address key ODIHR/VC recommendations from past elections, on intimidation and abuse of administrative resources and should address the recommendations in the upcoming Venice Commission opinions in a timely manner, before the next elections take place.

Priority 3: adopt and implement a transparent and effective judicial reform strategy and action

plan post-2021 based on a broad, inclusive and cross-party consultation process; ensure a judiciary that is fully and truly independent, accountable and impartial along the entire judicial institutional chain, also to safeguard the separation of powers; notably ensure the proper functioning and integrity of all judicial and prosecutorial institutions, in particular the Supreme Court and address any shortcomings identified including the nomination of judges at all levels and of the Prosecutor-General; undertake a thorough reform of the High Council of Justice and appoint the High Council's remaining members. All these measures need to be fully in line with European standards and the recommendations of the Venice Commission".

Non-judge members of the High Council of Justice (HCJ) were elected. Parliament adopted amendments to the Law on Common Courts in June 2023 and drafted additional amendments in September 2023, addressing some of the Venice Commission key recommendations. The June amendments addressed one key recommendation - the procedure for suspension of judges from office, and some additional issues. The Venice Commission opinion acknowledged that if the draft September amendments were to be adopted, one other key recommendation would be addressed, namely the restriction of the grounds of judge's disciplinary liability. The amendments did not address the core recommendations of repeated Venice Commission opinions, regarding a comprehensive reform of the HCJ and regarding the Supreme Court. In particular, these relate to the functioning and powers of the HCJ, including on the mandate of the members of the HCJ, the transfer of judges without their consent and an effective right of appeal in the selection of Supreme Court judges.

Georgia should still pursue a holistic and effective reform of the judicial system to ensure effective independence, accountability and impartiality of all judicial and prosecutorial institutions with thorough reform of the High Council of Justice. Draft constitutional amendments on the Prosecutor General's appointment should be adopted.

Priority 4: *strengthen the independence of its Anti-Corruption Agency bringing together all key anti-corruption functions, in particular to rigorously address high-level corruption cases; equip the new Special Investigative Service and Personal Data Protection Service with resources commensurate to their mandates and ensure their institutional independence.*

Parliament passed legislation establishing an Anti-corruption Bureau to oversee and coordinate Georgia's anti-corruption policy and draw up recommendations. The Bureau was granted powers to monitor asset declarations and party financing and to adopt recommendations on whistle-blower protection. The Prime Minister appointed the head of the Bureau for a term of six years. Georgia withdrew from the OECD anti-corruption network. The EU has requested Georgia to repeal the decision of February 2023 to withdraw from the OECD anti-corruption monitoring network for Eastern Europe and Central Asia (OECD/CAN) and fully implement recommendation from the previous rounds. Parliament adopted legislation, strengthening the investigative authority of the Special Investigative Service and social protection benefits of the Personal Data Protection Service personnel. Outstanding 2022 ODIHR recommendations on the appointment and dismissal of the Head of Service should be addressed. Georgia should also review the legislation on the Anti-Corruption Bureau, the Special Investigation Service and the Personal Data Protection Service addressing upcoming Venice Commission recommendations.

Priority 5: *implement the commitment to "de-oligarchisation" by eliminating the excessive influence of vested interests in economic, political, and public life.*

The draft law on de-oligarchisation envisaging a "personal" approach was voted down by Parliament. The government adopted an amended action plan on de-oligarchisation. The action plan builds on prior Venice Commission recommendations to follow a "systemic" approach, with a focus on the fight against corruption, public procurement, competition policy, justice

reform, the fight against money laundering, financing of political parties and media; the amendments strengthened its implementation with clearer timelines.

Georgia should continue developing and improving the de-oligarchisation action plan to ensure that all key areas are adequately addressed with effective measures and with clear institutional arrangements. Efficient implementation of the plan should lead to building a tangible track record. An inclusive and robust mechanism for coordinating and monitoring should swiftly be put in place allowing also to timely review and complement the plan whenever needed.

Priority 6: *strengthen the fight against organised crime based on detailed threat assessments, notably by ensuring rigorous investigations, prosecutions and a credible track record of prosecutions and convictions; guarantee accountability and oversight of law enforcement agencies.*

The Government adopted the 2023-2024 Action Plan for the National Strategy of Fight against Organised Crime. Georgia stepped up its cooperation with Europol and the Member States. Parliament consulted NGOs and sent 76 recommendations on fight against organised crime, cybercrime, human trafficking, money laundering, terrorism financing and drug-related crimes to relevant executive agencies for implementation. The Government adopted a Report on Money Laundering and Terrorism Financing Assessment Risks in Georgia on 3 October 2023. Addressing recommendations of the Council of Europe's Moneyval needs to continue.

Priority 7: *undertake stronger efforts to guarantee a free, professional, pluralistic and independent media environment, notably by ensuring that criminal procedures brought against media owners fulfil the highest legal standards, and by launching impartial, effective and timely investigations in cases of threats against safety of journalists and other media professionals.*

An opposition TV Director was released from prison following a presidential pardon. Georgia has adopted amendments to the Law on Broadcasting to address the core principles of the EU's Audiovisual Media Service Directive (AVMSD) notably the issues of non-incitement to violence and hatred and the protection of minors. Georgia should continue work towards ensuring the effective independence of the media regulator (Georgian National Communication Commission) and build trust with the media sector. A first proposal to strengthen its independence is under discussion. Georgia should investigate and prosecute cases of threats against safety of journalists and other media professionals.

Priority 8: *move swiftly to strengthen the protection of human rights of vulnerable groups, including by bringing perpetrators and instigators of violence to justice more effectively.*

A National Human Rights Strategy was adopted. Civil society and international organisations submitted comments notably to strengthen protection of all vulnerable groups. A draft National Action Plan is being prepared with civil society consultations launched on 1 November 2023. The main 2023 Pride event had to be cancelled, due to far-right groups disrupting the festival. On 5 October 2023, the Georgian Parliament adopted amendments to the Law on Assemblies following an expedited procedure, without prior consultations. Civil society organisations and the Public Defender expressed concerns with this Law and the President vetoed it. Georgia should further the investigations against the instigators of the violence during the 2021 Pride event. Georgia should complete the National Action Plan for Human Rights Protection following the consultation process just launched, which needs to be inclusive, and start its implementation.

Priority 9: *consolidate efforts to enhance gender equality and fight violence against women.*

In a very inclusive process, Parliament adopted a package of draft laws related to compliance with the Istanbul Convention, mandatory Gender Impact Assessment for all legislative acts and several amendments regulating the fight against violence against women. The State Concept on Economic Empowerment of Women was approved and the validity of gender quotas in Parliament extended until elections in 2032. **This priority is completed.**

Priority 10: Civil society ensure the involvement of civil society in decision-making processes at all levels

Civil society representatives were invited to participate in the work on the 12 priorities. Civil society organisations (CSOs) could attend meetings and put questions to Public Defender candidates. In March, a draft law creating a registry for “agents of foreign influence” was adopted by Parliament and later withdrawn following large protests. In July and September, the ruling party held inclusive conferences on the implementation of 12 priorities with opposition and civil society organisations, in a move to resume constructive engagement with civil society, including on the EU integration process. A Memorandum on cooperation between the Parliament of Georgia and the Georgian National Platform of the Eastern Partnership Civil Society Forum was signed in October 2023. Structured engagement and dialogue with civil society at all levels, including with government, regional and local authorities, requires further strengthening to ensure CSOs can effectively and meaningfully engage in policy and decision-making. Georgia should also refrain from adopting measures which could hamper or restrict meaningful participation of civil society in such processes.

Priority 11: adopt legislation so that Georgian courts proactively take into account European Court of Human Rights judgments in their deliberations.

Parliament adopted a legal package on legislative mechanisms ensuring reference to European Court of Human Rights (ECtHR) decisions by Georgia’s courts, facilitating access to such decisions and supporting the professional development of judges, prosecutors and defence lawyers in that regard. All parties supported the legislation and voted in favour. **This priority is completed.**

Priority 12: ensure that an independent person is given preference in the process of nominating a new Public Defender (Ombudsperson) and that this process is conducted in a transparent manner; ensure the Office’s effective institutional independence.

A new Public Defender was appointed in February 2023 with votes from opposition MPs. The Public Defender’s Office operates with a high level of credibility in the Georgian society. **This priority is completed.**

2. CLUSTER 1: FUNDAMENTALS OF THE ACCESSION PROCESS

2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

2.1.1. Democracy

Overall, the legislative framework, institutional setup and vibrant civil society provide Georgia with a good level of preparation for further democratic and rule-of-law reforms. This level of preparation was negatively affected in practice by the country’s deep political polarisation, the lack of effective cross-party cooperation on both the reform agenda and parliamentary oversight, as well as several instances of malpractice in the context of elections which were not effectively investigated.

The government agreed to undertake further reforms under the EU-Georgia Association Agenda. Nevertheless, a number of key measures remain to be adopted during the reporting period. Lack of cross-party consensus hampered legislative work, such as furthering judicial reform.

Elections

Overall, the electoral framework is in line with relevant international standards.

In December 2022, Parliament adopted amendments to the Election Code with multiparty support, some of which were in line with previous OSCE/ODIHR recommendations. The amendments did not address some of the key outstanding OSCE/ODIHR recommendations.

The latest amendments to the Election Code adopted in June 2023 are not in line with the Commission opinion's priority 2c nor with numerous recommendations, since they give a simple majority of Parliament members unilateral power to appoint the Central Election Commission (CEC) Chair and CEC non-party members, with no effective involvement of other institutions, including the President. Additional draft amendments to the Election Code were sent to the Venice Commission for opinion in September 2023.

Parliamentary elections are approaching in 2024 and the Parliament has yet to elect a permanent Central Election Commission (CEC) Chair and two CEC professional members. A need for comprehensive electoral reform remains.

Overall, the **electoral framework** is in line with relevant international standards enshrined in the International Covenant on Civil and Political Rights (ICCPR) and other international human rights conventions such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD). Further constitutional amendments, complementing those adopted in 2018 and 2020 and envisaged by the 19 April agreement, are pending in Parliament.

The term of the Central Election Committee (CEC) Chairperson, who had been elected by simple majority for 6 months, expired in August 2022. Since then, Parliament has failed to elect a new CEC Chairperson.

In December 2022, Parliament adopted amendments to the Electoral Code and to the Law on political associations of citizens, with cross-party support. The initial parliamentary process on this reform did not meaningfully involve opposition parties and civil society organisations on the substance, though later work in the committee and plenary was more inclusive. Some of the changes envisioned by the amendments are in line with previous recommendations by the OSCE/Office for Democratic Institutions and Human Rights (ODIHR). The amendments also envisage the widespread use of electronic technologies which is broadly supported by most political parties. The proposed amendments were not based on a comprehensive review of the Electoral Code and only addressed a selection of issues.

Some issues raised by ODIHR in past observations were recalled in the Joint Opinion of the Venice Commission and OSCE/ODHIR issued in December 2022 and remain unaddressed. These include the delimitation of electoral districts, changes to the media campaign regulations and preventive measures against the intimidation of voters.

In June 2023 Parliament approved amendments to the Electoral Code and the Rules of Procedure. Parliament overruled the President's veto on the amendments on 3 July. The revised procedure overrides the stipulations in the 19 April agreement, with the Chairperson and seven members of the Central Election Commission (CEC) to be nominated for election by the Speaker of Parliament, instead of the President. Parliament will elect the Chairperson and

members of the CEC by a majority of votes from the entire composition (76 votes, as opposed to the current rule requiring 100 votes). Additional draft amendments to the Election Code were sent to the Venice Commission for opinion in September 2023.

Investigations into reports of intimidation, vote-buying and pressure on candidates and voters have so far not led to prosecutions or convictions. In July 2022, the Office of the Prosecutor General launched an investigation following the publication of documents pointing to possible cases of large-scale electoral malpractice, including vote-buying by civil servants and pressure on voters involving the security services. This has not so far led to criminal prosecutions against any individual.

No nationwide **elections** were held during the reporting period. By-elections were held on 1 October 2022 in Senaki municipality and on 29 April 2023 for a parliamentary seat in Poti-Senaki-Khobi and for several local positions. For the first time, electronic technologies were used on a large scale (at 117 out of 165 polling stations). The Central Election Commission (CEC) reported that small technical errors occurred at several electoral precincts but that these errors were promptly eliminated and did not impede the voting process.

As regards **women's participation** in elections, following the introduction of gender quotas for parliamentary elections, 27 out of the current 139 MPs are women. Still, women remain under-represented in public office.

Parliament

Parliament led the efforts to address the 12 priorities in the European Commission opinion. However, this effort was adversely affected by the deep political polarisation and limited inclusivity of opposition on the substance of the reforms.

Not all parliamentary procedures function effectively in the spirit of control and accountability, mostly due to strong tensions between the ruling party and opposition parties. The EU-mediated 19 April agreement (2021) provided an opportunity to tackle this deep polarisation and forge a cross-party consensus on crucial reforms, particularly in the electoral and judicial fields. More needs to be done to reduce polarisation and improve Parliament's oversight and control over the government and effective scrutiny of legislative implementation.

During the reporting period, substantive cross-party work in Parliament was limited due to (i) a lack of genuine inclusion of the opposition by the ruling party in drawing up legislation and (ii) on-and-off boycotts by parts of the opposition, notably the United National Movement party. Opposition parties argue that most of their legislative proposals are not scheduled for debate or included as part of draft laws. Elements from the 19 April agreement are still pending implementation. Key topics of political tension related to issues such as the deteriorating health of former President Mikheil Saakashvili and, in March 2023, the initial support by the ruling party for a 'foreign agents' draft law. Nevertheless, increasingly during the reporting period, most Members of Parliament have returned to Parliament.

There were good examples of cross-party cooperation and votes. Parliament established several working groups to address the 12 priorities. It also managed to elect a new Public Defender in March 2023. In May, Parliament elected three new non-judge members in the High Council of Justice (part of priority 3). Two non-judge members remain to be elected.

The **emergency procedure** to pass legislation, including in areas relevant to EU commitments, is regularly used and, at times, for issues that are perceived to be institutionally sensitive. There is a legal framework providing for comprehensive impact assessments of proposed legislation, but it is only partially implemented.

Amendments to the Parliament's rules of procedure were adopted in November 2022 to increase the level of **parliamentary oversight** to some extent. Oversight over security services, including through the 'trust group' in Parliament, remains limited, with only three MPs from the ruling majority participating in the meetings. One of the key instruments for parliamentary oversight is the ability to set up parliamentary investigative commissions with a low threshold of 50 votes, which the opposition can gather alone. In April 2023, the ruling party used procedural means to prevent the opposition from setting up such a commission to investigate allegations of corruption in the judiciary, following visa restrictions on four judges by the U.S. Department of State. The ruling party used the same procedural means to prevent the opposition from creating an investigative commission over the 'case of call centres'.

Governance

There was overall limited progress during the reporting period in strengthening good governance. The Parliament took an active role in implementing the 12 priorities. The government continued to declare that EU membership is its strategic goal and promoted its European agenda. The President vetoed several laws.

In April 2023, the Government approved the action plan for EU integration of Georgia for 2023, including the activities to be carried out in 2023, expected outcomes, timeframes and sources of funding. The Prime Minister chaired the EU Integration Commission.

The relationship between the President and the government or the ruling party has been increasingly challenging. The President vetoed legislation several times, a veto which the Parliament has overruled in several instances. On 14 September the ruling party filed a complaint with the Constitutional Court initiating impeachment proceedings against the President. Following the Constitutional Court decision on 16 October 2023, Parliament voted against impeaching the President.

Commitments to strengthen **local governance** and municipal services are included in the 2020–2025 decentralisation strategy, the public administration reform strategy and action plan, and the 2030 national development strategy-vision. In December 2022, the Parliament adopted amendments to the Local Self-Government Code, to allow the government to prematurely terminate the mandate of a city council if it fails to adopt the municipal budget within the first 3 months of the year.

Political culture for multi-party dialogue and coalition governance at local level is limited, leading to deadlocks in councils where the ruling party at national level does not also have the majority at local level. Participatory mechanisms for engaging civil society organisations and citizens in local decision-making process are codified in the Local Self-Government Code. The enforcement of the Code is uneven and differs widely across the municipalities. Only three out of 64 municipalities have female mayors (Rustavi, Dusheti and Ninotsminda, 4.7%).

Civil society

Georgia does not yet have a comprehensive government strategy in place for supporting or cooperating with civil society. Mechanisms for consultation with civil society in policy making and law making exist both at central and municipal level. Parliament invited civil society organisations (CSOs) to participate in the working groups on the 12 priorities. With some exceptions, these organisations were able to attend meetings and actively participate, although their input was rarely included in draft legislation or appointment processes. A dedicated mechanism for public online consultations or contributions for draft laws or policy documents is currently lacking.

Civil society in Georgia is well developed, diverse and vibrant and continues to enjoy the freedom to operate, albeit in an increasingly hostile environment. The **legal framework** remains conducive to an active civil society, due to streamlined registration and reporting requirements, the existence of a differentiated tax regime, and the absence of limitations on the freedom of association and the freedom to operate.

There is some level of involvement of CSOs in **policy dialogue**. Parliament invited CSOs to participate in the working groups on the 12 priorities, during the reporting period, and particularly in the first months of 2023. At the same time, certain CSOs have been increasingly excluded from policy consultation and some have withdrawn from consultation forums. Following the proposal and subsequent withdraw of the ‘foreign agents’ law, not all member organisations of the Consultative Group of the Permanent Parliamentary Council of Open Governance, which had suspended their membership in March 2023, returned. In September 2023 the Speaker of the Parliament took up the chairmanship of the Permanent Parliamentary Council on Open Governance. A dedicated mechanism for public online consultations or contributions for draft laws or policy documents is currently lacking. Draft legislation is available online.

The enabling environment has increasingly come under attack through hostile rhetoric by political leaders and radical groups and, intermittently, through draft legislation that would have labelled CSOs who receive foreign funding as ‘foreign agents’ and subjected them to possible penalties for non-compliance, including criminal prosecution. On 7 March 2023, the ruling majority passed one of the draft laws its first reading. This prompted condemnation from large segments of Georgian society and led to large demonstrations on 7 and 8 March. As a consequence, the parliamentary majority effectively withdrew the draft law on 10 March, in a second reading, by abstaining from voting. Opposition parties voted in favour of this withdrawal.

Mechanisms for consulting the public on policy-making and law-making exist at both central and municipal level. However, meaningful utilisation of these mechanisms is uneven and varies based on the sensitivity of the subject and institutions. The primary institutionalised mechanism for state-CSO cooperation, aimed at increasing public accountability and transparency, is the Open Government Partnership (OGP). Georgia has a progressive legislative framework for OGP coordination and CSO engagement. However, it has not adopted national OGP action plans since 2019, for two consecutive cycles. The country is currently under review by the OGP based on two consecutive procedures: Procedural Review – for failing to adopt an action plan for two consecutive cycles – and Response Policy Procedure, initiated on the basis of a letter of concern from a CSO.

Also, Georgia does not yet have a comprehensive government strategy in place for supporting or cooperating with civil society. Parliament has not made progress in adopting the state plan for supporting the development of CSOs, initiated during the previous parliamentary term.

The enabling **financial environment** for CSOs is largely in place, but a framework for the transparent and objective distribution of public money, including municipal funds, needs to be introduced. Public funding for CSOs is available, but is not fully developed and is distributed unevenly. The majority of CSOs, in particular at local level, are dependent on funding from foreign donors, and other means for ensuring their financial sustainability (e.g. crowdfunding, donations) are not well developed. Volunteering is legally regulated and strategic documents envisage specific steps to promote volunteering culture, especially among young people. The culture of volunteering in Georgia remains weak, due to a lack of legislative incentives, a dearth of diverse volunteering opportunities and a low level of public awareness about volunteering activities.

Civilian oversight of the security and intelligence sector

In addition to the Parliament's oversight role, a number of other institutions have oversight powers over the security sector. The rules and procedures covering civilian oversight are well defined in the respective legislative framework. In practice, the conduct of oversight faces shortcomings due to institutional reticence, the weakening of the state inspection bodies in 2022 (see above), the limited participation of opposition MPs and decreasing involvement of civil society.

Since the end of 2022, the earlier practice of dialogue with selected civil society organisations during the preparation of strategic documents has ceased. The Parliament's Security and Defence Committee does not consistently engage in dialogue and exchange with civil society organisations.

To date, there has been no effective investigation into the September 2021 leak of a large number of wiretapping recordings. The Prosecution is still waiting for the results of internal investigations within the State Security Service, and there have been no prosecutions to date. The Parliament amended the Criminal Procedure Code to allow for covert investigative actions in more cases and for longer periods. Oversight bodies, CSOs and the international organisations, including the Venice Commission, have voiced concerns in respect of these issues.

2.1.2. Public administration reform

Overall, Georgia **is moderately prepared** in the area of public administration reform (PAR). **Some progress** has been achieved with the preparation and adoption of the PAR and public finance management strategies and related actions plans. Georgia's civil service presents some fragmentation, limited standardisation and would benefit from a more comprehensive vision on digital transformation.

Efforts need to be maintained to ensure a stable, accountable and transparent civil service system.

In the coming year, Georgia should in particular:

- revise the legislation on the legal entities of public law to reduce the number of legal entities, classify them by functional criteria, and ensure that those with executing authority belong to the civil service;
- strengthen the legal mandate and capacity of the Administration of Government to coordinate the operations of the ministries; strengthen the mandate of the Civil Service Bureau for standardisation, monitoring and scrutiny, beyond its advisory role;
- review the legal framework to effectively guarantee citizens' right to access to public information.

Strategic framework for public administration reform

After a two-year gap, the government, in consultation with relevant public stakeholders, elaborated a new **public administration reform** (PAR) strategy. The new strategy and its action plan were adopted on 16 February 2023. It covers all PAR areas, except public finance management (PFM), which is covered by a separate strategy. The strategy mostly focuses on further implementation of previous reforms, with some bottlenecks such as public administration fragmentation, limited standardisation in civil service and lack of a clear vision for digital transformation.

Policy development and coordination

The institutions and the regulatory framework for central government **policy development and coordination** are in place and are functioning well. The Administration of Government of Georgia together with the Ministry of Finance, Ministry of Justice and Ministry of Foreign Affairs (for European integration) performs all expected functions of the centre of government. It includes effective policy coordination among these institutions.

A handbook supporting the rules of procedure for development, monitoring and evaluation of policy documents provides the regulatory and procedural foundation for **evidence-based policy** making. This framework needs to be enforced by further strengthening the capacity and implementation of policy monitoring, both in ministries and in the centre of government. The implementation of the system of regulatory impact assessments has not been fully incorporated into the decision-making process to improve the evidence behind adopted government policies. A ‘Gender Impact Assessment’ on Georgia’s Public Service Law was conducted.

Public financial management

Significant progress was made in terms of PFM. The government drafted a comprehensive PFM strategy in December 2022, which was adopted on 23 May 2023. The strategy is based on the Public Expenditure and Financial Accountability (PEFA) 2022 Assessment and was published for stakeholder consultations online. The PFM action plan is prepared on a yearly basis and is monitored through quarterly reports.

Significant progress has been achieved in terms of transparency of public finances in line with international standards. In the 2021 Open Budget Survey, published online in 2022, Georgia ranked first in the world in terms of state **budget transparency** (Open Budget Index). Transition to a fully automated VAT refund system has been ensured, which is an important step in terms of both tax reform and business.

Improvements are still needed in fiscal risk reporting; public assets and investment management; annual financial reports; fiscal strategy and revenue administration. Reforms in these areas will bring Georgia even closer to best international and EU practice.

Public service and human resources management

The **public service and human resources management** is based on a coherent legal framework. Constant efforts are needed to further strengthen a merit-based, professional civil service at all levels of the administration, as well as transparent recruitment, promotion and dismissal procedures.

In 2022, women represented 33 % of the civil servants, and 43% of middle or high managerial position. Only 13% of heads and deputy heads of public institutions were women (2021 data: 33%, 41% and 16%).

A new Head of the civil service bureau was appointed in September 2022. The Civil Service Bureau is a crucial institution for managing the civil service, developing policies and drafting legislation. Being a legal entity of public law (LEPL), it has no authority to enforce the application of the regulations or standardise practices. The PAR strategy and its 2023-2024 action plan include measures aimed at reinforcing the bureau’s accountability towards the Public Service Council. As the council is only an advisory body, the political responsibility for the public service is not attributed clearly. This continues to hamper the comprehensive implementation of public service reforms.

The legislation regulates the basic features of recruitment of civil servants. The main principles related to merit are clearly stated. Mobility, promotions and disciplinary procedures are well regulated according to good international practices. The provisions related to termination and

demotion largely meet EU standards. There is no defined ‘senior civil service’ in the Georgian system that could properly delineate the civil service from the political sphere. The fact that all human resources decisions are made by the ministers or deputy ministers, instead of senior civil servants, increases the risk of politicisation of the civil service and overburdens ministers with daily work routines.

Accountability of administration

Overall, the central government is coherently organised and the legal framework is being improved to ensure efficient and effective **accountability** lines between supervisory and subordinated bodies.

Some shortcomings of the public service at horizontal level are present. There are a high number of institutions, or LEPLs, which develop and implement government policies and whose staff are not covered by the public service legislation. The legislation on the LEPLs, therefore, needs to be revised to reduce the number of legal entities, classify them by functional criteria, and ensure that those with executing authority belong to the civil service.

Implementation of the **citizens’ right to good administration** can differ among various government institutions, in terms of length of proceedings, impartiality and substantiation of decision-making. Public Defender’s Office and State Audit Office are key institutions monitoring enforcement of this right; however, their recommendations are not consistently implemented.

Georgian constitution guarantees **citizens’ right to seek full compensation** for damages inflicted by unlawful actions or omissions of the public administration through court procedures, however, excessive length of the judicial proceedings in cases of administrative disputes (529 days in 2022) is hampering the effective judicial control over the citizens’ right to good administration, as well as right to seek compensation. The length of judicial proceedings needs to be reduced.

Access to public information is ensured by the legal framework. Its enforcement is mixed across various government institutions. The long-awaited review of the overall framework needs to be carried out to enhance the administrative capacity for effective enforcement. Publication of information – including publishing monitoring and activity reports – is uneven and needs to be significantly improved. The legal framework to effectively guarantee citizens’ rights to access to public information should be reviewed.

Systematic **implementation of recommendations by independent oversight bodies** such as the State Audit Office and the Public Defender Office is yet to be achieved. In 2022, only 12% of the 334 recommendations issued by the Public Defender in its annual parliamentary report were fully implemented by authorities – 23.6% were partially implemented, 54.7% were not implemented and the remaining became irrelevant.

Service delivery to citizens and businesses

A key government priority is to ensure a more **user-oriented service delivery**. Georgia is advanced in the provision of e-public services. Moreover, it has expanded the ‘one-stop shop’ network of public services at central and local level for services that cannot be provided electronically.

With the 2022-2025 public services development strategy, adopted in April 2022, and the recent 2023-2026 PAR strategy (including a pillar on public service delivery) the government has a strategic framework to focus on public services. Both strategies noted several gaps in public service design and delivery.

2.2 RULE OF LAW AND FUNDAMENTAL RIGHTS

2.2.1. Chapter 23 - Judiciary and fundamental rights

The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is respect for fundamental rights in law and in practice.

Overall, in the area of judiciary and fundamental rights, Georgia has **some level of preparation**. During the reporting period, **limited progress** was made overall.

Functioning of the judiciary

Georgia has **some level of preparation** in the area of the judiciary apply the EU *acquis* and European standards in this area. Overall, it has made **limited progress**.

Four consecutive waves of reform prior to 2022 have improved the legal framework related to the functioning of the judiciary and the overall capacity and organisation of the justice system. Parliament adopted a judicial reform strategy and action plan. However, the strategy and action plan do not address key challenges in the justice system, in particular the need to strengthen the integrity of the highest judicial bodies. Some legislative changes were adopted, including on accessibility of court decisions, the quality of reasoning for judicial appointments and on increasing the professional experience requirement to 10 years for the selection of Supreme Court nominees.

In June 2023 Parliament adopted amendments to the Law on Common Courts and drafted additional amendments in September 2023 implementing some of the Venice Commission's recommendations. However, the most important recommendations of the European Commission and of the Venice Commission as stated in its consecutive opinions (of March 2023 and October 2023), notably regarding reforming High Council of Justice and recommendations regarding the Supreme Court were not addressed. Namely, further broader reforms to ensure the full independence, accountability and impartiality of all judicial and prosecutorial institutions, especially the HCJ need to be undertaken in line with European standards and the recommendations of the Venice Commission. In particular, improvements and additional safeguards concerning the functioning and powers of the HCJ are needed and an effective right of appeal for the selection of Supreme Court judges should be ensured by clarifying the binding nature of the Supreme Court decision for the HCJ. At the same time, the Venice Commission acknowledged improvements on some recommendations including the suspension of judges from office and restrictions of the grounds of judge's disciplinary liability.

A broad justice reform remains outstanding. In particular, reforms to ensure the full independence, accountability and impartiality of all judicial and prosecutorial institutions, especially the Supreme Court, the Prosecutor General and the High Council of Justice (HCJ), need to be addressed. These reforms need to be undertaken, in line with European standards and the recommendations of the Venice Commission (Venice Commission).

In the coming year, Georgia should:

- adopt amendments to the Law on Common Courts to bring it fully in line with Venice Commission recommendations as regards the powers of the High Council of Justice (HCJ) concerning transfers and disciplinary proceedings of judges, and an effective right of appeal for appointments of Supreme Court judges.
- adopt a broader reform of the judiciary, in particular, reform the HCJ in line with Venice Commission recommendations. In particular, establish a system of extraordinary integrity

checks, with the involvement of international experts with a decisive role in the process, for candidates and persons currently appointed to all leading positions in the judiciary, in particular the HCJ, the Supreme Court and court presidents. Furthermore, establish a system of effective permanent and periodic asset declarations with the involvement of international experts in an oversight and advisory function.

→ adopt the draft constitutional amendments which include changing the appointment procedure of the Prosecutor General from simple to qualified majority in Parliament; align the law on the Prosecutor's Office with European standards, following the recommendations of the Venice Commission, OECD and the TAIEX peer review on the functioning of the justice sector and the fight against organised crime.

Strategic documents

In October 2022, the Georgian Parliament's Legal Affairs Committee published its judicial reform strategy and action plan. It lists 16 priorities, with a strong focus on efficiency measures, mostly related to the courts system, such as ensuring an optimal number of judges and other court officials, reducing caseloads by promoting alternative dispute resolution channels, improving technical infrastructure, etc.

The action plan also refers to improving the implementation of judgements by the European Court of Human Rights, strengthening the institution of trial by jury, improving the quality of reasoning accompanying court decisions, strengthening social protection guarantees for judges and increasing public communication, including on court decisions. However, the strategy and action plan do not address key challenges in the justice system and do not include major strategic items (detailed analysis of implementation of previous reforms and remaining challenges, sequence of actions, timelines, definition of responsible bodies, indicators, monitoring mechanism, etc.).

Management bodies

The High Council of Justice (HCJ) is the principal body managing the judicial system and the careers of judges. The Prosecutorial Council, the governing body for the prosecution, has a much more limited role in the management of the prosecution and the careers of prosecutors, which is largely in the competence of the Prosecutor General. Outstanding issues with regard to the composition, the functioning and powers of both bodies in line with European standards and Venice Commission recommendations, remain to be addressed. In addition, to ensure the independence, accountability and impartiality of the justice system, broader reform of judicial institutions remains to be prepared and adopted in line with European standards.

Parliament adopted amendments to the Law on Common Courts in June 2023 and drafted additional amendments in September 2023 implementing only some of the Venice Commission's recommendations. The amendments did not address the most important recommendations of the European Commission and the Venice Commission (opinions of March 2023 and October 2023), such as the transfer of judges without consent, the need for further reform of the HCJ including balance between judge and non-judge members in decision-making, restricting re-appointment of HCJ members and ensuring staggered election of HCJ members, and ensuring an effective appeal in the selection procedure of the Supreme Court Judges by clarifying that the SC decisions are binding.

The June amendments had addressed one key recommendation - the procedure for suspension of judges from office - and additional issues: limiting the grounds for withdrawal of a member of the HCJ; clarifying the moment when disciplinary proceedings should be considered as initiated; facilitating the procedure for access to court decisions. In addition, the Venice Commission opinion acknowledged that if the draft September amendments were to be

adopted, one other key recommendation would be addressed, namely the restriction of the grounds of judge's disciplinary liability based on the violation by a judge of the principle of "political neutrality". These amendments are still to be adopted.

Regarding the composition of the HCJ, in October 2022, two new judge members were elected to the HCJ. The speed, quality and level of transparency of this process were criticised by the EU, opposition parties and civil society. These appointments followed the election of a total of six judge members on 26 May and 31 October 2021, despite similar criticisms. For two years (from June 2021 until May 2023), the HCJ operated without five non-judge members, whose election requires a qualified majority (90 votes) in Parliament. In May 2023, three non-judge members were elected and the two remaining positions were filled in October 2023.

The appointment process for the **Prosecutor-General** needs to be improved to ensure it is transparent and based on criteria of integrity, independence, impartiality, and competence. In particular, draft constitutional amendments remain to be adopted to introduce a qualified majority vote in Parliament. In October 2022, the draft constitutional amendments on the Prosecutor General's appointment passed first reading.

The power to nominate a candidate for the position of Prosecutor General rests with the **Prosecutorial Council**. On 12 January 2023, the Prosecutorial Council unanimously elected its chair by secret ballot; there was only one candidate for the position. The recommendations of the OECD fifth-round monitoring report on anti-corruption reforms and Venice Commission opinions concerning the prosecution service remain to be addressed. This includes revising the composition of the Prosecutorial Council to ensure a better balance between prosecutor and non-prosecutor members, strengthening the internal independence of prosecutors by shifting certain powers concerning judges' career from the Prosecutor General to the Prosecutorial Council. To address these points, a comprehensive set of legislative amendments taking into account existing recommendations should be prepared and adopted in consultation with the EU, the Venice Commission and relevant stakeholders.

Independence and impartiality

Some work has been done to improve the **constitutional and legislative frameworks** to guarantee the independence of the judiciary and its impartiality. The Law on Common Courts remains to be aligned with European standards, as outlined in the section concerning management bodies. Furthermore, a more thorough and comprehensive reform of the High Council of Justice (HCJ) is needed as recommended above, to help further consolidate the independence and impartiality of the judiciary, improve public trust and address the problem of publicly perceived corporatism and problems of integrity in the HCJ. To address these systemic challenges, as also raised by the Venice Commission in its October 2023 opinion, there is a need for more thorough and more systematic integrity checks in line with best practices as established in the region, in consultation with the European Commission and the Venice Commission. Georgia could establish a system of extraordinary integrity checks with the involvement of international experts with a decisive role, for candidates and persons currently appointed to the leading positions in the judiciary, in particular the HCJ, the Supreme Court and court presidents. Furthermore, to safeguard the integrity of judicial office holders in the long term, a system of effective permanent and periodic asset declarations –with the involvement of international experts in an oversight and advisory function - should be established.

A system for the nominal **random allocation of cases** to judges is in principle in place. To reduce numerous exceptions to this rule (only 62% of cases are allocated by using the automated case management system, the rest is distributed manually), more needs to be done

so that the allocation of cases is not subject to undue influence. Case assignments are processed through the computerised distribution of cases, via a random algorithm. Different reasons for reassigning a case include conflict of interest declared by the judge, recusal of the judge or a request from the parties, and physical unavailability (illness, longer absence).

The **Constitutional Court** is a judicial body of constitutional control. In November 2022, the Constitutional Court partially satisfied the legal claim by the former State Inspector and the Public Defender against the Parliament, finding that the dismissal of the State Inspector and her deputies was not matched by providing either an adequate and equivalent position or fair compensation. There are several cases of high public interest which have been pending before the court for a significant time, including for instance on the amendments to the Law on common courts as well as on the legislation regulating secret surveillance. The announcement of the related judgments is still pending.

As for the Prosecutor's Service, the **external independence** of prosecutors is, in principle, guaranteed by the Constitution and the Law on the Prosecutor's Service. The Criminal Code (CC) criminalises any form of unlawful interference with the activities of a prosecutor that disrupt the comprehensive, complete and objective investigation of a case.

Regarding the **internal independence of prosecutors** including safeguards preventing undue interference by superiors, the law does not mention the obligation of the superior prosecutor (including the Prosecutor General) to provide instructions in written form; nor does it mention the right or duty of the subordinated prosecutor to draw attention to the (alleged) illegality of an instruction received. Mechanisms for reviewing the legality of instructions by an independent body are missing. Furthermore, the Criminal Procedure Code empowers prosecutors in management positions to remove subordinate prosecutors from an investigation and to assign their responsibilities to other prosecutors without any justification. The current legislative framework concerning internal independence of prosecutors must be revised to align with European standards, taking into account recommendations of the OECD, and the Venice Commission.

Accountability

The High Council of Justice is competent to initiate and conduct disciplinary proceedings, suspend and dismiss judges. The position of an Independent Inspector for disciplinary proceedings has been established, however, the number of proceedings resolved in line with the recommendations of the inspector is rather low (around 30%). While some work has been done to align the legal framework on the disciplinary liability of judges with European standards, further amendments are necessary in line with the recommendations of the Venice Commission.

The legal framework on the disciplinary liability of prosecutors remains to be further aligned with European standards, in line with the recommendations of the Venice Commission and GRECO.

Codes of ethics for judges and prosecutors are in place, as is a complaint mechanism. A system of verification of asset declarations by judges and prosecutors exists, but its practical implementation, including in terms of scope, needs improving.

The recommendations in the Council of Europe's Group of States against Corruption (GRECO) fourth evaluation round suggested widening the asset declaration regime to cover all prosecutors. On 16 May 2023, the parliament adopted amendments to the Law on conflict of interest and corruption which extend the asset declaration regime to all prosecutors.

Professionalism and competence

The system for recruiting, selecting, appointing, transferring, and dismissing judges in courts of first and second instance is managed exclusively by the HCJ. Presidents of individual courts are appointed by the HCJ. Supreme Court judges are selected and nominated by the HCJ and appointed by Parliament by simple majority.

The legal provisions on appointing judges and prosecutors stipulate that the appointments must be largely based on merit and objective criteria, as assessed through public competitions. A substantive reform of the functioning and powers of the HCJ is required to increase its transparency, integrity, and accountability, including concerning its competences related to appointments, appraisals, promotions, transfers, disciplinary measures and appeals, in line with European standards and the recommendations from the Venice Commission and ODIHR.

One of the objectives of the judicial reform strategy and action plan is to increase the number of judges. Only eight out of 76 vacant positions for judges in district (city) courts and appeals courts were filled as a result of the latest competition. More needs to be done to fill existing vacancies with qualified candidates that demonstrate the required integrity, including by attracting applications by ensuring that competitions are open and merit based.

The Prosecutor General appoints, promotes, releases from their position and dismisses employees of the Prosecutor's Office according to criteria for recruitment and grounds for discharging from office. The internal Career Management, Ethics and Incentives Council has an advisory role. The Prosecutor General thus has substantial discretion in the process.

Quality of justice

On **transparency of the justice system**, open access to reasoned court decisions in compliance with data protection rules has yet to be ensured. Based on judicial amendments adopted in June 2023, all court decisions following an open court session will be fully available on formal freedom of information (FOI) requests. At the same time all court decisions will be published on a dedicated website in a depersonalised manner. In both cases the decisions will only be available after final resolution of the case, which can take years. This process remains to be brought in line with European standards and Venice Commission recommendations.

The Supreme Court publishes annual statistical data for each year of cases in the common courts. The HCJ publishes activity reports covering several years. An integrated case management system is in place but needs to introduce a statistical element. Court-related mediation procedures are available in Georgia.

Judges are trained at the High School of Justice and prosecutors by the Training Centre of the General Prosecutor's Office. Training for judges should include case-based training on how to use indirect evidence, especially related to corruption and money laundering cases. For prosecutors further training and exchange of best practices should be developed in the field of asset recovery and financial investigations.

The number of judges in 2022 was 329, with 53.4% of them female, with only three female court presidents. The number of prosecutors in 2022 was 415, of which 33.7% were female. The number of staff is low compared to the European averages of 21 judges/12 prosecutors per 100 000 inhabitants⁶ (9 judges and 12 prosecutors per 100 000 inhabitants). The allocated 2022 budget for law courts increased to EUR 39.4 million and the implemented total budget was EUR 35.6 million (0.14% of GDP).

Efficiency

⁶ According to the Council of Europe European Commission for the Efficiency of Justice (CEPEJ).

As to the length of court proceedings, the disposition time in civil and commercial cases decreased to 257 days in 2022, compared to 433 days in 2020. For administrative cases the disposition time increased to 529 days in 2022, compared to 440 days in 2020. For criminal cases the disposition time in 2022 was 132 days, almost the same as in 2020 when it was 126 days.

The development in **clearance rates** in the first instance reflect a similar tendency with the clearance rate for civil and commercial cases improving from 87% in 2020 to 101% in 2022. The **backlog** for pending criminal cases was 4 322 in 2020 and 6 536 in 2022 in first instance, and 746 in 2020 and 784 in 2022 in second instance. For civil and commercial cases, the number of pending cases in first instance was 59 515 in 2020 and 63 969 in 2022.

The Constitutional Court had 284 pending constitutional complaints/submissions as of 31 December 2022 and its clearance rate in 2022 was 84%, compared to a clearance rate of 50% in 2021 and 106% in 2020. Very few submissions (only two in 2022) are presented to the Constitutional Court by Georgian courts and the Public Defender's Office regularly submits constitutional complaints.

Fight against corruption

Georgia **has some level of preparation** in the fight against corruption and made **some progress**. Georgia's legal framework on anti-corruption is largely approximated to the EU *acquis* and international norms following substantial legal reforms. In May 2023, Georgia implemented one outstanding GRECO recommendation by widening the scope of the asset declaration regime to cover all prosecutors. An Anti-Corruption Bureau was set up in 2022. The legal framework was amended to strengthen the investigative authority of the Special Investigation Service (SIS) and the Personal Data Protection Service (PDPS). Legislation on the Anti-Corruption Bureau, the SIS and the PDPS was sent to the Venice Commission in September 2023. Further efforts need to be undertaken to tackle high-level corruption and, in particular, to address the challenge of large-scale vested interests and their influence in both the political, judicial and economic spheres. Georgia has not yet developed a new national anti-corruption strategy or action plan.

In the coming year, Georgia should in particular:

- align the legislation on the Anti-corruption Bureau to the ODIHR/Venice Commission recommendations and ensure that the new Bureau, as well as the relevant enforcement agencies, operate independently and effectively, avoiding any politically selective approach; in particular, asset declarations should be audited against the legitimate income and investigations should take place in case of unexplained differences; Georgia should also develop and adopt an anti-corruption strategy and action plan, ensuring it is comprehensively implemented through realistic timelines, adequate funding and monitoring mechanisms;
- repeal the decision of February 2023 to withdraw from the OECD anti-corruption monitoring network for Eastern Europe and Central Asia (OECD/CAN) and fully implement recommendations from the previous rounds;
- on de-oligarchisation, implement the action plan following a systemic approaching line with the recommendations by the Venice Commission (Opinion of March 2023 and Opinion of June 2023). This includes that a new anti-corruption strategy and action plan needs to be adopted and its full implementation ensured by providing adequate funding and monitoring mechanisms.

Track record

A large number of corruption cases involving **low and-medium level** officials have been successfully prosecuted, primarily in the public procurement field. As regards the track record of investigations, prosecution, adjudication and final convictions of corruption cases, notably of **high-level corruption** cases, in 2022 a total of seven high-level officials were prosecuted and six officials were convicted for corruption. Overall, prosecutions and convictions on corruption cases have increased compared to 2021: 36% increase in prosecutions and 73.5% increase in convictions.

Detailed statistics and analytics on the detection, investigation, prosecution and adjudication of corruption cases, especially high-level corruption cases are deficient and needs to be more proactively published. Public communication and accountability on alleged high-level corruption cases also need to be strengthened.

Allegations of high-level corruption cases need appropriate follow up. The GRECO recommendations on preventing corruption in respect of judges are yet to be fully implemented (out of four recommendations in this area, three have been partially implemented and one has not).

The 2022 **asset declaration** monitoring results by the Civil Service Bureau detected violations in 52% of verified declarations (181 out of 346 asset declarations). The Civil Service Bureau actively applied administrative penalties for violations related to asset declarations. No case was referred for criminal investigation. The asset declaration monitoring has not detected any cases of illicit wealth or high-level corruption.

In 2022, 30 reports of wrongdoing were filed by **whistle-blowers** on a special online platform for whistleblowing reports created by the government. No information is available on what measures have been taken to address them.

Institutional framework

Prevention of corruption

The framework for policy coordination is in place, but it is not properly utilised in practice as the main anti-corruption policy coordination platform, the National Anti-Corruption Council, has not met since 2019. Pursuant to the establishment of the Anti-Corruption Bureau, some aspects of policy coordination were assigned to the Bureau, such as coordinating the drafting, implementation and monitoring process of the national anti-corruption strategy and the action plan. The mandate of the National Anti-corruption Council was also adjusted, and the Council was tasked with developing recommendations on implementing adopted anti-corruption policy documents. The mandates of the Bureau and the Council, especially in the policy development and monitoring domains, need to be clearly delineated.

In November 2022, the Parliament passed legislation in its third and final reading (with no votes from the opposition), establishing an **Anti-Corruption Bureau** to oversee and coordinate Georgia's anti-corruption policy and draw up proposals/recommendations. The Bureau will also have the mandate to monitor asset declarations (previously done by the Civil Service Bureau), monitor party financing (previously done by the State Audit Office) and adopt recommendations on protecting whistle-blowers. The Bureau took over these responsibilities on 1 September 2023. It does not have investigative functions. On 10 February 2023, the Prime Minister appointed the head of the Anti-Corruption Bureau for a term of 6 years. The legislation was not sent to the Venice Commission for an opinion. The opposition parties and CSOs expressed strong reservations as to the Bureau's independence and effectiveness. Legislation

on the Anti-Corruption Bureau was sent to the Venice Commission for opinion in September 2023.

Several Ministries and agencies developed or are developing an integrity risk assessment document. There is no systematic approach nor framework for risk assessment.

In November 2022, the Parliament passed the draft law on de-oligarchisation at its second reading, with 76 votes (with no votes from the opposition). After a Venice Commission opinion on March 2023, on 12 April 2023 Parliament sent an updated reform to the Venice Commission for a second opinion. In its final opinion the Commission unequivocally recommended not to adopt the proposed law due to its expected ineffectiveness, as well as the risks it posed for democracy and the rule of law. Instead, the Commission recommended countering undue influence by oligarchs through systemic reforms. On 19 September, the Parliament voted down the draft law. Georgia endorsed an action plan on de-oligarchisation on 14 September and sent the action plan to the Venice Commission for an opinion in September 2023. The action plan follows a systemic approach and builds on the recommendations by the Venice Commission (Opinion of March 2023 and Opinion of June 2023).

Law enforcement

There is no dedicated law enforcement, prosecution services or specialised courts for fighting corruption. The investigative mandate is spread among the Prosecution Service, the State Security Service, the Ministry of Justice and the Ministry of Finance. The corruption investigation units within these institutions lack autonomous powers and safeguards for independence, to prevent risks of undue political influence. Transparent appointment procedures for the heads of these units are also lacking. Similarly, there is no stand-alone body in charge of investigating/prosecuting high-level corruption. More needs to be done to strengthen the specialisation and efficiency of investigations in this area.

Legal framework

Georgia has introduced substantial legal reforms to combat corruption, with a view to approximating to the EU *acquis* and international norms. Georgia is a party to all key international anti-corruption conventions, including the UN Convention against Corruption (UNCAC) and the Council of Europe Criminal Law Convention against Corruption and the Civil Law Convention against Corruption.

Georgia is a participating state of the Group of States against Corruption (GRECO). It has implemented or dealt with eight of the 16 recommendations contained in the 4th Round Evaluation Report. In May 2023, Georgia implemented one outstanding GRECO recommendation by widening the scope of the asset declaration regime to cover all prosecutors. A recommendation about limiting the immunity of judges to activities relating to their participation in judicial decision-making ('functional immunity') remains to be implemented.

Georgia is also a member of the Anti-Corruption Network of the Organisation for Economic Cooperation and Development (OECD/ACN). On 16 February 2023, the government declined to join the new round of monitoring from this network, which would have assessed the country's anti-corruption framework using an updated methodology. There was no further follow-up of its recommendations.

The system of asset declarations for public officials is in place, and the laws regulate conflict of interests and protection for whistle-blowers. The scope of the law related to asset declaration and its implementation and monitoring should be improved, and whistle-blower protection needs to be strengthened and aligned with the EU *acquis*. The administrative capacity to obtain effective control of party financing and electoral campaign financing needs to be strengthened.

Lobbying in Georgia is regulated by the Law on Lobbying.

Strategic framework

The latest strategy and action plan for 2019-2020 dates from 2019. Less than half of the action plan measures (43.5%) were fully implemented and outstanding measures have not yet been addressed. The preparation of a national anti-corruption strategy and action plan are underway. The corruption risk assessment methodology is being revised.

Anti-corruption policies are also included in some thematic strategies as crosscutting issues (e.g. Public Administration Reform strategy, decentralisation strategy), but these lack a comprehensive and systematic approach. Sectors most vulnerable to corruption require targeted risk assessments and dedicated measures.

Fundamental rights

The legislative and institutional framework on fundamental rights is largely in place. The priorities from the Commission opinion that fall under fundamental rights are Priority 8 on ensuring the human rights for vulnerable groups, Priority 9 on gender equality and fighting violence, Priority 11 on legislation related to the European Court of Human Rights (ECtHR), and Priority 12 related to an independent Public Defender. An action plan for the National Human Rights Strategy is being developed, with consultations launched with civil society. In September Georgia has submitted the law on Personal Data Protection and SIS to the Venice Commission.

In the coming year, Georgia should in particular:

- ensure that the follow-up action plan to the 2022-2030 national human rights strategy is finalised in an inclusive manner and takes into account the main issues raised by the Public Defender, civil society and relevant international organisations. Strengthen the implementation of the anti-discrimination legislation; take more decisive measures to address and prevent hate speech and hate crimes;
- adopt national strategies to fight all forms of hatred and discrimination, and protect ethnic and religious minorities;
- investigate and prosecute the organisers of the violence on 5 July 2021 and 8 July 2023 at Tbilisi Pride, adopt the Human Rights action plan ensuring also the rights of LGBTIQ persons; ensure full respect and protection for freedom of assembly and freedom of expression, in particular by reforming the code on administrative offences, including through a broad participation by stakeholders;
- address the gaps in the new Personal Data Protection law and strengthen the Personal Data Protection Service in line with forthcoming Venice Commission Opinion, to ensure that the new data protection regulations are adequately implemented.

Georgia has ratified all major European and main **international human rights instruments**. It has not ratified the Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Georgia still needs to ratify several key ILO conventions including the Labour Inspection Convention, the Occupational Safety and Health Convention, the 2014 protocol to the Forced Labour Convention, the Minimum Wage Fixing Convention, the Social Security (Minimum Standards) Convention, the Maternity Protection Convention and the Violence and Harassment Convention.

During the reporting period Georgia underwent a few periodic reviews: the International Covenant on Civil and Political Rights (ICCPR) in July 2022; the Committee on the

Elimination of Racial Discrimination (CERD) in December 2022; the Committee on the Elimination of Discrimination against Women (CEDAW) in February 2023 and the Committee on the Rights of Persons with Disabilities (CRPD) in March 2023.

It has not yet ratified the Occupational Safety and Health Convention (C155), the Promotional Framework for Occupational Safety and Health Convention, the 2014 Protocol to the Forced Labour Convention (P29), the Labour Inspection Convention (C81) or the Labour Inspection (Agriculture) Convention (C129) have not yet been ratified. To fulfil its reporting obligations before the UN treaty and charter-based bodies, Georgia has developed national reporting processes. All government reports are now subject to parliamentary scrutiny.

The recommendations are not always fully implemented. The mandate to monitor the level of implementation is vested in the Parliament.

The 2022 Human Rights strategy does not include references to the rights of LGBTIQ persons and discrimination on grounds of sexual orientation and gender identity, specific provisions related to effective protection of privacy, nor does it address the challenges related to torture, not the least that the definition in Georgian law does not meet the relevant international standards. There is a need to develop a comprehensive monitoring and data collection system in order to assess the level of implementation of human rights legislation, policies, and strategies. On 1 September 2023, the Human Rights Department was established under the Government Administration. An action plan for the National Human Rights Strategy is being developed and consultations with civil society were launched early November. This consultation process should continue ensuring broad and inclusive process engaging further civil society and also international partners.

Procedural rights are protected by the Constitution and the legal framework is generally in line with international standards. The UN has expressed concerns regarding the persisting protection gap in the Code of Administrative Offences, including insufficient safeguards for administrative detainees, the lack of clarity about standards of proof, which often results in the burden of proof being borne by detainees, and the absence of the meaningful right to appeal detention decisions. This puts them at a higher risk of ill treatment, both at the time of arrest and during detention. During the reporting period, the ECtHR found a violation of Article 6 § 1 of the Convention in several cases.

The government took positive steps to ensure the protection of victims' rights. In 2022, the Special Investigation Service issued an order granting a probable victim the right to study case materials during an investigation even before receiving victim status. Moreover, a council for reviewing the complaints of victims in life infringement cases was established at the General Prosecutor's Office in December 2022. The council is empowered to review a victim's complaints regarding the effectiveness of investigations into life infringement cases and prepare a recommendatory decision for the Prosecutor General. The Public Defender reports that the practice of granting victim status is inconsistent in criminal cases. In most cases, victim status is granted after receiving expert opinions and (sometimes) launching prosecution against a specific individual.

In 2022, the Public Defender also reported that in some instances the right to fair trial was not respected and a conviction was delivered in breach of the principle of legality. There have also been cases in which the fairness of the court proceedings was not guaranteed. There are some challenges with reported practice of bringing citizens as witnesses to police facilities and arresting them.

In June 2023, there were 172 applications pending before the European Court for Human Rights (ECtHR). The Court delivered judgements on 20 applications and found breaches of the

European Convention on Human Rights in 14 out of 15 cases, relating mainly to the right to respect for private and family life, the right to a fair trial, the prohibition of torture and freedoms of assembly and association. In the reporting period, 179 new applications were allocated to a decision body. Currently, there are 34 cases under enhanced supervision by the Committee of Ministers.

On 31 December 2022, Georgia had 68 cases pending execution (compared to 63 in 2021 and 53 in 2020), of which six were leading cases classified under the enhanced procedure (compared to 5 in 2021 and 5 in 2020), and 21 were leading cases classified under the standard procedure. Of the leading cases under the enhanced procedure, 5 have been pending for 5 years or more; similarly, 5 of the leading cases under the standard procedure have been pending for 5 years or more (compared to 4 in 2021 and 3 in 2020).

The pending caseload includes cases and groups of cases concerning ill-treatment, hate crimes and domestic violence. The cases were also characterised by ineffective investigations into them, restrictions on the right to liberty and security for purposes not prescribed by the European Convention, violations of the right to freedom of assembly and the right to freedom of religion or belief, and the right to a fair trial. The new violations found by the Court in 2022 concerned the right to a fair trial and property rights.

In October 2022, Parliament passed the legal package aimed at enabling Georgian courts to proactively take into account the judgments and decisions of the ECtHR. The initiative focused mainly on legislative mechanisms stimulating the reference to ECtHR decisions by Georgia's courts, supporting the professional development of judges, prosecutors and defence lawyers and raising the quality of reference to ECtHR decisions in their work, establishing new organisational units in the courts' system for analysing ECtHR decisions and increasing access to them for judges.

Regarding the national framework for respect, protection and fulfilment of human rights, the Public Defender's Office (PDO) continues to implement its mandate including as regards the national preventive mechanism, anti-discrimination mechanism and the mechanism of monitoring the rights of persons with disabilities. The Office currently has sufficient financial and staffing resources to perform its duties. Currently there are 123 permanent positions in the PDO and 19 of those remain vacant. In March 2023, 38 contracted employees were added to the Office. In 2023, funding for the Public Defender's Office increased by GEL 406,000 compared to 2022 and amounts to a total of GEL 9.27 million (EUR 3.3 million).

During the reporting period, the mandate of the Public Defender expired. Priority 12 of the Commission opinion highlighted the need to ensure that an independent person is given preference in the process of nominating a new Public Defender and that this process is conducted in a transparent manner. It also stressed the need to ensure the Office's effective institutional independence. In September 2022, the Parliament launched an open call for candidates. No candidate received support from a sufficient number of MPs. Following this failed attempt, the procedure reverted to one nominee per party. As a result, a new Public Defender was elected on 7 March by 96 votes (with 10 votes coming from the opposition), with no one voting against. The United National Movement abstained from voting. On 3 April, the Public Defender appointed two new deputies.

In March 2023, Parliament adopted the national strategy for human rights. The process of finalising the strategy was criticised for its lack of a consultative approach and insufficient time to provide feedback. The strategy contains positive elements concerning economic and social rights, though it does not adequately address several key issues, notably discrimination on

grounds of sexual orientation and gender identity, independence of judges, protection of journalists, the and the right to privacy and elimination of torture.

The Constitution explicitly prohibits the use of the death penalty. The Public Defender found in 2022 many cases of failure by the government to conduct a proper investigation into cases where the **right to life was violated**. In 2022, the ECtHR found violations of the right to life in two cases.

Prohibition of **torture and ill-treatment** is enshrined in the Constitution. The Inter Agency Council on Combating Torture and other forms of Ill Treatment coordinates and monitors the fight against torture. Its latest action plan expired at the end of 2022. The 2023-24 action plan is currently being drafted. A manual on the use of qualifications for torture, humiliating or inhuman treatment exceeding official authority and other related crimes was created by decision of the Special Investigation Service in July 2023.

The Georgian Criminal Code has an article on torture and inhuman or degrading treatment as well as other articles that provide for lesser penalties, including an article on exceeding official powers. Effort should be made to apply the appropriate article when investigating allegations of ill treatment or torture by law enforcement officials, to avoid the occurrence of ill treatment or torture being underestimated.

The Prosecution Service has the remit to investigate torture and ill treatment committed before 1 November 2019 and the Special Investigative Service (SIS), established on 1 March 2022, has jurisdiction over such crimes after this date. The mandate of the SIS is very broad and its jurisdiction has been extended several times since its establishment. This entails the risk that its key mission, i.e. investigation of torture and ill treatment committed by law enforcement officers, does not get sufficient attention or resources. In September 2023, Georgia has submitted the law on SIS to Venice Commission. The SIS reported that it had received 2 514 applications/reports since its creation in March 2022 until the end of 2022. A large number of the alleged victims are detainees, be it persons under administrative arrest or subject to pre-trial detention or imprisoned convicts. Criminal investigations were launched in 420 cases, of which 56% concerned ill treatment by law enforcement officers.

In 2022, the Prosecution Service of Georgia (PSG) launched investigations into 3 criminal cases on allegations of ill treatment in penitentiary institutions and 8 cases on alleged ill treatment committed by police officers. The Service prosecuted 4 officers in penitentiary institutions and 7 police officers for ill treatment. Three of the prosecuted persons had been investigated by the SIS. It is important to provide statistics that enable the monitoring of the entire criminal justice chain, to determine the number of investigated, prosecuted and convicted cases of ill treatment and thus evaluate the quality of investigations and the propensity of the PSG to prosecute.

In 2022, the first instance courts did not hear any cases related to law enforcement based on Article 144 (1) of the Criminal Code, which criminalises ‘torture’. First instance courts delivered convictions in three cases on the basis of Article 144 (3) of the Criminal Cod, which criminalises ‘humiliation or inhuman treatment’ and one case under Article 333 of the Criminal Code covering use of force/exceeding official power.

The National Preventive Mechanism (NPM) carried out its mandate by performing 148 monitoring visits to 118 places where individuals were deprived of their liberty in 2022. Of the 129 NPM recommendations from 2021, only 25% have been implemented. The Georgian authorities need to implement more of the recommendations by the NPM and other monitoring bodies, including the CPT.

Efforts to reduce the **prison** population need to progress, as the country remains among the top five European countries regarding incarceration rate (265 per 100 000). However, the occupancy rate is only around 82%: with a capacity of 11 656, the penitentiary system housed 9 542 inmates in December 2022.

The legislative framework on criminal penalties is largely in line with relevant European standards, regulating custodial penalties and offering a number of non-custodial penalties as well as probation. The system for implementing non-custodial and probation measures is well advanced and functions well. In general, the penalties system established by the criminal code should allow wider application of non-custodial measures and probation, and an early release mechanism. A new penitentiary code was adopted in first reading by the Parliament in June 2023.

The Public Defender's annual report for 2022 does not report any deteriorated conditions/capacities in police detention centres, except for a reduction in the number of monitoring cameras in most police institutions. The same goes for the overall assessment of conditions in pre-trial detention/prison facilities managed by the Ministry of Justice/Special Penitentiary Service. As per the 2021 report by the Council of Europe's Committee for the Prevention of Torture (CPT), based on inspection visits in 2021 to three semi-open prisons, disparities in conditions between cells were reported along with lack of sufficient administrative control. The shortcomings have been acknowledged by the MoJ and action is now planned as part of the new (still draft) penitentiary strategy for 2023-26.

Since his return to Georgia in September 2021, former President Mikheil Saakashvili has been imprisoned under charges including abuse of power, for which he is serving a six-year sentence, with several other criminal charges still pending against him. Since May 2022, he has been serving his sentence in the VivaMedi Clinic. Strong concerns continue to be raised regarding the deterioration in his health. In 2022, Mr Saakashvili applied to the Georgian courts for deferral of his sentences on health grounds; this was denied in March 2023 by the Tbilisi Court of Appeals.

The Georgian authorities have a legal responsibility to protect the health of all detainees, to provide adequate medical treatment and respect their fundamental rights, in line with Georgia's international commitments. In April 2023, Mr Saakashvili's lawyers applied to the ECtHR to use an interim measure, arguing that his medical condition cannot be treated in any facilities in Georgia. The ECtHR ruling, issued on 11 May, did not instruct the Georgian authorities to transfer Mr Saakashvili to Poland for medical examination and treatment.

Parliament adopted the Personal **Data Protection** Law on 14 June 2023, which was sent to the Venice Commission for opinion in September 2023. The law aims to align Georgia's legislation with the EU *acquis*. It has been under discussion for several years. Overall, the new legislation provides for improvements in comparison to the 2011 law. Several issues are still to be addressed, notably regarding rules on international data transfers and certain exemptions/limitations to data protection rights. The law will be applicable as of 1 March 2024. The country has signed and ratified Council of Europe data protection Convention 108 and its Additional Protocol 181, but has not yet signed Convention 108+ (the modernised version, from 2018).

The new Personal Data Protection Service (PDPS) was created in March 2022 after the dissolution of the State Inspector's Service. Its role is to monitor the lawfulness of data processing and oversee covert investigative action and the activities carried out at the central database for electronic communication identification data. In the reporting period, the Service received 220 applications/notifications related to lawfulness of personal data processing (137

applications/notifications related to data processing in private institutions, 47 in public institutions and 36 in law enforcement bodies). The Service identified 99 cases of unlawful processing of personal data, of which 39 cases were studied in the scope of the examinations (inspections) initiated in 2022 and completed in the reporting period. 60 cases were studied in the scope of the examinations (inspections) initiated and conducted in 2023. The Service imposed fines and warnings as administrative penalties in 74 cases.

In June 2022, the Parliament adopted the draft Law on amendments to the Criminal Procedure Code. This significantly extends the list of crimes under which the use of covert investigative measures in investigations is allowed, as well as the permissible duration of a covert investigative measure. The amendments were vetoed by the President of Georgia. On her request, the Venice Commission, in its opinion of 22 August 2022, concluded that the law was adopted in a hasty procedure, highlighted the inadequate oversight mechanism for the secret surveillance measures, and urged the authorities to re-examine the legislation. Moreover, the Venice Commission underlined that covert surveillance should be seen as an exception and be very carefully worded and narrowly interpreted by the government. In spite of these clear recommendations to take a cautious approach, the Parliament overruled the President's veto on 6 September and the law was enacted. This development raises serious concerns.

The investigation that started in September 2021 into the eavesdropping and illicit surveillance of politicians, journalists, civil society activists and the diplomatic community, including tapes of private life and correspondence, has not been concluded. The repeated calls, including by the Public Defender, to improve accountability and effective institutional oversight are yet to be addressed.

Freedom of thought, conscience and religion is constitutionally guaranteed. Georgia's anti-discrimination legal framework prohibits discrimination and manifestation of intolerance on the ground of religious beliefs. The Criminal Code prohibits any unlawful obstruction to holding worship and religious rites, violation of equality or interference with the establishment of religious associations.

However, religious minorities face several challenges in exercising their freedom of religion notwithstanding this comprehensive legal framework. For example, there is insufficient funding provided to religious minorities for rehabilitating their places of worship and an unequal application of tax exemptions for religious organisations. Other issues include the denial of a request to construct a new mosque in Batumi City and subsequent legal proceedings, allegations of stigmatisation, pressure to convert and harassment against members of religious minorities, particularly Muslim students, in state schools. The main policy-making government body, the State Agency on Religious Issues, does not have the full trust of the public and there are concerns about its security-centric approach to minority religious issues.

Hate crimes towards religious minorities are addressed, though some investigations into alleged attacks, discrimination and physical violence committed on the grounds of religious intolerance lack effectiveness.

Regarding the **fight against antisemitism**, Georgia reported only few cases of antisemitic hate-speech in 2022. The government is taking measures to safeguard Jewish culture and heritage in Georgia.

Freedom of expression

Georgia has reached **some level of preparation** on freedom of expression and made **limited progress**. The Law on broadcasting was amended to further align with the Audiovisual Media Service Directive. In Georgia, there is an overall pluralist, diverse but highly polarised media landscape. Critical media reporting is available. Freedom of expression is overall respected and upheld. Georgian citizens and civil society enjoy their rights of freedom of speech. Most of the TV broadcasters are affiliated to political parties, deepening the political divisions in the country. This is contrary to the prohibition on political parties owning media outlets. Georgia made some progress on the issue of ownership concentration with the revised Law on Public Broadcasting. The government and CSOs have taken steps to engage in a structured dialogue including on freedom of expression. There was also progress in the regulation of party financing with Parliament adopting in December 2022 electoral amendments including a party financing cap.

Continued public attacks and discrediting rhetoric against journalists and media professionals by high-level public officials and politicians, from both government and opposition, as well as from violent far-right groups, have created a somewhat hostile environment, posing a threat to media freedom and pluralism. Delays by public institutions and officials in responding to (or failure to respond to) requests for information, especially from critical and independent media, raise concern.

In the coming year, Georgia should in particular:

- ensure the safety of journalists and provide prompt, impartial and due legal follow-up in cases of attacks against and intimidation of journalists, including as regards the instigators of the 5 July 2021 violence against over 50 journalists;
- improve the independence of the national media regulator (Communication Commission) in line with the principles of Audiovisual Media Service Directive and European standards;
- align further the legislative framework with European and international standards notably regarding hate crimes and hate speech including the 2008 Framework Decision on combating certain forms of expressions of racism and xenophobia.

Intimidation of journalists

The media environment is largely pluralistic, but also highly polarised. Georgia needs to follow the EU's policies on the protection and safety of journalists and media professionals. The Council of Europe (CoE) has conveyed strong concerns related to both Georgia's legal and policy framework and its implementation in terms of protection and safety of journalists. In 2020-2022, the CoE's Platform on Safety of Journalists received 16 alerts of violence and threats of violence against journalists in Georgia, compared to no alerts in the 3 previous years. Georgia's security indicator deteriorated from 100 to 135 in the Reporters without Borders 2023 Index, as the country slid from 77th to 89th place.

The organisers of the violence on 5 July 2021 remain at large. 60 individuals (including 48 journalists and one cameraman) and one legal entity – 'Tbilisi Pride' – are recognised as victims. The Prosecution Service prosecuted 31 individuals for participating in the violence; proceedings against 14 defendants were concluded. As for the organisers of the violence, investigations are officially still ongoing. No prosecution took place during the reporting period. Georgia needs to urgently follow-up on these cases and ensure the perpetrators and instigators of the violence are brought to justice.

In November 2022, the Tbilisi Court of Appeals ruled to uphold Mtavari Arkhi TV director sentence of 3 years and 6 months in prison, finding him guilty on two counts under Article 220 of the Criminal Code, abuse of power. The Public Defender found the judgement and reasoning

of the court to be unfounded and unsubstantiated in terms of conviction as well as sentencing. In June 2023, the Supreme Court reaffirmed the above-mentioned judgement by upholding prison sentence and ruling that the filed cassation appeals were inadmissible. On 22 June, President Zourabichvili used her discretionary right and signed the decree on pardoning the Mtavari Arkhi TV director, who was released from prison on the same day.

Several court proceedings and investigations against opposition media owners took place. Recent libel and defamation lawsuits and verdicts have a problematic effect on critical media reporting. In addition, there is a number of ongoing cases against journalists, including those dismissed from Rustavi 2.

Legislative environment

The Constitution and the Law on freedom of speech and expression provide for the right to freedom of expression as per international human rights law.

The Law on broadcasting was amended in October 2023 following intensive discussions with the European Commission. Amendments were adopted to ensure the enforcement of the rules prohibiting incitement to violence and hatred and protection of minors and to introduce a system of self-regulation with legal backstop, aiming at alignment with the AVMSD. To ensure transparent and trustful relations with media the effective independence of the Communication Commission needs to be further ensured. Georgia shared proposals in this regard and should adopt transparent rules relating to the decision-making processes of the national regulator, including the publicity of their decisions and the handling of complaints. Further, the transparency of the appointment of candidates and grounds for dismissal of its members should be adapted building on European standards. Ensuring that all decisions are made public with increased dialogue can further assist in this task and assist developing conducive environment for cooperation with media sector. Further, the grounds for dismissal of its members should be reinforced building on best current practice.

The legislative framework needs to be fully aligned with the EU recommendation on protection, safety and empowerment of journalists. There are serious shortcomings regarding investigation and prosecution. The Council of Europe recommends amending Article 154 of the Penal Code and the Law on Assemblies and Demonstrations.

Implementation of legislation/institutions

The Georgian National Communication Commission (ComCom) regulates activities in the field of broadcasting and electronic communication. Its rulings have a mandatory effect. Its governing body is composed of five elected Commissioners and a Chair. The ComCom functional independence and impartiality needs to be further demonstrated with transparent proceedings and trustful relations with media stakeholders. The letter from the Chairmen of the Georgian Parliament confirms the commitment to work on the issue of independence which should be swiftly addressed. Among other issues, the duration of the Commissioners' tenure and the quorum for decisions raise concerns. The mechanism for selecting its members should be revised to ensure transparency.

Public service broadcaster

The independence of the Georgian Public Broadcaster (GPB) is guaranteed under the Law on broadcasting. It has significant budget funding of at least 0.14% of the previous year's GDP, as well as income from broadcasting fees.

Economic factors

Transparency of media ownership is guaranteed by law. In a context of strong political and editorial divisions, media operates on market principles, which include the use of public procurement rules to buy airtime (including advertising) - also by government agencies. The exception being for key public information.

The arrest of and court cases against some media owners and directors had a chilling effect on the fundraising and sales ability of the smaller, critical pro-opposition TV companies, resulting in a fall in their sponsorship revenues and advertising income.

Internet

The Constitution guarantees the right of access to and free use of the internet. (*See data protection section*).

Freedom of artistic expression

Neither the Constitution, the Law on culture or the Law on freedom of speech and expression restrict freedom of artistic expression. The 2020-2025 culture strategy is in place. Information on its implementation is scarce and dialogue between the government and civil society remains limited.

Georgia is a signatory of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. More incentivising, lobbying and funding of a diverse range of artistic expression is needed. There have been several high-profile incidents of alleged restriction and hindrance of artistic expression, including restricting access to public funding and cancelling movie screenings.

Professional organisations and working conditions

Georgian journalists and media outlets are represented by several membership-based, associations/organisations which lobby on their behalf. These include the Georgian Charter of Journalism Ethics, the Media Advocacy Coalition, the Georgian Alliance of Broadcasters and the Georgian Regional Media Association (GRMA). There is a dialogue between the government and professional bodies, but its impact is limited. Considerable delays and a recurring refusal to access public information pose a serious challenge for media and CSOs, affecting the timeliness, accuracy and quality of their work and reporting.

Associations set professional standards for ethical reporting, ethical coverage of sensitive issues (such as suicide, children's issues and victims of sexual violence). Enforcement of professional standards set by professional bodies is not mandatory. National and regional TV broadcasters have internal self-regulation mechanisms to review and respond to complaints.

The rights to freedom of assembly and association are guaranteed by the Constitution and regulated by the Law on assemblies and demonstrations. There are some legal restrictions in place prescribed by the Constitution and the law itself. For example the constitutional right does not cover those serving in the army or law enforcement. On 5 October 2023, Parliament adopted amendments to the Law on Assemblies and Manifestations in expedite manner and without prior consultations. The Public Defender and CSOs expressed concerns with this Law and the President vetoed it on 17 October. The amendments allow for arbitrary and undue restrictions on the right to freedom of assembly.

Georgia needs to ensure judicial follow-up regarding the alleged excessive use of force and disproportional measures used by law enforcement officers during the 7-9 March 2023 protests, where thousands of demonstrators gathered in front of the Parliament building, protesting

against the draft ‘foreign agents’ law. The Special Investigation Service launched an investigation into alleged excessive use of force and ill treatment by law enforcement officers during the protests, based on 22 received complaints.

Georgia has not yet reformed its administrative offences’ system, which continues to use the Law on administrative offences to address alleged administrative misconduct during public gatherings. The Code is the only remaining legislative act in force that was adopted during the Soviet period and lacks substantial procedural guarantees (e.g. burden of proof, presumption of innocence, comprehensive examination of a case) to ensure the right to a fair trial in the light of freedom of assembly. The legislative ambiguities in the Code allow arbitrary decisions to restrict freedom of assembly.

During the reporting period, the ECtHR found violations of Article 11 (freedom of assembly and association) in three cases. On 2 June 2023, police detained seven human rights defenders and activists protesting in front of the Parliament, sparking strong reactions about potential violation of freedom of assembly and the freedom of expression.

Georgia has a comprehensive legislative framework on **non-discrimination**, which is largely in line with the EU *acquis* and international standards. Its enforcement requires substantial improvements. Strategic policy aimed at strengthening equality is in place. It does not specifically recognise challenges faced by certain persons in vulnerable situations, such as LGBTIQ persons, failing to plan specific measures to eliminate prevailing discriminatory practices.

The Public Defender’s Office examined 153 cases of alleged discrimination in 2022, 20% of which concerned alleged discrimination on the grounds of dissenting opinion. 13% of the cases concerned discrimination based on sex/gender and disability and 11% were about discrimination on the grounds of sexual orientation and gender identity.

The Criminal Code defines aggravating circumstances for hate crimes. Strategic frameworks for law enforcement agencies also include measures to address hate crimes. There are shortcomings in terms of prompt and effective investigation, as well as identifying a hate motive and conviction for hate-crimes against persons belonging to minority groups or in vulnerable situation, often perpetrated by extreme right-wing groups, remains to be ensured. In 2022, the number of prosecuted hate crime cases significantly increased, as the Prosecutor’s Office launched prosecutions against 1 172 individuals (compared to 834 in 2021 and 95 in 2020) on alleged crimes on grounds of intolerance, of which a majority of cases concerned intolerance based on gender (1 065), followed by sexual orientation (37), gender identity (18) and race or ethnic background (12 cases). Similarly, convictions for hate crimes have increased, as 585 individuals were convicted in 2022 for hate crimes, compared to 321 in 2021 and 50 persons in 2020.

Regarding consolidation of efforts to achieve **gender equality** (one of the 12 EU priorities for Georgia), the government and the Parliament adopted three strategic documents in 2022: the national action plan on combating violence against women and domestic violence and measures to be implemented for the protection of victims/ survivors (2022-2024); the national action plan for implementing the UN Security Council resolution on Women, Peace and Security (2022-2024) and the gender equality concept.

All these documents were drafted with the support of international and local CSOs.

In 2022, Parliament initiated and adopted several legislative initiatives to address gender equality. In a very inclusive process, Parliament adopted a package of draft laws on 15 December, related to compliance with the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, better known as the Istanbul

Convention, mandatory gender impact assessment for all legislative acts and several amendments to combat violence against women and girls. The legal definition of rape is not in line with the Convention as it is not based on the absence of consent.

In February, Parliament approved amendments to the Electoral Code, which extended gender quotas for parliamentary and municipal elections by 4 years (until the 2032 elections) and introduced gender quotas under the earlier Constitutional Court Decisions. In March, Parliament adopted a Plan for the economic empowerment of women.

Another positive step, in December 2022, was the adoption of amendments by Parliament to the law on Normative Acts, to introduce mandatory gender impact assessments for all draft legal initiatives. In 2022, the Ministry of Finance introduced Gender-Responsive Public Financial Management (GRPFM) Assessment, which creates a roadmap mainstreaming gender-responsive budgeting and gender-sensitive reporting. The Ministry of Internal Affairs updated the domestic violence risk-assessment tool, to improve its effectiveness. The updated tool entered into force in May 2023.

According to Georgian criminal legislation, so-called honour crimes are an indicator of gender-based discrimination. On an institutional level, the response to gender-based violence is well defined and operational; it needs to be improved in practice, including in terms of protective measures, survivors support services, and post-shelter services/support. The 2022 decision to provide financial compensation to victims of domestic violence is a step forward in creating a better supporting environment for victims. The necessary minimum standards for temporary housing for victims of violence against women and/or domestic violence were approved on 11 July 2023. As a result, the existence of victim status as a barrier of receiving services has been abolished from July 2023. The UN has expressed concerns about the prevalence of sex-selective abortions in Georgia, particularly among minorities.

Economic participation of women remains low compared to men. The gender pay gap is significant, with women earning monthly on average about 30% less than an average nominal salary of men.

Women's political participation in the decision-making process remains a low, especially at the local level. Gender quotas in the 2020 parliamentary elections did not change the fact that the number of women in elected positions remains low. Women constitute only 17% of all Members of Parliament. The share of local women council members doubled from 11% to 24% at the local government level, as a result of the 2021 elections. There are only three women mayors.

Georgia needs to promote gender balance in decision-making and politics with and address the non-enabling environment both within party structures and in society, but also women's capacities to finance election campaigns, gender-based disinformation and cyber-discrimination against women politicians, as well as stereotypes and perceptions of women's roles and girls' role in the society.

Significant improvements in sex-disaggregated/sensitive data collection were introduced. This needs to be further improved, especially at regional/local levels, to enable evidence-based policymaking.

Georgia has a comprehensive legal framework **on the rights of the child**. Progress in this area has been achieved. The systematic collection of reliable and comparable data disaggregated by age and sex is essential for setting evidence-based policy priorities and ensuring the effective protection of children. Georgia should further develop a child-sensitive social protection system to reduce/prevent child-poverty and providing services that promote inclusion of

children with disabilities, especially at municipal levels. According to a 2023 UNICEF study, 37.8% of children in Georgia are materially deprived. In recent years, the government has substantially increased child benefit programmes. The benefits only cover children under the age of 16 and almost half of poor families (47%) do not benefit from the programme, supposedly due to fact that they are above poverty line.

Georgia is a member of the Lanzarote Committee. However, violence against children, including corporal punishment, remains a persistent problem. The official data of the Agency for State Care reveals an increasing number of verified cases of violence against children: 1 781 cases in 2022, compared to 714 cases in 2021 and 618 cases in 2020. This echoes a similarly increasing trend in the number of cases reported to the Agency.

Prompt and effective investigation of cases involving violence against children is lacking. Georgia has not adopted a national strategy on addressing violence against children, which is addressed under the 2022-2030 national human rights strategy. However, the launch of centres for psycho-social services (Barnahus), which provide child-friendly, interdisciplinary and multi-agency services for child victims of sex-crimes, is seen as a positive step.

Georgia has made progress in the de-institutionalisation process of large-scale institutions. Effective investigation of the alleged mistreatment incidents that occurred over several years at the Ninotsminda orphanage is still pending and should be swiftly followed-up. Georgia needs to prioritise the development and adoption of a credible deinstitutionalisation strategy and ensure the transition to community-based care.

The existence of child, early and forced marriage and adolescent pregnancies also requires more coordinated and effective prevention. The Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs registered 815 cases of adolescent pregnancies in 2022, marking an increase over previous years (518 cases in 2021 and 578 in 2020). The Ministry of Internal Affairs launched investigations into 171 cases of alleged child marriage. A coherent child-friendly justice system reform is also needed.

Concerning the **rights of persons with disabilities**, Georgia has a comprehensive legal system in place, being a party to the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol. According to data from September 2022, there are 125 467 registered persons with disabilities in Georgia, representing 3.4% of the population. The real number is estimated to be larger, possibly 558 000.

In February 2023, the government adopted a strategy on deinstitutionalisation and independent living for persons with disabilities, together with a 2023-2030 action plan. In 2022, positive steps were taken to ensure the rights of persons with disabilities, including roughly 20% more funding for social packages, to counter inflation. Persons with disabilities working in the public sector can now maintain their social payment. There were 78 persons with disabilities employed in the civil service in 2022, compared to 80 in 2021 and 51 in 2020. Persons with disabilities continue to face discrimination in many aspects of life, from education to poor social awareness in general, and remain one of the most marginalised groups in the country.

The disability assessment system has not yet moved away from the medical model and still largely disregards individual functioning and environmental factors that undermine the well-being of persons with disabilities. The legislation requires the government to shift from a medical to a biopsychosocial assessment model in 2023. In March 2023 the action plan on introducing a biopsychosocial model of assessment for disability was approved by the Ministry of Labour, Health and Social Affairs (MLHSA).

National accessibility standards are not effectively enforced and a lack of access to buildings, transport and services persists, with persons with disabilities facing physical and sensory obstacles.

The upholding of the **rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons** remains a challenge. In Georgia LGBTIQ persons are one of the most marginalised groups, subjected to systemic homophobia, negative social attitudes and political exploitation of homophobic sentiments.

The national strategy for the protection of human rights for 2022-2030 does not address LGBTIQ rights. The authorities fail to recognise and acknowledge the systemic nature of discriminatory patterns and inequalities affecting LGBTIQ persons, and this has resulted in significant gaps in the measures taken to address these concerns. There is an absence of concrete measures to support LGBTIQ persons, combating discrimination based on sexual orientation and gender identity.

The use of hate speech by politicians and public figures fuels hatred towards LGBTIQ persons, makes them socially unacceptable and extends the scope of violence against them. Investigations into alleged hate crimes in 2022 failed to meet standards of effectiveness and timeliness. A similar conclusion was made by the Council of Europe's Commissioner for Human Rights, who identified the failure to identify and correctly qualify hate motives as one of the biggest challenges.

No investigation or prosecution has taken place of the instigators and organisers of the violence during the events of the Tbilisi Pride march in 2021. On 16 January 2023, a Court of Appeal reduced the charges against the perpetrators (and excluded the qualification of 'organiser').

The issue of legal gender recognition is not regulated, and the general procedures are vague. On 1 December 2022, the ECtHR found a violation of Article 8 of the European Convention on Human Rights (the right to protection of private and family life) in the case of three transgender men v. the Georgian state.

Regarding the **protection of persons belonging to minorities**, 13.1% of the population of Georgia (488 136 people) belong to a national minority. Of those, 6.27% are ethnic Azerbaijanis and 4.53% ethnic Armenians. There are other ethnic groups, such as Kists, Udis, Avars, Assyrians, Ossetians, Yezidis, Kurds, Ukrainians, Russians, Greeks, Jews and Roma⁷, in total making up about 2.4% of the population.

The political representation for minorities is limited, including at local level. In the Parliament, 6 MPs belong to the national minorities (3 Azerbaijanis, 2 Armenians and 1 Yazidi). At municipal level, several local councils have a majority of minority representatives (in Akhalkalaki 35 out of 42 members are from national minorities, in Ninotsminda 29 out of 30).

The 2021-2030 state strategy for civic equality and integration is being implemented. The government has prepared a 2023-24 action plan with a special focus on empowering women and young people from minority backgrounds, through targeted programmes and improved knowledge of the national language as a key priority. One of the priorities in the strategy is 'national language to support integration'.

The systemic problems in the minority educational system have resulted in various education-related issues, including poor knowledge of the national language. Minority pupils have lower PISA scores than other Georgian pupils, which reflects educational inequality in terms of

⁷ In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

access to pre-school education and a lack of resources for schools in areas densely populated by minorities. Teacher training and materials for teachers of the Georgian language and minority languages is not sufficient.

There are around 22 TV stations broadcasting in minority languages, over ten online media outlets and several radios run by minorities. Minority media face similar problems to those of ‘critical’ national media outlets, e.g. lack of financing, attacks against journalists, slandering.

Lack of equality was also observed regarding the rights of religious communities (10.7% Muslim and 2.9% of Armenian Apostolic Christianity). The Orthodox church (representing 83.4%) enjoys unequal privileges in terms of owning or purchasing state property and as regards taxes. Allocation of municipality funding is also discriminatory towards some religious groups. The Defence Code of 11 July 2023 provides for an exemption to military service for clergy in the Orthodox church, but not in other confessions.

According to the 2014 population census, there are about 640 **Roma** living in Georgia. Most of them are registered and have identity documents. In general, they have access to social services and education. There is no specific legislative framework to address Roma issues, given the small number of them residing in Georgia. The State strategy for civic equality and integration for 2021-2030 and its accompanying action plan address all minorities, including Roma, to protect and support their cultural identity and increase their participation in different spheres of social life. The Roma are one of the most discriminated ethnic groups and suffer from more limited access to housing and government services and experience literacy problems, which impact children’s education. It is also a cause of concern that children living and/or working on the streets are predominantly Roma.

The Constitution states that citizens must be afforded the same rights regardless of ethnicity, and in accordance with international law, must ‘have the right to develop freely, without discrimination and interference, their culture.’ According to the 2022 OHCHR report, Georgia supports activities aimed at promoting the culture of national minority representatives and inter-cultural dialogue. National minority theatres, museums and cultural centres receive government funding. The registration of monuments of cultural heritage is ongoing and various buildings have received monument status. The monuments of various national minorities are being monitored and rehabilitated.

There are approximately 92 000 **internally displaced** families from the breakaway regions of Abkhazia and South Ossetia (more than 290 000 internally displaced people, or IDPs). There is a need to ensure that resources are distributed based on needs rather than IDP status. To date, a long-planned IDP social allowance reform, aiming to change assistance from status-based to needs-based, had not been implemented. Providing IDP families with durable, permanent accommodation remains a challenge. In 2022, the government provided 3 530 internally displaced families with new housing. The 2023-2024 action plan for implementing the state IDP strategy envisages a reduction in provision of durable housing solutions. Parliament introduced additional amendments in December 2022, following which any IDP born after 2022 will no longer have a right to request housing individually, unless they are a member of a nuclear family. Both these amendments constitute positive steps towards a needs-based rather than status-based assistance policy.

As regards **property rights**, Georgia has legislative guarantees in place. The process of initial registration of land through the cadastral system has not been finalised. Approximately 708,000 ha of territories in the country remain to be registered in the property registry.

2.2.2. Chapter 24 - Justice, freedom and security

The EU has common rules governing border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails removing border controls inside the EU. EU Member States also cooperate with Georgia in the fight against organised crime and terrorism, and on judicial, police and customs matters, with the support of EU Justice and Home Affairs agencies.

Georgia has **some level of preparation** for implementing the EU *acquis* in this area. **Some progress** was made, through the continued implementation of the action plan for justice, freedom and security. Criminal justice reform and police reorganisation have gained momentum but so far results are limited. Reception centres for migration and asylum are now operational and so far coping with the inflow of migrants. The centres represent a major step forward in creating a sound migration and asylum management system in the country.

In the coming year, Georgia should in particular:

- continue to fulfil the visa liberalisation benchmarks as regards unfounded asylum applications in EU Member States;
- continue to fulfil the visa liberalisation benchmarks regarding anti-money laundering measures to combat money laundering and preventing/tackling corruption and organised crime;
- properly implement the EU's Integrated Border Management strategy and its accompanying action plans.

Fight against organised crime

Georgia has **some level of preparation** in fighting organised crime. **Some progress** was made by adopting and implementing a dedicated action plan and, to a lesser extent, strengthening the accountability and oversight of law enforcement agencies. The Government adopted the Report on Money Laundering and Terrorism Financing Assessment Risks in Georgia on 3 October 2023.

Georgia participated in an increasing number of joint operations with EU Member States and neighbouring countries. A national strategy for combating organised crime was adopted in 2021 and a subsequent action plan is in place and being implemented.

The anti-money laundering legislation partially reflects the recommendations by the Financial Action Task Force (FATF) and relevant international legislation. The country also needs to align its legislation with Directive (EU) 2018/1673 on combating money laundering by criminal law. There are still outstanding recommendations from the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures (Moneyval) to be addressed. Georgia needs to improve its track record of proactive investigations, prosecutions and final convictions in organised crime and money laundering.

More needs to be done to improve the coordination and effectiveness of law enforcement in fighting certain forms of crime, such as money laundering and financial crimes.

In the coming year, Georgia should in particular:

- increase the effectiveness of the investigation into criminal networks with further reform on intelligence-led policing and increasing investigators' analytical capabilities;
- strengthen the Interagency Coordinating Council for Combating Organised Crime to improve cooperation and increase the efficiency and effectiveness of the fight against organised crime;

→ strengthen the accountability and oversight of law enforcement agencies.

Institutional set-up and legal alignment

Georgia has 11 415 police officers (11 337 in 2021) which is 309.5 police officers per 100 000 inhabitants in 2022, compared with an EU average of 335 police officers per 100 000 inhabitants over 2019-2021.

The fight against **organised crime** falls under the remit of several law enforcement and security administrations in Georgia. Coordination of policy development and implementation lies with Georgia's Inter-agency Coordination Council for Combating Organised Crime. It is composed of the Ministry of Internal Affairs (MIA), the Ministry of Justice (MoJ), the Ministry of Finance, the Ministry of Education and Science as well as the General Prosecutor's Office and the State Security Service. MIA acts as the Secretariat of the Interagency Council. The Asset Recovery Office is set up within the Public Prosecution Office. There has been a significant increase in seized/confiscated assets, especially in money laundering and corruption-related cases. In 2022, the Prosecutor General's Office confiscated EUR 19 856 600 worth of assets (compared to EUR 5 668 484 in 2021) in money laundering cases and EUR 1 578 600 worth of assets (compared to only EUR 180 330 in 2021) in corruption cases. Georgia's financial monitoring service is the Financial Intelligence Unit (FIU). It continued to strengthen its analytical capacity for data processing and financial analysis. No beneficial ownership register has been created yet.

Georgia has ratified the UN Convention against Transnational Organised Crime, as well as its protocols on Trafficking in Persons and Smuggling of Migrants. In these areas the criminal code is partially in line with the EU *acquis*. The Law on confiscation of criminal assets is partially aligned with the EU *acquis*.

The main strategic priorities for combating organised crime are reflected in the 2021-2024 national strategy for combating organised crime. In April 2023, the government approved the 2023-2024 action plan under this strategy. On 3 October 2023, the Government adopted the Report on Money Laundering and Terrorism Financing Assessment Risks in Georgia.

As a way to implement Priority 6 in the European Commission's opinion, a parliamentary working group on strengthening the fight against organised crime was created, under the leadership of the Parliament's Defence and Security Committee. In October 2022, the Committee adopted an action plan with 76 activities tackling organised crime, cybercrime, trafficking in human beings, money laundering, terrorism financing and drug-related crimes.

Amendments to the Criminal Procedure Code on the separation of powers between criminal prosecution and investigation bodies are in process. The reform is part of the commitments taken by the government in the context of the 2021-2027 EU-Georgia Association Agenda.

The legislation on trafficking in human beings is well developed. The criminal code criminalises trafficking in human beings for the purpose of sexual and labour exploitation and lays down penalties ranging from seven to 12 years imprisonment for offences involving an adult victim, and from eight to 12 years for those involving a child victim.

The Labour Inspection Service is responsible for detecting forced labour and/or labour exploitation cases in public and private companies.

To reinforce the proactive identification of possible cases among children working and/or living on the street, special guidelines for eight mobile groups of the Agency for State Care were developed in collaboration with the MoJ, the Agency for State Care and the International Organisation for Migration.

The Ministry of Justice (MoJ) coordinates the fight against **trafficking in human beings** leading the Anti-trafficking Interagency Coordination Council (THB Council). Further capacity building for the relevant law enforcement agencies is needed. The new 2023-2024 national action plan was adopted in December 2022. It is based on the '4Ps' principles (i.e. Protection, Prevention, Prosecution and Partnerships) and is in line with most of the EU, UN and Council of Europe (GRETA) special rapporteurs and the US State Department recommendations and strategic priorities. The THB Council approved the governmental strategy on protecting homeless children from violence, including trafficking in human beings in December 2022.

Fight against cybercrime is one of the core priorities of the 2021-2024 strategy for combating organised crime. Georgia is party to the Budapest Convention on Cybercrime, except for the Second Additional Protocol to the Convention. Georgia's criminal law is largely in line with the Lanzarote and Budapest convention requirements in terms of addressing online child sexual abuse and exploitation. A National Action Plan for Combatting Violence against Children in the Digital Environment aligned with the Lanzarote Convention is needed.

The **possession of weapons by civilians** is regulated by article 236 of the Criminal Code, which envisages criminal liability for the illegal purchase, storage, carrying, manufacturing, transportation, forwarding or sale of firearms (other than smooth-bore firearms (shotguns) for hunting), ammunition, explosive substance or explosive devices. The Law on Weapons and regulations were amended to prevent and reduce cases of non-designated use of weapons and to restrain illegal circulation of weapons.

In September 2022, the Parliament adopted amendments on combating money laundering and the financing of terrorism, to align with the 5th EU anti-money laundering Directive, including regulations and a supervisory mechanism on virtual assets. Still, Georgia has yet to fully align with this Directive. The 2023-2026 national anti-money laundering strategy was approved on 4 April 2023, together with and its implementing action plan on prevention, detection and combating money laundering and terrorist financing as well as financing weapons of mass destruction.

Witness protection in criminal proceedings is regulated by Chapter 9 (Articles 67-71) of the Criminal Procedure Code.

Implementation and enforcement capacity

Georgian organised crime groups operate beyond Georgia's borders and are active in migrant smuggling, organised property crime, trafficking in human beings, firearms and drug trafficking, money laundering and other related crimes, such as document fraud.

The number of investigations into organised crime in 2022 was 196 (compared to 100 in 2021). The number of prosecuted and convicted individuals for organised crime ('thief in law' offences) has increased. In 2022, 257 people were prosecuted/indicted for different organised crimes (211 in 2021), of which 83 fell under 'thief in law' offences. 161 people were convicted of organised crime in 2022 (94 in 2021) and 87 for 'thief in law' offences, compared to 39 in 2021 (an increase of 123%).

Georgia needs to strengthen the professional development of training for the employees of the agencies involved in fighting cybercrime.

On **international police cooperation**, Georgia concluded a Working Arrangement with the European Union Agency for Law Enforcement Training (CEPOL). It is recommended that the Georgian authorities, with the assistance of CEPOL design, prepare and organise targeted training to address the priority training topics at a national level.

An operational cooperation Agreement with the European Union's law enforcement Agency (Europol) is in force. Georgia has increased its participation in Europol Analytical projects. Between May 2022 and February 2023, 1 002 pieces of operative information related to more than 4 500 people were shared by MIA with Europol members and partner countries through the SIENA channel. In 2022, 2 970 information were exchanged compared to 2 505 in 2021 (+20%). Moreover, in 2022 62 cases were initiated via SIENA compared to 33 in 2021 (+93%).

Since March 2023, Georgia has been participating in a Joint Investigation Team (JIT) to fight irregular migration, initiated by Italy, Greece, Ukraine and Georgia.

Georgia substantially increased its participation in the context of the European Multidisciplinary Platform Against Criminal Threats (EMPACT), from 40 operational actions in 2022 to 79 actions in 2023. Georgia is co-leading one operational action in 2023, as it did in 2022. Georgia's EMPACT coordinator actively participates in the meetings of the EMPACT national coordinators.

Georgia has been actively involved in working groups as a member of Interpol. In the reporting period, a large amount of operational information was exchanged with various countries through Interpol channels. Currently, the MIA deploys police attachés in several partner states, covering numerous countries (including EU Member States and EU/Schengen Associated States).

Concerning **domestic operational capacity**, the modernisation of the police forces continued with further development of intelligence-led policing (ILP), aiming to establish a unified system for crime information and analysis. With the aim of supporting the smooth implementation of the ILP reform process, an action plan for 2023-2025 was adopted in April 2023. Moreover, by the end of 2022, community-led policing was introduced in all police divisions in Tbilisi and the concept has been launched in Rustavi.

In 2022, 96 cases of investigations of crimes under Art. 194 of the Criminal Code 'Legalisation of illegal income (**money laundering**)' were registered and 19 cases solved – compared to 64 cases registered and 17 solved in 2021.

Georgia is primarily a country of origin and, to a lesser extent, of destination and transit, for victims of **trafficking in human beings**. The number of investigations, prosecutions and detected victims of trafficking was gradually increasing until 2021, when there were 16 investigations, five prosecutions and two convictions (compared with 19 investigations, seven prosecutions and four convictions in 2021).

On **arms control** in 2022, the first instance courts heard 14 cases (against 16 people); in 13 cases (against 13 people) courts delivered convictions and in one case (against three people) the court delivered an acquittal. In 2021, the first instance courts heard eight cases (against nine people).

Cooperation in the field of drugs

Institutional set-up and legal alignment

The 2023-2030 national drug strategy was adopted on 24 February 2023 along with its accompanying action plan for 2023-2024 and the 2022-2026 national action plan for the drug information system. The Ministry of Justice serves as a national focal point for the Reitox network run by the European Monitoring Centre for Drugs and Drugs Addiction.

The **legal framework** for the fight against drugs consists of specific legislation and provisions in the criminal code, which include both criminal and administrative penalties. The legal framework for this is largely in line with the EU *acquis*. Rules on minimum sentences and

penalties for drug-related criminal offences need to be further aligned. Georgia is party to the relevant international narcotic drug control conventions.

Georgia has had a National Drugs Observatory (NDO) since 2020, which is in charge of collecting and analysing data for evidence-based drug policy. The Observatory is hosted by the Interagency Coordinating Council for Combating Drug Abuse and is part of the Ministry of Justice. The Early Warning System (EWS) on new psycho-active substances (NPS) has not yet become operational.

Implementation and enforcement capacity

Georgia is a transit country located on the Caucasus drugs route, used among other things for smuggling heroin from Iran to Türkiye and onwards into the EU. Drug seizures also include hemp and cannabis. Addressing drug transit and drug trafficking is one of the biggest challenges of the law enforcement system, as outlined in the National Strategy on Combating Organised Crime. The Ministry of Internal Affairs continuously implements measures aimed at reducing illicit drug trafficking. In 2022 3 112 kg of illicit narcotic substances were seized (compared with 2 581 kg seized in 2021). In 2022 202 people were accused of illegal sales of drugs (136 in 2021).

The National Drug Observatory has no dedicated budget but it can rely on the financial resources and infrastructure of the Ministry of Justice. Although the laboratory of the Ministry of Internal Affairs is well equipped, the implementation of a National Early Warning System (NEWS) on new psychoactive substances (NPS) is at an early stage and needs to be developed. Both the law enforcement system and the National Drug Observatory are in need of further capacity building. The National Drug Observatory should further improve its reporting and effectively make the NEWS operational.

In September 2022, the MoJ signed a second technical cooperation working arrangement document with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Several national data collection systems are available in Georgia, some compatible with EMCDDA protocols.

There are two types of treatment available in Georgia for drug users and people with substance use disorders (SUD): opioid agonist therapy (OAT) and withdrawal-oriented therapy, including detoxification. Methadone maintenance therapy (MMT) is available only in public clinics. Suboxone maintenance therapy is available in both public and private clinics. The country has relevant regulatory framework and standards for treatment management, and the EMCDDA's treatment demand indicator has been in operation since 2021. Psychosocial rehabilitation capacities and possibilities are still limited and need further development. In Georgia, harm reduction programmes are implemented by low-threshold service providers, which are members of the Georgian Harm Reduction Network (GHRN). Services are funded mainly by the Ministry of Health and the Global Fund to Fight AIDS, Tuberculosis and Malaria, and in some cases by other independent projects.

Fight against terrorism

Institutional set-up and legal alignment

A permanent interagency commission, composed of high-level representatives from all agencies responsible for preventing and combating terrorism, is chaired by the State Security Service of Georgia (SSSG). The SSSG is responsible for terrorism-related incidents and investigations, including cases of terrorism financing and cyber-terrorism.

Anti-terrorism legislation is largely aligned with the EU *acquis* and relevant international law,

including UN Security Council Resolutions. It is a criminal offence to use Georgia's online space to support terrorism and/or incite terrorism. Georgia has a legislative framework on protecting critical information infrastructure, though the overall critical infrastructure protection framework is still being prepared.

Georgia has a comprehensive legal framework in place to criminalise terrorism financing and has adopted a law on facilitating measures to counter money laundering and terrorism financing. Georgia continues to be only partly compliant with the Financial Action Task Force recommendation relating to an independent financial investigation unit/financial intelligence units.

A national counterterrorism strategy for 2022-2026 and the corresponding action plan were adopted in 2022. The 2021-2030 national strategy on reducing chemical, biological, radiological and nuclear threats also covers arms control in each of these domains.

The first money laundering and terrorist financing risk assessment was adopted in October 2019. The Government adopted the Report on Money Laundering and Terrorism Financing Assessment Risks in Georgia on 3 October 2023. Following the 2020 evaluation by the Council of Europe's Moneyval committee, Georgia has been in an enhanced follow-up procedure. In the first follow-up report, Georgia was, for one recommendation (financial intelligence unit), upgraded from 'partially compliant' to 'largely compliant'. The upgrade was possible because of the amendments to the Law on anti-money laundering/counter-terrorism financing (AML/CFT). Georgia also amended the AML/CFT law in order to fulfil the relevant FATF recommendations.

Implementation and enforcement capacity

Georgia is involved in international efforts in the fight against terrorism and is an active member of the Global Coalition against Daesh (ISIS). Georgia has signed bilateral international agreements that include cooperation in the fight against terrorism with 29 partner countries, of which 17 are EU Member States.

In May 2022, five individuals were convicted of membership of a terrorist organisation, joining a foreign terrorist organisation and assisting in terrorist activities. They were sentenced to imprisonment for a term of 10 to 12 years.

The SSSG detained a Georgian citizen on his arrival at Tbilisi International Airport in December 2022 and brought charges against him for joining a foreign terrorist organisation and assisting in terrorist activities. He was detained as a measure of constraint.

Following a special operation, in 2023 the SSSG's counterterrorism centre arrested a Georgian citizen who was an ISIS leader, on the basis of court decision. An investigation was launched under the Criminal Code, which criminalises joining a foreign terrorist organisation and supporting it in terrorist activities. In May 2023, the counterterrorism centre arrested a number of ISIS supporters (six Georgian citizens and one foreign national). Investigations were launched.

In December 2022, the SSSG further expanded cooperation with Europol's three operational analysis projects on counterterrorism (on 'Travelers', Terrorist Finance Tracking Programme and 'Check the Web') and joined the Counter Terrorism Joint Liaison Team (CT JLT).

Judicial cooperation in civil and criminal matters

Georgia is a member of The Hague Conference on Private International Law and party to six of its core conventions, including the Convention on service of documents (1965), the Convention on the taking of evidence (1970) and the Convention on international child

abduction (1980).

Georgia has not ratified the Convention on Choice of Court agreements (2005), the Convention on the international recovery of child support and other forms of family maintenance (2007) and its Protocol on the law applicable to maintenance obligations, nor the Convention on the recognition and enforcement of foreign judgements in civil or commercial matters (2019). Georgia has appointed a Liaison Prosecutor at Eurojust.

Georgia's Law on international cooperation in criminal matters provides the basic legal framework for judicial co-operation in criminal matters. Cooperation in criminal matters, as well as recognition and enforcement of foreign judicial decisions outside the framework of bilateral agreements and conventions, is allowed based on special agreements or reciprocity with other countries. The MoJ and the Prosecutor's Office, as the central authorities designated in accordance with international agreements, manage Georgia's international judicial cooperation in civil and criminal matters.

The Prosecution Service of Georgia concluded a working arrangement with the European Public Prosecutor's Office (EPPO) on 28 September 2022.

Foreign judicial decisions are legally enforceable in Georgia if recognised by a competent court in Georgia, under the conditions outlined in the Law on international cooperation in criminal matters. The Convention on international child abduction is implemented efficiently. Georgia does not have a practice of direct judicial communication with countries outside the EU.

All aspects of customs cooperation are covered under Chapter 29 – Customs union.

Legal and irregular migration

Institutional set-up and legal alignment

The State Commission on Migration Issues (SCMI) has, since 2010, been the Government's consultative body for discussing and taking decisions on various important issues related to migration management.

As of 2022, the SCMI has nine line ministries as fully-fledged members and a number of bodies with consultative status (international and local NGOs, the Public Defender's Office and educational/research institutions). The SCMI and its secretariat are in charge of developing and implementing Georgia's migration strategy, coordinating migration management and developing and monitoring the strategy's annual action plans. The existing institutional architecture is well established and functions effectively.

The 2021-2030 migration strategy covers the improvement of migration management, facilitating legal migration, the fight against irregular migration, the reintegration of returned migrants, an improved asylum system and the integration of aliens. The strategy includes a whole-of-government approach and considers gender equality and human rights issues as cross-cutting ones. Annual action plans are developed and implemented by the relevant line ministries.

Amendments to the Law on labour migration were prepared by the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs, and were adopted by Parliament in May 2023. The amendments aim to refine existing legal norms and enforcement mechanisms in terms of labour emigration and immigration.

The fight against irregular migration and the administration of the Temporary Accommodation Centre are led by the MIA. The 'Procedure for Detaining and Accommodating Aliens in the Temporary Accommodation Centre' was amended on 25 July 2023 and the 'Rule for Accommodation of the Asylum-seeker in the Reception Centre or Another Place' was amended

on 17 August 2023.

Georgian legislation on foreigners is broadly in line with the EU *acquis*. It provides for the *nonrefoulement* principle, and for a maximum detention time for irregular migrants in detention centres. The legal framework needs to be further aligned regarding migrants' rights, notably for vulnerable migrants. Georgia joined the European Migration Network as an observer in 2021.

Georgia has **readmission agreements** with the EU (in force since 2011) and bilaterally with Denmark as well as with the UK, Switzerland, Norway, Iceland, Montenegro, the Republic of Moldova, Belarus and Ukraine. Under the aegis of the EU agreement, it has concluded bilateral implementing protocols with 12 EU Member States⁸. Georgia is in the process of concluding (i) further bilateral implementing protocols with the remaining EU Member States and (ii) is negotiating readmission agreements with additional countries.

Implementation and enforcement capacity

In 2022, there were 580 illegal crossings of Georgia's borders (Art. 344 CCG), compared to 438 in 2021. In the area of migrant smuggling, Georgia cooperates with international organisations and partner countries in the framework of police and international cooperation on combating cross-border crime.

The implementation of the Readmission Agreement with the EU is very good, as corroborated in the last Joint Readmission Committee meeting in November 2022. In 2022, 8 045 Georgians returned to Georgia following an order to leave. Of these, 2 870 fall under the assisted voluntary category, 3 375 under assisted forced return and 1 560 were non-assisted voluntary returnees.

The overall level of coordination of migration management in the country is well-designed. The recent changes in Georgia's migration landscape, caused by the Russia's war of aggression against Ukraine, highlighted existing challenges in migration management. The government demonstrated an openness to refugees and Ukrainian citizens with its limited long-term strategy.

In recent years, the MIA took major steps to improve the effectiveness of detection and expulsion mechanisms for individuals staying in Georgia without a permit, in accordance with existing international standards. In 2022, 165 legal expulsion orders were executed by the MIA, mostly for citizens of Iran, Türkiye and Azerbaijan.

The only Temporary Accommodation Centre (TAC), operated by the Migration Department of the MIA, can accommodate up to 60 detainees. In 2022, 73 foreigners were placed in the TAC (including a high number of citizens of Türkiye (23) and Azerbaijan (10)). In the first quarter of 2023, there were 38 foreigners placed in TAC. TAC has the policy to prevent all forms of discrimination and a mechanism to report ill-treatment, and constant efforts are made to improve both the conditions in the centre and the capacities of the personnel working there. Staffing situation is good.

2022 was an exceptional year in terms of returns to Georgia, reaching the highest number ever: 2 945 persons from 31 countries. In 2022, Greece outnumbered all other countries with 55.69%, followed by Germany (23.19%), Austria (4.92%), France (3.46%) and Switzerland (3.43%).

⁸ Belgium, Bulgaria, Czechia, Germany, Estonia, Lithuania, Luxembourg, Hungary, Netherlands, Austria, Romania, Slovakia.

The reintegration programmes of returning migrants need improvement as they do not sufficiently address the specific needs of all categories of returnees (e.g., vulnerable returnees groups versus highly skilled migrants).

The Agency of Internally Displaced Persons, Eco-migrants and Livelihood Provision (the Livelihoods Agency), operating under the Ministry of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs (MoLHSA) is not sufficiently budgeted to deal with the challenges of return and re-integration of migrants. Recognising this limitation, the draft Reintegration Policy has been developed by MoLHSA, introducing a more holistic approach to reintegration based on the whole-of-government approach. The draft is under interagency review and is expected to be endorsed by September 2023. MoLHSA plans the establishment of a returned migrants registration and reintegration management digital system.

Asylum

Institutional set-up and legal alignment

Asylum procedures are the responsibility of the migration department of the MIA.

Georgia is a party to the 1951 Geneva Convention on the status of refugees and its 1967 Protocol. Legislation on asylum is broadly in line with the EU *acquis*, notably on improved reception standards and the rights of asylum applicants such as rights for employment, secondary education, psychological and social aid, reunification of families and subsidiary protection. As to the alignment of legislation and standards regarding interview techniques, access to rights and legal aid, international partners, in particular the UNHCR, report that this is sufficiently addressed.

A programme for the integration of persons under international protection, asylum seekers and stateless persons is run by the Livelihoods Agency and the MoLHSA agency.

Cooperation between Georgia and the European Union Agency for Asylum (EUAA) started in 2013.

Implementation and enforcement capacity

According to MIA data, in 2022, 1 473 individuals applied for asylum in Georgia.

The top countries of origin were Ukraine (516 in 2022, 3 in 2021), Türkiye (203 in 2022, 137 in 2021), Iran (194 in 2022, 125 in 2021) and Russia (115 in 2022, 54 in 2021).

Most asylum seekers were male, and the biggest age group was 26-40 years old, followed by 41-65 years old. The gender distribution (i.e. mostly male) is similar in the case of the major countries of origin. However, in the case of Ukraine, more women applied for asylum than men.

Numerous challenges in asylum/migration management appeared with the influx of Ukrainian nationals into Georgia. Around 24 000 Ukrainian citizens were living in the country as of the first quarter of 2023. They have been granted an extended stay in the country for 2 years. They enjoy certain access to health and social services. Given the increase in asylum applications, the only state-run reception centre is full, and some asylum-seekers have turned to the UNHCR for assistance with accommodation. Services for vulnerable asylum-seekers, such as those in need of psychological or psychiatric treatment, are largely lacking and are fulfilled by a number of grass-roots CSOs, many of them established by the Ukrainian nationals themselves.

Another challenge for asylum management is the high number of stranded migrants in Georgia who turn to the asylum procedure after they fail to obtain or extend a short-term residence

permit. This illustrates that the various stages of the country's immigration policy (visa, admission into the country and residence) are not fully synchronised with each other.

Visa policy

The main authorities responsible for examining visa applications are the Consular Department of the Ministry of Foreign Affairs (MFA) and Georgia's diplomatic missions and consular posts abroad. The visa register/database is hosted by the MFA. Visa legislation is broadly in line with the EU *acquis*, but the list of non-EU countries with which Georgia maintains visa-free regimes is not fully aligned with the list of non-EU countries whose nationals are subject to a visa for short stays in the EU. There are 17 such countries: Ecuador, Iran, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Oman, Qatar, Russia, Saudi Arabia, South Africa, Tajikistan, Thailand, Türkiye, Turkmenistan and Uzbekistan. The Commission issued a recommendation for Georgia to align its visa policy to the EU in its sixth report under the Visa Suspension Mechanism⁹. Security features of visas and travel documents are broadly aligned with EU standards.

Georgia does not have agreements with non-EU countries to issue visas on its behalf. Individual activities related to the issuance of visas can be entrusted to a non-EU country only under conditions determined by an international agreement or treaty.

The implementation of the **visa-free regime** with the EU, which has been in place since 2017, is globally satisfactory. Overall, Georgia continues to fulfil the visa liberalisation benchmarks and has taken action to address the Commission's previous recommendations. The law on pre-departure checks on the credentials of Georgian nationals who wish to travel to the EU (in place since January 2021) continues to be implemented by the MIA's Patrol Police Department at the country's three international airports and at the Sarpi border crossing point.

According to the MIA, in 2021 there were 1 952 cases (1 896 unique individuals) and in 2022 2 726 cases (2 667 unique individuals) of Georgian citizens being denied exit to board a direct flight to the EU, based on insufficient compliance with the basic criteria of Georgia's pre-departure law. Further effort is needed to address unfounded asylum applications in EU Member States, in line with the recommendation issued in the sixth report under the Visa Suspension Mechanism. In 2022, a record number of 28 797 Georgians applied to the EU+ countries for asylum¹⁰.

Schengen and external borders

Institutional set-up and legal alignment

Border management is the responsibility of the MIA, the Ministry of Finance (Revenue Service) and the Ministry of Defence.

Under the MIA, the Georgian border police are responsible for protecting state borders (land and maritime) and the Patrol Police Department is responsible for the state border regime (document checks and border migration control) at border crossing points. Border control legislation is partly aligned with the EU/Schengen *acquis*. The Georgian Air Code obliges the air carrier to communicate **advance passenger information/passenger name records** (API/PNR) to the authorised state institution. Exactly which information should be provided under the API/PNR and the terms and conditions of its management is defined by Georgian implementing legislation.

The Integrated Border Management strategy for 2023-2027 was approved by the government

⁹ COM(2023) 730 final

¹⁰ https://euaa.europa.eu/latest-asylum-trends-annual-overview-2022#footnote5_t7thsbh.

on 9 March 2023. The strategy determines the priorities for 2023-2027 to further improve the government's integrated border management system. It includes a chapter on cooperation with the European Border and Coast Guard Agency (Frontex) and, in general, follows the structure of similar strategic documents adopted by Member States of the European Union. The strategy lacks a particular emphasis on several cross-cutting elements, in particular human rights and gender aspects. It envisages that the Frontex handbook on fundamental rights in border guarding will be integrated by the MIA Academy of Georgia within the national training curricula. Furthermore, the chapter on monitoring and evaluation of the strategy implementation, essential for guiding the National Security Council in conducting regular monitoring and evaluation exercises, was excluded from the final draft. Only general monitoring principles are included. This undermines the oversight of the strategy and monitoring and evaluation (M&E) mechanism.

Implementation and enforcement capacity

Further improvement of border guard training modules and training on implementation methods is needed. A trend of high outflow of personnel is observed at border crossing points, as well as at the green border (land border crossing points). This would need to be assessed and could serve as a basis for further support.

Border checks satisfy minimum standards, although there is a need for additional technical and human resources to improve their quality. The MIA's border management and coordination division oversees the preparation of border management strategic documents, establishing a unified border risk analysis system and coordinating activities by analytical units involved in the border management process in terms of border risk assessment.

Since 2021, the amended Law on the rules and procedures for Georgian citizens exiting and entering Georgia is enforced and establishes criteria under which a Georgian citizen may be denied issuance of a passport required to temporarily leave Georgia and may be denied crossing the state border when travelling to a Member State of the European Union or a Schengen-associated country. The abovementioned criteria partially reflect the entry conditions for third-country nationals provided in the Schengen Borders Code.

Georgia's **risk assessment** methodology is based on the common integrated risk analysis model (CIRAM) developed by Frontex and includes the three factors – threat, vulnerability and impact – defining border risks.

Customs risk management is fully automated and implemented in the automated customs data system and databases for border crossing of passengers, goods and vehicles moving through the customs border and customs clearance processes. The MIA has not yet fully operationalised the information flow and intelligence cycle layouts at all levels of analysis (tactical, operational and strategic). A systematic intra- and inter-agency information exchange between the agencies and/or departments involved needs to be set up.

Inland measures and the fight against cross-border organised crime requires improvement in investigations and prosecution of criminal offences. Fighting human trafficking, migrant smuggling, firearms trafficking and terrorism require more efficient delineation of jurisdictions and powers. Exchange of criminal intelligence and biometric data requires significant improvements. Approaches to countering transnational crime remain fragmented and largely based on disconnected efforts by different units of the MIA, Revenue Service and the State Security Service of Georgia .

From an investigation standpoint, serious crimes require more efficient delineation of responsibilities and powers. Currently, Georgia does not see smuggling of migrants as a

separate phenomenon from irregular migration. Responsible entities and departments mainly deal with each case of illegal border crossing (or attempted illegal border crossing) individually, based on their narrow remit, without really looking into the background of a crime and who stands behind it. The practice of changing identity in Georgia still seems possible based on several cases detected in recent years. This modus operandi by Georgian nationals is used to avoid Schengen Information System (SIS) hits, thereby evading detection at the European Union's external borders in case of entry ban or arrest warrant. To identify and dismantle transnational migrant smuggling networks, Georgia needs to set up a unified, comprehensive approach for thorough intelligence collection and investigation .

The MIA has proactive cooperation with Europol's European Migrant Smuggling Centre (AP Migrant Smuggling). Information on the investigation of criminal cases conducted in Georgia in the field of irregular migration is shared with the Centre. Georgia cooperates with INTERPOL on combating the illegal transfer of migrants and trafficking in human beings. To this end, in June 2022, Georgia joined the 'ODYSSEY' project initiated by Interpol Member States.

Concerning API/PNR, Georgia now receives passenger data from almost 60% of airlines. Passenger data analysis is currently conducted by each body (MIA, RS, SSSG) separately. To efficiently fight terrorism and serious crime, Georgia needs to (i) establish a joint inter-agency passenger information unit (PIU), (ii) develop information sharing schemes between different bodies and (iii) develop PIU analytical capacities.

The MIA signed a working arrangement with Frontex in 2008, which was renewed in 2021. The common core curriculum developed by Frontex is implemented in border-related courses provided to border police and Patrol Police officers by the Ministry of Internal Affairs Academy. Georgia is an associate member of the Frontex Partnership Academies Network. Georgia participates in the joint operation coordination points, aimed at improving border security, operational cooperation and the exchange of information and best practice among participating countries. Georgia is one of the most frequent destinations for Frontex returns by both scheduled and charter flights. The overall cooperation with Georgian authorities, as well as the efficiency of returns to Georgia has been very good. Moreover, Frontex is currently exploring opportunities for more advanced cooperation with Georgia in coast guard functions.

Cooperation is active with the Frontex risk analysis network. The Frontex Liaison Officer to the Eastern Partnership countries has been physically deployed to the region as of 16 July 2022 with a mandate covering all six countries, including Georgia. Among the main tasks, the officer facilitates the implementation of inter-institutional working arrangements and supports the coordination of joint activities and operational cooperation between Frontex and the countries in the region.

On operational cooperation with neighbouring countries, Georgia has bilateral agreements with neighbouring countries, mainly on customs: Azerbaijan, Armenia, Türkiye and Russia. There is an agreement between the governments of Georgia and Azerbaijan to construct the first joint border crossing point in the region.

Some measures are in place to fight **corruption** on the border, in particular the possibility to conduct inspections when disciplinary norms are violated and to impose disciplinary penalties.

Protection of the euro against counterfeiting (criminal aspects)

In 2000, Georgia acceded to the 1929 Geneva Convention for the suppression of counterfeiting currency but has not yet ratified it. The Criminal Code (Article 212) provides for liability for counterfeiting.

2.3. ECONOMIC CRITERIA

<i>Table 1.1:</i> Georgia - Key economic figures	2014-19 average	2020	2021	2022
GDP per capita (% of EU-27 in PPS) ¹⁾	31.9	33.6	34.5	37.1
Real GDP growth	4.2	-6.8	10.5	10.1
Economic activity rate of the population aged 15-64 (%) , total	53.9	50.5	50.9	51.9
<i>female</i>	44.8	40.4	40.5	41.5
<i>male</i>	64.5	62.0	62.9	64.0
Unemployment rate of the population aged 15-64 (%) , total	20.8	18.5	20.6	17.3
<i>female</i>	18.6	16.2	17.8	14.6
<i>male</i>	22.6	20.2	22.7	19.3
Employment of the population aged 15-64 (annual growth %)	0.1	-4.2	-2.0	5.4
Nominal wages (annual growth %)	6.5	5.4	9.5	22.0
Consumer price index (annual growth %)	3.8	5.2	9.6	11.9
Exchange rate against EUR	2.82	3.55	3.81	3.08
Current account balance (% of GDP)	-9.0	-12.4	-10.4	-4.0
Net foreign direct investment, FDI (% of GDP)	8.0	3.6	4.9	6.7
General government balance (% of GDP)	-1.5	-9.3	-6.1	-2.7
General government debt (% of GDP)	39.5	60.1	49.4	39.8

Source: National sources; 1) IMF.

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

2.3.1 The existence of a functioning market economy

Georgia is **moderately prepared** for establishing a functioning market economy. In 2022, the country continued its strong recovery from the 2020 pandemic-induced recession. Real GDP growth exceeded 10% for the second year in a row, where the outturn in 2022 was positively affected by the indirect impact of Russia's war of aggression against Ukraine, including the inflow of migrants from Russia and their spending. Georgia's external position improved significantly in 2022, following high deficits in previous years. While inflation remained elevated in 2022, it fell sharply in early 2023. The combination of high economic activity, elevated inflation and a stronger currency, accompanied by the unwinding of the pandemic-driven support measures by the authorities, led to a significant reduction in Georgia's fiscal deficit and public debt ratios in 2022, to 2.7% and 39.8% of GDP, respectively.

Georgia demonstrates a satisfactory track record in carrying out sound macroeconomic policies. Prudent fiscal policy before the pandemic (with deficits averaging 1.5% of GDP in 2014-2019, and public debt below 40% of GDP in 2019) allowed the authorities to provide significant fiscal stimulus after the outbreak of COVID-19. The central bank has a track record of successfully containing inflationary pressures (inflation averaged 3.8% in 2014-2019) and its policy response to the crisis appears appropriate in view of the size of the shock. The macroeconomic policy mix in 2022 helped building resilience and supported a balanced and strong economic recovery that

helped the country weather well the sizeable external shocks related to the war in Ukraine. It also contributed to some consolidation of the country's fiscal position.

The institutional and regulatory environment is favourable overall. Some challenges persist, in particular as regards the unfinished judicial reform, the adverse impact of political polarisation on business confidence, and a large degree of political control over public institutions and their limited transparency. The strong economic activity in 2022 led to significant improvements in the labour market which, however, continues to be characterised by a very high unemployment rate and a high share of informal employment. The share of state-owned enterprises in the economy is relatively low and the authorities continue to pursue important reforms of corporate governance. The banking sector is well capitalised and shows high liquidity and profitability, although the non-banking segments of the financial sector remain underdeveloped.

In the coming year, Georgia should in particular:

- continue to implement prudent fiscal, monetary and other policies underpinning macroeconomic and financial stability, in particular in view of a potential reversal of the financial flows related to the new Russian migrants;
- address the main weaknesses in the Georgian labour market, such as the low employment rate, high level of informal employment, as well as significant gender disparities and regional differences;
- further develop the non-banking segments of the financial sector.

Economic governance

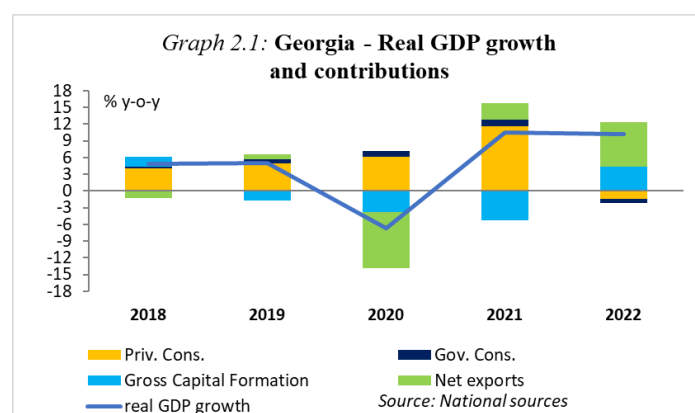
The authorities continued to implement sound fiscal and monetary policies and to advance economic reforms. Georgia has a good track record in carrying out prudent macroeconomic policies, which have helped it address various recent external shocks. In 2022, the authorities weathered well the fallout from Russia's war of aggression in Ukraine by preserving macroeconomic stability, as reflected by strong economic activity, amid lower inflation than in many peer countries and a contained budget deficit. The National Bank of Georgia (NBG) has been instrumental in safeguarding macroeconomic stability during recent shocks. In June 2023, the Parliament adopted amendments to the Law on NBG that could weaken its institutional independence, which is critical for sustaining the credibility of the institution.

Georgia has progressed on implementing the three-year stand-by arrangement with the IMF that started in June 2022. The first review was completed in December 2022. Although a staff-level agreement was reached for the second review in May 2023, the review remains on hold as IMF staff consider the implications of recent amendments to the NBG law for achieving the objectives of the programme. The programme aims at entrenching macroeconomic stability by reducing fiscal and external deficits and bringing inflation to target, further enhancing financial sector resilience, and stimulating agreed reforms in the governance of state-owned enterprises, public financial management, and tax and customs administrations. The authorities treat the arrangement as precautionary, i.e. with disbursements envisaged only in case of a deterioration of Georgia's external position.

Macroeconomic stability

Economic activity recovered strongly in 2021 and 2022 from the recession induced by the COVID-19 pandemic in 2020. Real GDP growth reached double-digit levels in both 2021 (10.5%) and 2022 (10.1%). As a result, by the end of 2022, economic output was more than 13% higher than its pre-pandemic level. This translates into still low GDP per capita in

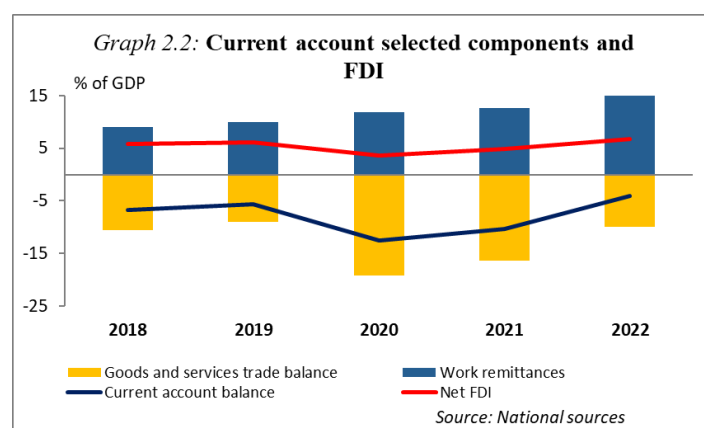
purchasing power parity of 37% of the EU average in 2022. While 2021 GDP growth was driven by household and government consumption, the 2022 expansion was the result of a strong positive impact from net exports, to a large extent driven by the services sector due to the ongoing recovery of tourism, the inflow of Russian migrants, as well as by a delayed



rebound in investment activity. Despite the increase in real wages, household consumption declined in real terms in 2022, on account of the high base but also the elevated inflation during the year. Government consumption also contracted as the authorities continued to phase out support measures introduced as a response to the pandemic.

Georgia exhibits a high (albeit decreasing) current account deficit

due to its significant deficit in trade with goods. The current account deficit averaged 9.0% of GDP in 2014-2019. It then widened to above 10% of GDP in 2020-2021, before narrowing to a record-low 4.0% of GDP in 2022. In particular, the surplus in services increased sharply to 10.9% of GDP in 2022 from 3.9% of GDP in 2021, thanks to the recovery of the tourism sector and a strong rise in exports of IT services. Georgia's merchandise trade deficit remained high at 20.7% of GDP in 2022, a reflection of its relatively narrow export base. While the deficit on the primary account rose on the back of an increase in reinvested earnings by foreign companies, the surplus on the secondary account increased thanks to growing remittances. Money transfers from Russia surged fivefold.



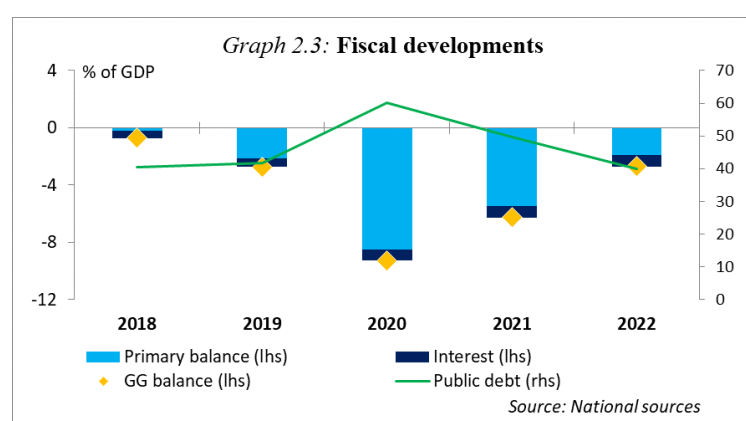
Georgia managed to increase its foreign exchange reserves to USD 4.9 billion at the end of 2022 from USD 4.3 billion at the end of 2021 thanks to the narrowing current account deficit and a sizeable FDI inflow, as well as foreign exchange purchases by the NBG. This meant that reserves exceeded the 100% level of the IMF's Assessing Reserve Adequacy metric. Supported by the strong nominal GDP growth and the

appreciation of the local currency, the share of gross external debt in GDP declined by more than 20 percentage points on the year in 2022 and dropped below 100% for the first time since 2014.

While consumer price inflation remained elevated in 2022 (11.9% on average), it eased sharply in 2023 to 0.9% year-on-year in August, well below the central bank's 3% target. Before the pandemic, inflationary pressures were muted and largely neutralised by the sound policies of the central bank. The disinflation in 2023 reflected the pass-through from the sharp appreciation of the local currency in 2022 (it gained 10% against the USD and 24% against the EUR), the tight monetary policy by the central bank and the stabilisation, and in some cases decrease, in global food and energy prices. The introduction of a price cap on pharmaceutical prices in early 2023 also supported the downward trend. Despite the lower consumer price

growth, the central bank kept its tight policy stance unchanged at 11.0% for a long time before it started a cautious easing cycle in May 2023, when it reduced the key policy rate by 50 basis points, followed by cuts of 25 basis points each in August and in September. This tight monetary policy together with macroprudential measures, has led to a slowdown in credit growth in 2022, in particular for households. Credit activity was mainly driven by domestic currency loans, as the central bank raised the reserve requirements for loans in foreign currency in order to reduce risks to financial stability. This slowdown ended a drawn-out credit boom, during which the stock of loans to the national economy in local currency had risen by nearly 20% on average annually in 2014-2021.

In 2022, public finances benefited from strong revenue growth supported by robust economic activity and elevated inflation, and from the fiscal consolidation efforts



including unwinding pandemic support and saving some of the revenue windfall. This followed two years (2020 and 2021) of high budget deficits, when the state intervened intensely to contain the impact the COVID-19 pandemic. Before the pandemic, the budget deficit was low at 1.5% of GDP on average in 2014-2019, in line with the cautious fiscal stance taken by the authorities. In 2022, reflecting the high economic growth and

inflation, general government revenues increased by 30% in nominal terms. At the same time, current expenditure grew by 9% and capital outlays by 24%. As a result, the general government deficit narrowed to 2.7% of GDP and thus returned below the 3%-of-GDP ceiling envisaged by Georgia's fiscal rules. This outcome was more favourable than had been planned in the fiscal consolidation path for 2022 (a deficit of 4.3% of GDP). After a sharp increase of approximately 20 percentage points during the pandemic, Georgia's public debt-to-GDP ratio declined rapidly in 2021 and 2022. At 39.8% of GDP at the end of 2022, it returned to its pre-pandemic level and was well below the 60% of GDP ceiling set by the country's fiscal rule. The improvement of the debt ratio in 2022 was mainly the result of the high nominal GDP growth and the substantial appreciation of the local currency.

The public finance governance framework was further strengthened. The 2022 Public Expenditure and Financial Accountability assessment, using an international methodology, showed that the public finance system performed well, especially as regards transparency of public finances, predictability and control in budget execution, external scrutiny and audit. Based on these results, a new Public Finance Management (PFM) strategy for 2023-2026 was prepared. The new strategy focuses on public asset management, revenue arrears monitoring, implementation of international public sector accounting standards, consolidation of central government financial statements, as well as gender-responsive budgeting. In February 2023 a public debt management strategy for 2023-2026 was adopted. It provides for a further shift to financing in local currency to minimise foreign exchange risks and deepen the local financial market. The authorities have also further developed green budgeting mechanisms.

In sum, the macroeconomic policy mix has been adequate in terms of coping with sizable external shocks, helping to mitigate the impact on people and businesses, while supporting a strong economic rebound following the pandemic. The authorities phased out

pandemic-related spending and increased capital expenditures. They also used the opportunity to rebuild fiscal buffers. The reduction of the fiscal deficit and the public debt ratios suggests a considerable improvement in the fiscal space, which is essential in view of the high investments needs in infrastructure and education. Further improvements in revenue mobilisation and in managing public investments, including better prioritisation, could improve expenditure efficiency. The tight monetary policy helped manage inflationary pressures in 2022 and was among the key factors for the sharp slowdown in inflation in early 2023.

Functioning of product markets

Georgia's business environment has been liberalised and the barriers to market entry are low. For instance, registering of a company requires just one single procedure and is completed within one day at a very low cost. In mid-2023, the number of active business entities was 32% higher than in 2021, and the number of active solo entrepreneurs was 39% higher. The insolvency legislation from 2020 has facilitated insolvency proceedings, made them more transparent and reduced their duration and costs.

The institutional and regulatory environment is favourable overall, but some challenges persist. Georgia scored very well on regulatory quality (close to EU average) and government effectiveness (better than some Member States), as measured by the 2022 World Bank's Worldwide Governance Indicators. Georgia has a comparatively low level of perceived corruption. It was ranked 41st out of 180 countries in the 2022 Transparency International's corruption perception index. However, some challenges related to the business environment persist. They include reduced business confidence due to deep political polarisation and political control over many public institutions and the prevalence of vested interests. Stalled judicial reform and inefficiencies of the court system are also considered as weaknesses in terms of protecting property rights, and thus constitute obstacles to Georgia's investment climate.

The authorities introduced or expanded a number of business support programmes, aimed in particular at small and medium enterprises (SMEs), in line with Georgia's SME development strategy and its action plan. These measures included providing micro-grants to SMEs, introducing growth hubs (business incubators) to provide local SMEs with advisory and digital services, and providing export promotion and assistance to foreign investment projects in some sectors.

The state footprint in the economy is modest. State-owned enterprises (SOEs) accounted for 3.5% of the value added of Georgian companies and 8% of employment in 2022. Three SOEs were privatized in 2022, four were liquidated and two filed for bankruptcy. The total amount of state aid issued by public bodies in Georgia and reported by the Georgian National Competition Agency was very low at GEL 3 million (below EUR 1 million). The scope of state aid reported in Georgia diverges from the EU *acquis* and is much narrower.

Corporate governance reform for the remaining SOEs is among the government's priorities and is progressing well. In December 2022, the government adopted the public corporation reform strategy for 2023-2026 and a respective action plan for its implementation. The strategy envisages a dual model for SOE ownership (50% of shares in each SOE for the Ministries of Finance and Economy, respectively), operation on the basis of commercial principles, selection of independent supervisory boards and avoiding quasi-fiscal activities unless explicitly mandated and compensated, in line with international best practices. The implementation of the strategy started with a pilot project covering three public corporations: Georgian Railways, United Airports of Georgia and Gas Transportation Company.

The share of the informal sector in Georgia's economy is considered to be substantial, but

is difficult to measure¹¹. A significant part of workers are employed informally, most of them in agriculture or in seasonal jobs. Informality significantly reduces the country's tax revenues, exacerbates poor working conditions and distorts competition. Further efforts are needed to promote formalisation, adjust tax policy measures and stimulate digital payments.

Functioning of the financial market

The Georgian banking sector remains sound. It is strongly concentrated in the two largest domestic banks, out of 14 in total. At the end of the first quarter of 2023, the banking system's capital adequacy ratio stood at a comfortable 20.8% and most lenders remained very profitable (29% return on equity). Asset quality continued to improve as the ratio of non-performing loans decreased from 5.2% at the end of 2021 to 3.8% at the end of the first quarter of 2023. Due to measures undertaken by the central bank (such as non-remuneration of the minimum reserves in foreign currencies kept by banks at the national bank) coupled with rising USD and EUR interest rates, the share of loans and deposits in foreign currencies (dollarisation) declined substantially from 51% and 58% respectively at the end of 2021 to 44% and 52% in the first quarter of 2023. The inflow of Russian migrants contributed to a substantial increase in deposits in Georgian banks.

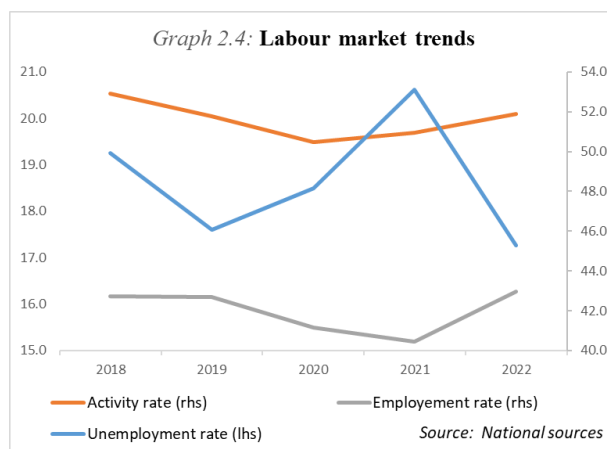
Non-banking segments of the financial sector remain underdeveloped. Georgia's insurance sector is small with 18 insurance companies and at total insurance premium of GEL 910 million in 2022 (1.3% of GDP). The largest part of this is health insurance. Car insurance is expected to grow fast after the introduction of mandatory third party vehicle liability insurance, where the respective legislation is being currently finalised by the authorities. In 2022, only 7% of cars in the country were insured. The capitalisation and liquidity of the Georgian Stock Exchange (GSE) are limited, with stocks of 8 companies admitted for trading and a total market capitalisation of GEL 2.3 billion (3.2% of GDP) in April 2023. Since its peak in 2007, trading activity for stocks listed on the GSE has been decreasing, and a number of Georgian companies have chosen to list on international stock exchanges. In December 2022, the government adopted its 2023-28 capital market development strategy, which focuses on two main goals: developing capital market instruments and deepening of the investor base.

Access to finance has improved in recent years but is still considered as a major obstacle by many SMEs. The central bank has made substantial efforts to improve the regulatory framework and the infrastructure for digital financial services. The size of financial intermediation, measured by the ratio of loans to non-financial sector and households to GDP, has increased over the last five years from 55% at the end of 2017 to 62% at the end of 2022, as against 90% of GDP in the EU. Credit growth reached 12.1% year-on-year at the end of 2022 (excluding the effect of exchange rate fluctuations) and was faster for corporate than for retail loans. Nonetheless, access to bank loans continues to be a major obstacle for many small and medium enterprises, for instance due to substantial collateral requirements, while non-bank sources of finance are largely absent, and the existing financial products and services fail to meet the diverse needs of enterprises throughout their lifecycles. To overcome this obstacle, Enterprise Georgia, a government agency, facilitates access to finance for the private sector through credit guarantees, subsidising interest rates on bank loans and other instruments, while the Georgia Innovation and Technology Agency provides targeted support for start-ups. As a new measure aimed at stimulating lending to very small companies, especially in agriculture, the Parliament approved a law on micro banks which entered into force in July 2023.

¹¹ According to World Economics (2022), which uses an average of the latest estimates from economists around the world, the informal economy represents about 46% of GDP in Georgia, versus an EU average of 16.9 %. Such estimations need to be taken with caution given the variety of methodological approaches.

Functioning of the labour market

The situation on the labour market improved in 2022 but remains characterised by many weaknesses. The unemployment rate increased from the pre-COVID average of 19.5% in 2017-19 to 20.6% in 2021 and then decreased by over 3 percentage points year-on-year to a still high 17.3% in 2022. The structurally low employment rate rose from 40.4% in 2021 to 42.9% last year. These rates, calculated by the national statistical office (Geostat), are based on ILO definitions covering the population aged 15 years or older and are not directly comparable with Eurostat labour indicators for EU countries. The positive trends on the labour market in 2022 can be attributed to high economic growth, the arrival of qualified migrants following the outbreak of the war in Ukraine, but also to more active labour market services provided by the State Employment Support Agency. These included vocational training, internships, career guidance, intermediary services and, since March 2022, public works. To analyse the existing mismatch between labour skills and business needs, the Ministry of Economy conducted in 2022 a survey of business demand for skills on a big sample of large and small companies. Despite these improvements, numerous structural weaknesses in the Georgian labour market persist. A large share of employment is still focused on traditional sectors with low value-added (such as agriculture), and the ability of more productive sectors to create opportunities for high-skill employment remains limited. Georgia has considerable levels of informal employment (estimated by Geostat at 28% of non-agricultural employment), gender disparities and regional differences. For instance, the employment rate in 2022 was 52% for men and only 35% for women. The share of young people who are neither in employment nor in education or training (NEETs) was also very high at 30.7% in 2022, as against the EU average of 11.7%. While Georgia's labour market regulation is not considered as distortive, there is some room to improve labour market intermediation channels, facilitate flexible working arrangements to improve employment of women, and enhance vocational training.



In 2022, the average monthly wage increased by 9% in real terms (22% in nominal terms) and amounted to GEL 1592 (EUR 517). As in the case of employment indicators, wage levels displayed large gender and regional disparities, with men earning on average over 20% more than women.

2.3.2. The capacity to cope with competitive pressure and market forces within the Union

Georgia has **some level of preparation** to cope with competitive pressure and market forces within the EU. While the country has a strong track record in attracting foreign direct investment from the EU, which remains its largest trade partner, the EU's share in trade has been gradually decreasing, in favour of geographically closer economies. The structure of the economy is relatively well diversified, albeit with a high share of low value-added sectors. Its high exposure to tourism and the low value-added base of its exports makes Georgia particularly vulnerable to external shocks.

Despite some progress, the limited level of educational achievement, quality and labour-market relevance of education weighs on the development of Georgia's human capital and holds back its potential growth. Spending on research and innovation is low and very few

firms innovate. The level of investment is broadly comparable to EU, but the quality and density of the transport network remains low, despite recent investment in this area. While it has developed a stable and reliable energy sector, the country remains heavily dependent on imported energy sources. Access to digital infrastructure has improved substantially in recent years and is in line with EU levels.

In the coming year, Georgia should in particular:

- further develop its transport and energy infrastructure, in compliance with international Public Investment Management standards.
- stimulate innovation and make concerted efforts to support both public and private investment in R&D, also with a view to promoting exports.
- Improve the quality of education and training to ensure that their outcomes align with labour market needs.

Education and innovation

Despite the reforms, the outcomes of the educational system are poor. Public spending on education represented 3.6% of GDP in 2021, below the EU average of 5%. While 93% of the population has at least upper secondary education, a higher share than the EU average, only 35% have completed tertiary education, as against 41% in the EU. However, available indicators point to the quality of education as being rather low. For instance, Georgia was ranked only 70th out of 77 countries participating in the 2018 PISA assessment measuring reading outcomes in secondary education, well behind all EU countries. The unified strategy for education and science (2022-2030), adopted in August 2022, lays out priorities for improvements in this area. They include increasing access to early childhood education, development of a methodology and standards for vocational qualification system, improving the quality of higher education and making it more international.

Spending on R&D was very low at some 0.3% of GDP in the last five years (EU average: 2.2% of GDP in the same period). Georgia ranked 74th (out of 132 economies) in the 2022 Global Innovation Index compiled by the World Intellectual Property Organisation. In particular, the country exhibits weaknesses in domestic industry diversification, high-tech manufacturing, software spending, intellectual property receipts and logistics performance, among others. According to a 2022 World Bank report, very few Georgian firms innovate. The reasons include, a limited innovation ecosystem, lack of dedicated finance and advisory services supporting innovation, limited managerial capabilities, a small market and a low number of engineers and scientists. As a result, only 7% of firms introduce new or significantly improved goods or services into the market.

Physical capital and quality of infrastructure

Investment in Georgia represented 22.3% of GDP in 2022, similar to the EU average, having increased by 20% in real terms on the year following significant declines in 2020 and 2021. However, only a part of this amount was spent on infrastructure. There is a need for continued investments in a range of transport and energy infrastructure projects to enhance transit trade potential, energy independence, and connectivity with neighbouring countries and the EU. There are also some issues regarding the efficiency of public investment, operations and maintenance, and challenges to leverage public-private-partnerships. To address these challenges, the authorities work on improving the institutional framework for public investment. For instance, since 2023 all new investment projects over a specified threshold have to be selected according to internationally recognised public investment management

guidelines.

Georgia has developed a stable and reliable energy sector. However, the country is heavily dependent on imported energy. In spite of a very high share of electricity generation coming from domestic hydropower (81%), almost all other energy sources, including gas, oil products and coal, are imported. The government is focused on securing private investment to construct new hydropower stations, wind and solar power generation, increase energy efficiency and diversify fossil fuel supply sources and routes. In 2022, Georgia developed a support scheme for renewable power generation based on competitive bidding. The first auction took place in February 2023.

In transport, the quality and density of road and rail network remains weak despite gradual improvement. Poor transport infrastructure hampers internal and external connectivity and leads to poor road safety. The efforts on road infrastructure focus on the construction of the missing part of the East-West Highway (part of European route E60), with one of the sections completed in late 2022. Apart from roads, ports and railways also remain underdeveloped and face capacity constraints, in part due to lack of sufficient investment.

Access to digital infrastructure has improved substantially in recent years and is in line with EU levels. 92.3% of Georgian households have fixed broadband internet access at home, in line with the EU average.

Sectoral and enterprise structure

Tourism and low value-added sectors account for a sizeable share of Georgia's economy. The services sector accounts for approximately 60% of GDP. This share has been relatively stable since 2014. Within services, tourism has been playing an increasingly important role over the years. It was severely hit by the COVID-19 pandemic but has been steadily recovering since then. The number of international visits in 2022 was some 40% lower than the peak recorded in 2019 but tourism revenues have reached an all-time high. Industry, including construction, is the second largest sector of the economy with a share of 24.6% of GDP in 2022. Industrial production is dominated by low value-added sectors: commodities (predominantly metals), agricultural products and food processing. These are also Georgia's key export items. IT and communication was the sector witnessing the strongest expansion in 2022 and increased its share in GDP by more than one percentage point to 4.7%. While still sizeable when compared with the EU average (1.4% of GDP in 2022), agriculture has been steadily losing ground and accounted for 7.0% of GDP in 2022, down from 9.6% in 2014.

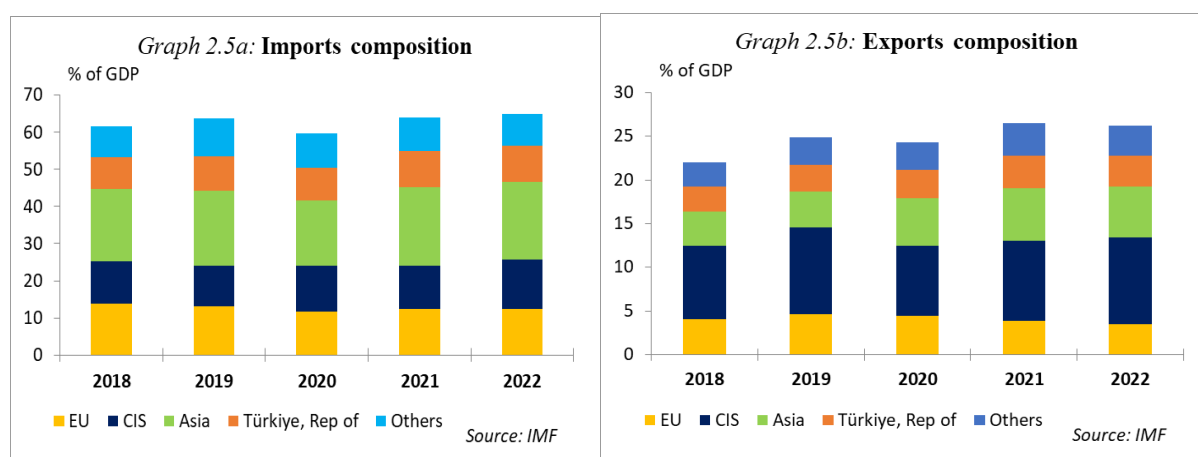
As regards employment, the share of people working in agriculture is disproportionately high, even if this has decreased in recent years. This suggests continued low productivity in the sector, which seems to be a reflection of the still high reliance on small-scale farming that hinders economies of scale. People employed in agriculture amounted to 17.9% of the total in 2022, thus making the sector the biggest employer in the country. It is followed by wholesale and retail trade (15.0%), industry (11.9%) and education (11.7%). Construction and transportation are among the sectors that have witnessed the sharpest rise in employment in the last five years, and the information and communication sector grew very fast in 2022.

SMEs remain key for the Georgian economy despite a gradual decline in their role in recent years. In 2022, they accounted for 37.3% of the turnover and 52.8% of the value added by all companies. This is well below the 55.1% and 59.2% respective average annual values for the 2014-19 period. At the same time, the number of employees at SMEs went down to 58.3% from 67.6%. Access to finance remains a key constraint for the development of the sector.

Economic integration with the EU and price competitiveness

Georgia is an open economy with a persistently high merchandise trade deficit driven by a relatively weak domestic export base; its trade integration with the EU is moderate.

Following the sharp contraction caused by the COVID-19 pandemic due to the hit on the sizeable tourism sector, Georgia's trade openness as measured by the ratio of trade with goods and services related to GDP recovered strongly to 117.2% of GDP in 2022. The EU is the country's main trading partner but its share in the total turnover in merchandise trade has been gradually declining due to a stronger increase in nominal trade with non-EU countries. After peaking at nearly 28% in 2016, it has gradually eased to 20.5% in 2022. The decline was particularly pronounced for Georgia's exports of goods. The EU's share in them fell to 15.4% in 2022, down from 28.7% in 2015. Georgia has strong links with all its neighbours - Türkiye and Russia are the next two biggest trade partners besides the EU.



Georgia remains an attractive destination for foreign investments. In 2014-2019, FDI inflows amounted to nearly 10% of GDP each year on average. Following a short-lived drop with the pandemic, they rebounded strongly in 2022 to exceed for the first time USD 2 billion (8.3% of GDP). While, similarly to previous years the majority of the FDI reflected re-invested earnings that are supported by the favourable tax regime, there was also a significant increase in equity investments in 2022. The EU is traditionally the biggest source of FDI for the country. In 2018-2022, the EU-27 accounted for 37% of total FDI inflows, followed by the UK (27%), Türkiye and the US. The sectoral breakdown of FDI is diversified. The financial sector was by far the biggest recipient of FDI (30% in 2018-22), while the real estate, energy, manufacturing, trade, entertainment and other sectors also attracted significant investment.

The real effective exchange rate has appreciated strongly following the pandemic, implying that Georgia's competitiveness has weakened. Supported by the recovery of the tourism sector and the large money transfers associated with the relocation of Russian citizens and businesses following the start of the war in Ukraine, it appreciated by nearly 40% in cumulative terms in 2021 and 2022 and continued this upward trend in the first four months of 2023. In particular, the real exchange rate of the local currency against the euro appreciated by 53% over the course of 2021 and 2022.

2.4. PUBLIC PROCUREMENT, STATISTICS, FINANCIAL CONTROL

Chapter 5 - Public procurement

EU rules ensure that the public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal

treatment.

Georgia has **some level of preparation** in the area of public procurement. **Good progress** was made with the adoption of the new Law on public procurement in February 2023.

In the coming year, Georgia should:

- further align its legislative framework with the EU public procurement *acquis*, including utilities and concessions;
- further align its legislation with the directive **on procurement in the fields of defence and security**;
- further consolidate the capacity of the Dispute Resolution Council.

Institutional set up and legal alignment

The **legislative framework** remains partly aligned with the EU *acquis*. Parliament adopted a new public procurement (PP) Law in February 2023, aimed to align with the EU Directive 2014/24 on public procurement. The new PP Law regulates, among others, public procurement procedures and tools, dispute review, reporting and control. It also includes provisions on defence and security-related public procurement. The main provisions of the new Law will enter into force on 1 January 2025. In February 2023 Parliament also amended sectoral laws regulating certain aspects of public procurement. The EU Directive on procurement by entities operating in the water, energy, transport and postal services sectors has still not been aligned with.

State purchases in the range of GEL 5 000 to 200 000 are conducted through a simplified electronic tender which is a substitute to single-source procurement. Purchases above GEL 200 000 mandate a call for a regular e-tender.

Implementation and enforcement capacity

In 2022, the **public procurement market** amounted to 10.3% of the country's GDP, compared to 10% in 2021. It represented 38% of the state budget. According to the State Procurement Agency (SPA), the central public procurement institution responsible for the public procurement system, electronic and consolidated tenders placed through the state procurement system made up 82.4% of the total volume of purchases.

Regarding **monitoring of contract award and implementation**, the contracts signed through simplified purchase amounted to 17.6% of total purchases. Government procurement is often driven by a lowest bid consideration versus a best value for money approach, which can lead to the cheapest offer winning at the expense of quality. The use of negotiated procurement procedures without prior publication decreased to 18% in 2022, as compared to 18.4% in 2021. The use of centralised procurement and framework agreements was GEL 543.6 million (7.3%) in financial year 2022, and GEL 526.6 (9%) in financial year 2021. The proportion of the overall value of public procurement awarded to SMEs increased to 22% in 2022 as compared to 2021. Tender cancellation was almost the same – 846 (2%) cases in 2022 as compared to 844 (2%) cases in 2021.

The SPA's capacity to manage public procurement process is good. The SPA has been essential in the drafting and adoption of the new PP Law and is actively involved in the drafting and preparation of new secondary legislation required under the new Law. It efficiently runs the e-procurement system and provides consistent training to contracting authorities and economic operators. Further capacity development is required to fully transpose and implement the EU *acquis*.

Capacity development

With a view to strengthen the capacity of public, business and civil sectors' representatives, the SPA elaborated a comprehensive internal roadmap which plans a series of capacity building activities during 2024-2025. A series of training sessions, practical workshops, public awareness actions, guidelines and users' guides are needed to ensure proper launching of the full-scale public procurement transformation reform in line with AA/DCFTA commitments and newly adopted PPL.

Additional technical assistance is needed for institutional capacity building to properly design and establish a fully new public/administrative body, the Central Purchasing Body (CPB).

The relevant activities related to the conduct of public procurement are defined by the current Law on State procurement, including the conditions for avoiding and the grounds for identifying conflicts of interest. The newly adopted Law of Georgia on public procurement (PPL) provides more detailed and extensive regulations regarding the issues of conflict of interest in public procurement in line with EU Directive 2014/24/EU.

To mitigate corruption risks in public procurement proceedings, SPA permanently monitors the adherence to principles of publicity, fairness and non-discrimination during the entire public procurement process. National legislation also provides for administrative liability and/or criminal liability in accordance with the Administrative offences code and the Criminal code. Moreover, the SPA works in close cooperation with law enforcement agencies and the State Audit Office during criminal cases, investigation or administrative punishment proceedings.

An efficient remedy system

The Procurement Dispute Resolution Council is 'institutionally hosted' by the Competition Agency. The council is independent and its members are selected through a public competitive procedure and later appointed by the Prime Minister. The Council handled 862 complaints in 2022.

The legislation on the **right to legal remedy** needs to be aligned with the EU *acquis*. The new public procurement law contains several provisions safeguarding the independence of the Council, but it does not cover public procurement processes that are implemented according to the rules of international financial institutions. The Council has therefore no jurisdiction over complaints lodged by bidders participating in tender procedures launched to award contracts financed by international financial institutions. This situation leaves the harmed party without any recourse to legal remedy. This is not fully in line with the main principles of the EU legal framework.

Chapter 18 - Statistics

EU rules require that EU Member States are able to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information.

Georgia has some level of preparation in the area of statistics. **Limited progress** was made in the reporting period, with the adoption of the Law on official statistics. To a large extent, national legal instruments are in place for producing required statistical data and further developing the system to approximate it with EU standards. As regards administrative capacity, adequacy of resources is of concern. Geostat, the National Statistics Office of Georgia has a relatively small number of employees and salary levels are not aligned with those of officials in other areas of public service. Financial and IT resources are also relatively limited. Data

transmissions to Eurostat are limited.

In the coming year, Georgia should:

- strengthen coordination and cooperation between Geostat and the Administration of Government, as well as with line ministries and agencies;
- improve the human and technical capacity of the statistical office;
- increase production and transmission of timely and high-quality data to Eurostat.

On 31 May 2023, the Parliament adopted the new Law on official statistics, which entered into force on 30 August 2023. The primary objective of the law is to bring Georgia's official statistical legislation in line with international standards and European legislation, as well as to fulfil the obligations outlined in the Association Agreement between Georgia and the European Union.

The new Law addresses issues such as the concept of ‘professional independence’; the status and appointment of the Executive Director of Geostat; and access to relevant administrative data for statistical purposes in line with the internationally-recognised statistical principles. Two institutions are recognised as official statistics producers: Geostat and the National Bank of Georgia.

To strengthen the availability and access to data sources, improved coordination and cooperation between multiple government institutions is still needed in the national statistical system. This applies to holders of administrative data and producers of statistics.

As regards **registers and classifications**, Georgia has been implementing NACE Rev. 2 (Statistical classification of economic activities in the European Community), CPA 2008 (Classification of products by activity), ISCO-08 (International standard classification of occupations), the Standard international trade classification (SITC, Rev. 4) and ISCED 2011 (International standard classification of education) with different degrees of compliance with the EU *acquis*. The statistical **business register** held by Geostat is largely in line with international recommendations and alignment on classification is partial. A population register is currently not established in Georgia.

On **macroeconomic statistics**, Georgia introduced the UN standard 2008 System of National Accounts (2008 SNA) methodology in 2019 and compiles main annual and quarterly aggregates; sector accounts; and supply use and input output tables. Georgia needs to start submitting national accounts data to Eurostat. Georgia needs to start submitting excessive deficit procedure tables and data on government finance statistics to Eurostat. In addition, the institutional arrangements need to be carefully reviewed to assure statistical independence to delineate the general government sector and the recording of its operations. Georgia should start developing data compliant with the ESA 2010. The country needs to start submitting regional GDP tables, consistent at statistical regions level – equivalent to level two of the nomenclature of territorial units for statistics, also referred to as NUTS 2. Annual financial sector accounts are not transmitted.

In 2022, Geostat published the harmonised index of consumer prices (HICP), but it has not been validated by Eurostat. Data on housing price statistics are not transmitted to Eurostat.

Balance of Payments (BOP) statistics are compiled and disseminated by National Bank of Georgia (NBG) according to methodology of the BPM6, connected with BOP or its components.

Business statistics are not transmitted to Eurostat.

On **social statistics**, the next population and housing census is scheduled for 2024, between 14 November and 19 December (the last population census was conducted in 2014). The programme of the 2024 general population census was adopted in June 2022. The population register is yet to be created. Demographic statistical data were transmitted to Eurostat, but improvements are needed. Statistics on international migration are incomplete and work on statistics concerning asylum and managed migration is needed.

The last agriculture census was conducted in 2014. The next agriculture census will be carried out in 2024, together with the general population census. Geostat relies on an integrated approach of agriculture census and sample surveys to produce the official **agricultural statistics**.

Environment statistics data is not transmitted to Eurostat. There are no waste statistics in the country. Geostat disseminates several environmental indicators and accounts based on administrative sources or data obtained from other statistical surveys. On transport statistics, in 2022, Geostat started producing additional indicators of rail transport statistics, air transport statistics and road freight transport statistics, but data is not transmitted to Eurostat.

On **energy statistics**, Georgia is aligned with the EU statistical *acquis* set out in the Statistical Requirements Compendium, in line with the provisions adopted by the Energy Community in agreement with the European Commission. It includes for instance statistics on passenger kilometres, energy consumption by transport and energy efficiency of buildings. The production of energy efficiency indicators still needs to be carried out.

Chapter 32 - Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the Euro against counterfeiting.

Georgia has **some level of preparation** in the area of financial control. **No progress** was made in the reporting period. The Law on public internal financial control (PIFC) is an adequate basis for enabling the development of PIFC in line with international standards and to meet EU PIFC requirements. Managerial accountability, financial management and control and internal audit are not implemented effectively. This is due to insufficient capacity, low understanding of their benefit across the public service and ineffective accountability arrangements between ministries and their subordinate bodies.

In the coming year, Georgia should:

- Implement financial management and control arrangements and strengthen the managerial accountability;
- consolidate the capacity of the Central Harmonisation Unit within the Ministry of Finance in terms of human and financial resources;
- establish an official anti-fraud coordination service.

Public internal financial control

The **legal framework** for public internal financial control (PIFC) is in place. It adequately covers financial management and control, internal audit and the role of the Central Harmonisation Unit.

The 2021-2024 public internal financial control system strategy is being carried out. In terms of **financial management and control**, the focus is on improving the methodological base and

promoting awareness and accountability in the target institutions (mostly central ministries), followed by implementation. In terms of **internal audit**, key elements are: developing methodological and auxiliary manuals; evaluating the quality of the activities of internal audit subjects; enhancing the qualifications of internal auditors both at the central and local level; and developing the concept of certification of internal auditors.

Internal audit units are established in all line ministries, local government units and in legal entities of public law. Capacity of internal audit units to conduct different types of audit in line with international standards and the quality of produced reports vary across ministries.

Financial management and control systems are still at an early stage of development. The government adopted a decree to regulate the establishment of managerial and control systems in the public sector. The progress in establishing the financial management control system is limited to few line ministries.

A **central harmonisation unit** has been established in the Ministry of Finance. The unit does not have sufficient leverage and staff to effectively support implementing PIFC reform and depends heavily on donor support. The State Audit Office also cooperates (providing training courses) with the Central Harmonization Unit to strengthen the efficiency of the internal financial control system of public agencies. As for cooperation with the Prosecutor's Office, when signs of crime are detected during the audit process, such cases are immediately sent to the Prosecutor's Office. The annual activity report of the Prosecutor's Office presents information on the actions taken on the cases. The report is public.

External Audit

Georgia's State Audit Office operates in line with international best practices. The constitution and organic Law on state audit ensure the Office's financial and operational independence. Remaining weaknesses relate to the legal protection and tenure of the auditor general and to the unclear mandate for auditing state owned enterprises and tax revenues.

The State Audit Office carries out all types of audits and provides audit findings to the public. Audit guidelines are in line with international or ISSAI standards. The State Audit Office covers 90% of central government expenditures and audits local governments at least once every three years. Improvements are needed in terms of completion and publishing of conducted audit reports and in terms of frequency of municipal finances audits.

A permanent working group that is functioning under the Budget and Finance Committee of the Parliament scrutinises audit reports within 6 months after receiving documents from State Audit Office. The audit hearings are open to participation from civil society organisations and other interested stakeholders.

The implementation rate of State Audit Office's recommendations by the executive remains low (47% fully implemented in 2022, compared to 45% in 2021).

Protection of the EU's financial interests

Georgia started the process of legal approximation of the EU *acquis* requirements of Directive on the fight against fraud to the EU's financial interests by means of criminal law, and the continuation of this alignment is to be encouraged. Cooperation in investigations between the European Anti-Fraud Office (OLAF) and relevant national authorities takes place on a case-by-case basis. Georgia nominated the Prosecutor's Office as main focal point for cooperation with OLAF. Efforts should continue in developing a track record of cooperation on investigations. No **anti-fraud coordination service (AFCOS)** has been officially designated and progress on this should be made.

3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Georgia maintains dialogue and actively participates in the framework of the **Eastern Partnership**, and in various regional cooperation platforms such as the Central European Initiative (CEI), the Black Sea Economic Cooperation Organisation (BSEC), the Organisation for Democracy and Economic Development (GUAM), the Southeast European Cooperation Process (SEECP) and the Regional Cooperation Council (RCC).

Georgia also helps implement the Central European Free Trade Agreement (CEFTA).

Georgia and **Türkiye** enjoy a strategic partnership. Since 2016, Georgia and Türkiye have a High-Level Strategic Cooperation Council at Prime Minister level. Türkiye is Georgia's second largest trading partner among those with free trade regimes. There are major energy projects such as the Baku-Tbilisi-Ceyhan oil pipeline and the Baku-Tbilisi-Erzurum gas pipeline. Georgia, Türkiye and Azerbaijan have a political trilateral format since 2012 at Minister of Foreign Affairs level.

Georgia and **Ukraine**, an 'Association Trio' member, have a strategic partnership since 2017, but relations are currently strained. Georgia is a participant of the Crimea International Platform. While Georgia continues to support Ukraine's territorial integrity and sovereignty, including through co-sponsorship of Ukrainian UN resolutions, Ukraine considers Georgia's position on the Russian aggression as ambivalent, criticising, inter alia, the non-alignment of Georgia with EU sanctions against Russia and absence of military-technical cooperation. The Government of Georgia continues to support more than 24 000 war-affected Ukrainians currently staying in Georgia. The resumption of flights between Russia and Georgia and the health conditions of former Georgian President Saakashvili, a Ukrainian citizen, had led to additional diplomatic tensions.

Georgia and **Azerbaijan** enjoy solid relations built on an understanding of regional geopolitical challenges and mutual interests, particularly in energy and trade. Georgia and Azerbaijan broadly cooperate in regional energy development, transportation and economic partnership projects.

In December 2022, Georgia signed a quadrilateral Memorandum of Understanding with Azerbaijan, Romania and Hungary on a strategic partnership in the field of green energy development and transmission. The Memorandum includes the promotion of a future Black Sea electricity cable. In June 2023, the Parliament of Georgia approved a Georgia-Azerbaijan bilateral agreement on cooperation on defence issues.

Georgia and **Moldova**, an "Association Trio" member, traditionally enjoy good bilateral relations. The recent period has been marked by intensified dialogue manifested in the visits of the President and Foreign Minister of Georgia to Moldova, and the visit of the Deputy Prime-Minister of Moldova to Georgia. During these visits, the two countries discussed strengthening their political dialogue and further expanding sectoral cooperation. A special emphasis was placed on furthering the common goal of EU membership.

In 2022, Georgia strengthened its engagement and further broadened its range of cooperation with **Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia**, particularly given their experience and expertise in the EU enlargement process. With these countries, Georgia enjoys an active exchange of visits at various levels and interactions within the international forums, which facilitates the further advancement of bilateral relations based on mutual interest. In addition, Georgia has a memorandum of understanding with **Serbia** (between the Ministries of Foreign Affairs) on cooperation in the field of European integration, covering a broad range of topics and relevant state institutions. It is currently

considering signing similar memoranda with **Albania, Bosnia and Herzegovina, Montenegro, and North Macedonia**. Georgia does not recognise **Kosovo**^{*} as an independent state.

Relations with neighbouring EU Member States **Romania and Bulgaria** are good, with a strong focus on connectivity in the Black Sea.

4. ABILITY TO ASSUME OBLIGATIONS OF MEMBERSHIP

CLUSTER 2: INTERNAL MARKET

This cluster covers: free movement of goods (Chapter 1); freedom of movement for workers (Chapter 2); right of establishment and freedom to provide services (Chapter 3); free movement of capital (Chapter 4); company law (Chapter 6); intellectual property law (Chapter 7); competition policy (Chapter 8); financial services (Chapter 9); and consumer and health protection (Chapter 28). This cluster is key for Georgia's preparations for the requirements of the EU's internal market and is of high relevance for the development of the common regional market.

Georgia is moderately prepared in the areas of right of establishment and freedom to provide services, with no progress registered in the reporting period. The country has some level of preparation in terms of the free movement of goods, on which there was limited progress, and in terms of company law, notably with the strengthening of auditing. Georgia is at an early stage of preparation when it comes to the free of movement of workers, with limited progress on circular migration. Limited progress can also be reported on intellectual property with the adoption of amendments to the Law on patent. There was limited progress on free movement of capital, where Georgia needs to follow up on outstanding recommendations from the Moneyval report.

Some level of preparation can be noted on consumer and health protection where the country made limited progress. Significant efforts are still needed on ensuring quality healthcare coverage for all, as well as on ensuring proper staffing of the national competition agency responsible for consumer enforcement. No progress can be reported on competition policy, where the State Aid Commission still lacks operational independence. Georgia has some level of preparation in the area of financial services and made limited progress during the reporting period.

Chapter 1 - Free movement of goods

The free movement of goods ensures that products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these rules from creating unjustified barriers to trade.

Georgia has **some level of preparation** in the area of free movement of goods. **Limited progress** was made, notably to align with a few elements of the EU *acquis* in the new and global approach sectors. There is almost no alignment under the old approach, including almost none regarding the EU *acquis* on motor vehicles and on chemicals and almost all procedural measures.

In the coming year, Georgia should:

^{*} This designation is without prejudice to position on status and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.

- implement market surveillance in compliance with the EU *acquis* and phase out the ‘pre-notification’ system of market surveillance before placement on the market;
- adopt a strategy and action plan with a clear timeline to complete alignment with the EU *acquis* on the standards, conformity assessment, accreditation, metrology and market surveillance;
- put into force and implement legislation to align with the EU *acquis* on energy labelling.

General principles

Some of the elements of the general principles of the legislative and institutional framework for the free movement of goods are in place. Georgia is partly aligned with the EU *acquis* on standards, conformity assessment, accreditation, metrology and market surveillance due to its obligations under the AA and DCFTA.

Non-harmonised area

Georgia will need to review all its legislation, processes, and procedures that could impact the free movement of goods in the non-harmonised area and decide how it will address any elements that are not compliant with the obligations of **Articles 34-36 Treaty on the Functioning of the European Union**. These non-compliant elements will need to be repealed, or amended, and/or mutual recognition provisions will need to be introduced. The main entry point on technical barriers to trade is Georgia’s national agency for standards and metrology (GEOSTM).

Harmonised area: quality infrastructure

The legal basis and administrative structure for technical regulations, standards, conformity assessment, accreditation, metrology and market surveillance are in place. These are partly aligned with the EU *acquis*.

Standardisation is regulated by a national law that is partly aligned with the EU *acquis*. The Law has provisions on the functioning and organisation of GEOSTM as the national body for standardisation. Since January 2023, GEOSTM is an affiliate member of the European Committee for Standardisation and the European Committee for Electrotechnical Standardisation. Since November 2022, GEOSTM has been an associate member of the European Association of National Metrology Institutes (EURAMET). As of 2022, Georgia has adopted 11 936 European standards. Georgia still has many conflicting Soviet-era standards in place. No Georgian entities are members of the European Technical Standards Institute (ETSI). Georgia launched a new export assistance programme in 2022, which includes three components: product licensing/certification; branding/product packaging; and stimulating international sales/entering the international trade network. Since 1 January 2023, GEOSTM offers standards to small and micro enterprises for special prices.

The Law on product safety and free movement code, which is partly aligned with the EU *acquis*, regulates Georgia’s **accreditation** framework. The Unified National Body on Accreditation, an associate member of the European cooperation for Accreditation, ensures the accreditation of conformity assessment. In September 2022, the digitalisation of the state programme for accreditation services was completed. All accreditation services – including application for accreditation, document review, exchange with accredited organisations, and protection of electronic accreditation documentation – are delivered electronically to certified organisations.

The legal base for **conformity assessment, metrology and market surveillance** is partly aligned with the EU *acquis*. Georgia currently relies on a ‘pre-notification’ system of **market**

surveillance before placement on the market. This is not aligned with the EU *acquis* and is currently only applied to what are identified as high-risk products. The Market Surveillance Agency is an independent body. In 2022, the Market Surveillance Agency did 461 market surveillance inspections, focusing on in three types of consumer products (toys, devices working on gas fuel and personal protective equipment) and three types of industrial and construction products (construction goods, machinery and pressure equipment). In the reporting period, the agency took seventeen types of toys off the market.

Harmonised area: sectoral legislation

As regards the ‘**new and global approach**’, the level of alignment remains low. Georgia adopted legislation that is designed to align with the EU *acquis* on cableways, gas appliances, protective systems intended for use in potentially explosive atmospheres, lifts, measuring instruments, civil explosives, recreational craft, eco-design, and medical devices. . The legislation on construction products is now extended to 22 different types of construction products. No progress is reported regarding alignment with the EU *acquis* on electromagnetic compatibility, aerosol dispensers, simple pressure vessels, outdoor equipment noise emissions, pyrotechnic articles, measuring equipment, bottles as measuring containers, or non-automatic weighing devices. In early 2023 Georgia adopted implementing legislation on radio equipment and on electrical equipment intended for use within certain voltage limits designed to ensure alignment with the relevant EU *acquis*.

On ‘**old approach product legislation**’, no progress is reported on alignment with the EU *acquis* on motor vehicles, two or three wheeled vehicles, tractors, non-road mobile machinery, registration, evaluation, authorisation and restriction of chemicals, chemicals classification, packaging and labelling, aerosol dispensers; good laboratory practice, fertilizers, detergents, pre-packaging, or medicinal products pricing.

On **procedural measures**, Georgia has not made any progress on aligning to the EU *acquis* on firearms, crystal glass, defence products, defence procurement, footwear, textile labelling and mixtures, the return of **cultural objects** unlawfully removed from the territory of an EU country, or on **drug precursors** (although some procedures were reported on this).

Georgian market surveillance does not foresee measures related to anti-corruption.

Chapter 2 - Freedom of movement for workers

Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

Georgia is at an **early stage of preparation** in the area of free movement for workers. **Limited progress** was made, through closer cooperation with EU Member States to coordinate circular migration and the amendments to the Law on labour migration. The country needs to align its legislation with the relevant EU *acquis*, including its interpretation in the case law of the Court of Justice of the EU.

In the coming year, Georgia should:

- work on concluding additional agreements on social security coordination, notably with EU Member States;
- take into account the EU *acquis* on the coordination of social security systems when conducting social security system reforms;
- Start work to prepare for joining the European Network of Employment Services (EURES) upon accession.

Regarding **access to the labour market**, the legal framework does not restrict the employment of foreigners and does not require a work permit for citizens of the 99 countries (including all EU Member States) that benefit from visa-free travel, allowing them to stay in the country for a determined period of time without a residence permit. Citizens of countries that require a visa to enter Georgia also need a work residence permit. In 2021 3 897 and in 2022 4 712 work residence permits were issued. No work permit is required for EU citizens and they can stay up to one year without a residence permit with the same labour rights as Georgian citizens. No special regime is in place for family members of EU workers.

Employment in public administration is reserved for Georgian citizens for professional civil servant positions, but no nationality conditions apply to administrative and labour contract employees.

Parliament adopted amendments to the law "on labour migration" on 17 May 2023 some of which entered into force upon publication in the Official Journal, while others will do so on 1 September 2023. The amendments aim to refine existing legal norms and enforcement mechanisms in terms of labour emigration and immigration, although some have the potential to make legal employment of foreigners more difficult. Labour laws prohibit discrimination on several grounds, including nationality.

There is no preparatory work in place for Georgia to access the **European Employment Services** network. Georgia has three websites for job vacancies (for national / international / public positions). The website for national positions is managed by the State Employment Support Agency (SESA) and is a countrywide database for publishing vacancies, job applications and CVs. In June 2023, initial contacts were made with the European Labour Authority (ELA).

As regards the **coordination of social security systems**, Georgia has signed three international bilateral agreements on social security (Germany, Bulgaria and France), and has therefore some experience in applying the principles of social security coordination. Death grants, unemployment benefits and pre-retirement benefits are not covered by legislation, although sickness benefits in kind and family benefits are provided. EU rules related to supplementary pension rights of mobile workers are not incorporated into legislation.

Georgia has not implemented a national health insurance card, so the implementation of the **European Health Insurance Card** (EHIC) might therefore be challenging.

Chapter 3 - Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on the mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.

Georgia is **moderately prepared** regarding the right of establishment and freedom to provide services. There was **no progress** made. Its legal framework provides equal treatment of the rights of foreign natural and legal persons to establish companies and branches of foreign legal persons in Georgia. Efforts are needed to align with the EU *acquis*, notably on postal services and mutual recognition of foreign qualifications for regulated professionals.

In the coming year, Georgia should:

- align with the EU Services *acquis* (Directive 2006/123/EC);
- align with the EU postal *acquis* and update the AA/DCFTA annex on rules applicable to

postal and courier services;

- align with the Directive 2005/36/EC on the recognition of professional qualifications, including Directive 2005/36/EC on recognition of professional qualifications and Directive 2018/958 on a proportionality test before adoption of new regulation of professions.

Overall, regarding the freedom of establishment and the freedom to provide services, Georgia's **legal framework** does not contain differences or discriminatory provisions in respect of the rights of foreign natural and legal persons to establish companies and branches of foreign legal persons in Georgia. There was no progress in aligning with the Services Directive, with which the Georgian legal framework is partially aligned.

Georgia has a well-structured and advanced institutional and regulatory framework for SME policy. New businesses can be established within one day.

As regards **postal services**, Georgia still needs to align its legislation with the three Postal Services Directives and the Regulation on cross-border parcel delivery services. Preparations are ongoing in the framework of the EU-Georgia AA/DCFTA process to update the Annex XV-C of the Association Agreement on rules applicable to postal and courier services with the EU Regulation on cross-border parcel delivery services. Georgia should continue preparing the amendments to its postal law to align with the commitments in the updated Annex by the end of 2024.

Regarding **mutual recognition of foreign qualifications for regulated professions**, the legislation in Georgia is not aligned with the applicable EU *acquis*. The professions of midwife, nurse responsible for general care, veterinary surgeon and architect are not regulated in Georgia.

Chapter 4 - Free movement of capital

In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.

Georgia is **moderately prepared** in terms of free movement of capital. There was **limited progress** in the reporting period, including the adoption of the anti-money laundering/countering financing of terrorism strategy and action plan. Georgia needs to continue alignment with the EU *acquis* in anti-money laundering and payment systems.

In the coming year, Georgia should:

- further align its legal framework with the EU Payment Services Directive 2 and in the area of money laundering and combatting terrorist financing;
- follow up on outstanding recommendations from Moneyval, in particular on transparency and beneficial ownership of legal persons and legal arrangements;
- implement the national money laundering and terrorist financing risk assessment.

On **capital movements and payments**, existing legislation does not impose capital controls or any other restrictions on capital movements. Certain capital transactions are monitored for anti-money laundering purposes only. There are no restrictions in place for foreign exchange operations.

Except for agricultural land, which can only be owned in exceptional situations, foreigners may acquire and own real estate in Georgia.

As regards **payment systems**, Georgia is partially aligned with the EU *acquis*, administrative

capacity and enforcement. The government has enacted amendments to the Law on payment systems and payment services in September 2022 to align with the EU Payment Services Directive 2. This includes removing restrictions on using electronic money for merchant accounts; ensuring non-discriminatory access to the payment systems; and enabling payment initiation services and account information access services. According to central bank data, there are 32 registered payment service providers, including e-money providers.

The alignment of the legislative and institutional framework for **anti-money laundering** is incomplete. Fully effective coordination and cooperation between supervisory, law enforcement and prosecutorial authorities requires more efforts. According to the Law on anti-money laundering, the national risk assessment of money laundering and terrorist financing, first adopted in 2019, should be updated at least once every 3 years. The Government adopted the Report on Money Laundering and Terrorism Financing Assessment Risks in Georgia on 3 October 2023. The anti-money laundering/countering financing of terrorism strategy and action plan were adopted on 4 April 2023. Georgia's anti-money laundering legislation partly addresses recommendations of the Financial Action Task Force and relevant international legislation. Outstanding recommendations from Moneyval remain unaddressed, as Georgia had only progressed in the field of development of interagency cooperation capacities of the Financial Monitoring Service.

The Financial Monitoring Service of Georgia (the national FIU) continued to strengthen its analytical capacity for data processing and financial analysis. No beneficial ownership register has been created yet. According to the activity report of the Prosecutor General, in the first 9 months of 2022, 81 million GEL (around 29 million EUR) worth of assets were seized/frozen (out of which 49% in immovable properties, 47% in money, and 3% in cars, down from 132 million GEL (around 47 million EUR) in 2021).

Chapter 6 - Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.

Georgia has **some level of preparation** in the area of company law. There was **limited progress** in the reporting period related to increasing the reliability and quality of auditing. Georgia needs to align with the EU *acquis* on cross border operations and company reporting.

In the coming year, Georgia should:

- amend existing national legislation to align with the EU *acquis* on takeovers, shareholder rights, including the encouragement of long-term shareholder engagement, and on disclosure of information on foreign branches;
- align national legislation with the *acquis* on cross-border conversions, mergers and divisions and on the use of digital tools and processes in company law
- align with the EU *acquis* on financial reporting standards relating to small entities;
- provide the appropriate level of financial and human resources for effective oversight, investigations and sanctions tasks.

Georgia is partially aligned with EU *acquis* in terms of **company law**. The National Agency of Public Registry is the authority responsible for registering companies and disclosing company information. There are no rules on disclosing information on foreign branches, as required by the EU *acquis*. Financial information in the business register needs to be disclosed. The National Agency of Public Registry (NAPR) was established to create a more unified,

modern, transparent and efficient public registry. The administrative capacity of the NAPR requires further strengthening. The National Bank of Georgia's corporate governance code for public issuers approved on December of 2021 reflects EU and international standards. Georgia is carrying out a gap assessment on takeover bids to further align with the EU *acquis* in this area. Georgia also has to align shareholder rights, including the encouragement of long-term shareholder engagement (Shareholder Rights Directives) and gender equality on boards of directors (2022 Directive). Further alignment is needed with the 2019 Directive on digital tools and processes and the 2019 Directive on cross-border operations (mergers, divisions, conversions).

On **company reporting**, there is partial alignment of the main legal requirements with the EU *acquis*, including the transparency requirements for listed companies. Further alignment is needed on the financial reporting principles relating to small entities; the criteria to define company size categories; and country by country reporting by very large multinational companies. Georgia will also need to align with the most recent EU *acquis* on corporate sustainability reporting.

On **statutory audit**, national legislation is partially aligned with the main legal requirements of the EU *acquis* in this area. Georgia's Service for Accounting, Reporting and Auditing Supervision (SARAS) is the competent authority for audit oversight, including monitoring the quality control system of an auditor/audit firm. In January 2023, a rule – approved by SARAS – for conducting investigations of auditors/audit firms came into effect, and was aimed at increasing the reliability and quality of the statutory audit process. In December 2022, amendments to the Law on accounting, reporting and auditing supervision and to the Law on facilitating the prevention of money laundering and terrorism financing were adopted. The scope of obliged entities under SARAS' supervision was expanded as a result, Georgia should nevertheless pay attention to improving the administrative and financial capacity of SARAS for a more effective audit oversight system.

Chapter 7 - Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trademarks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting.

Georgia has **some level of preparation** in the area of intellectual property law. **Limited progress** was made with the adoption of the Law on patent.

Legislation on copyright and industrial property rights is partially aligned with the EU *acquis*, but a substantial amount of work remains to be done. Georgia should continue to strengthen the capacity of law enforcement authorities in intellectual property matters.

In the coming year, Georgia should in particular:

- align with the most recent EU *acquis* in the area of copyright and related rights, including on the digital single market;
- align with the Directive on trade marks, the Directive on the legal protection of designs and the Directive on trade secrets;
- continue strengthening collaboration with European Union Intellectual Property Office to further advance and consolidate the objectives achieved so far.

The Law on copyright and related rights regulates the area of **copyright and related rights** in

Georgia. This law is partially aligned with the copyright *acquis*. It does not cover the more recent EU *acquis*, most notably the Directive on copyright in the digital single market. The National Intellectual Property Centre (Sakpatenti) is responsible for intellectual property policy. It oversees both the development of the intellectual property system in the country and the grant of industrial property rights.

On **industrial property rights**, Georgia is partially aligned with the Regulation on compulsory licensing of patents relating to the manufacture of pharmaceutical products for exports to countries with public health problems. It is also partially aligned with the *acquis* on supplementary protection certificates for medicinal products. The amendments to the Law on patents were adopted in May 2023 to ensure compliance with the European Patent Convention. Further work is needed to align with the Directive on trademarks and the Directive on the legal protection of designs. No progress is registered to align with the Directive on trade secrets.

In the area of **enforcement**, stronger border, criminal, civil and administrative enforcement is needed. The Ministry of Finance and the Prosecution Service are the main institutions competent for enforcing industrial property rights, with both the Ministry of Economic and the Communication Commission having a limited role. Georgia drafted the administrative offences code, the criminal code, the civil procedure code, and the Law on border measures related to intellectual property. In 2022, around EUR 1.2 million worth of counterfeit goods were seized by both the Investigation Service of the Ministry of Finance and the Revenue Service.

Georgia is a member of the World Trade Organization. It subscribes to the minimum intellectual property rights protection standards set in trade-related aspects of the intellectual property rights agreement. Georgia is not a member of the European Patent Convention. A validation agreement between Georgia and the European Patent Organisation was signed on 31 October 2019. The agreement was ratified by the Parliament in May 2023.

EU-Georgian Intellectual Property Project (EUGIPP), run by the EUIPO to support Sakpatenti advanced the trademark, design and copyright framework and helped to harmonise it with EU legislation and practices. However, a substantial amount of work remains to be done thus should be continued.

Chapter 8 - Competition policy

EU rules protect free competition. They include antitrust rules on restrictive agreements between companies and abuse of a dominant position, and also include rules on concentrations between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.

Georgia is at an **early stage of preparation** in the area of competition policy. There was **no progress** in the reporting period. The country should continue to align its legislative framework, in particular on abuse of dominant position and cartels, as well as State aid. The Georgian National Competition Agency needs to build a solid track record of enforced decisions. Georgia should significantly strengthen the institution's administrative capacity and raise awareness about State aid rules among aid grantors.

In the coming year, Georgia should in particular:

- align the legal framework on antitrust, mergers and State aid with the EU *acquis*;
- grant enforcement powers to the State aid authority, in particular to recover unlawful/incompatible State aid and ensure its decisions cannot be overturned by the government;

→ strengthen the institutional administrative capacity.

Antitrust and mergers

EU provisions on restrictive agreements and on abuse of dominant positions are to a large extent mirrored in the 2014 Law on competition. The Law also provides *ex ante* control of the effects on competition of mergers above certain turnover thresholds, in line with the principles of the EU Regulation on mergers.

On the **institutional framework**, the Georgian National Competition Agency (GNCA) is responsible for enforcing competition rules. The agency is an operationally independent body.

On **enforcement capacity**, the GNCA currently has 60 staff. Its administrative capacity needs to be further strengthened, in particular through relevant training programmes.

On **implementation**, From 15 June 2022 to 15 June 2023 the GNCA completed 5 investigations and approved 7 concentrations (total amount of decisions -12), which took place in hospital services, fuel and construction markets. As of 15 June 2023, GNCA had 6 ongoing investigations.

The GNCA actively participated in three investigations during the reporting period conducted by sector regulators and is reviewing the admissibility of seven complaints made by undertakings from various industries.

The GNCA monitored two markets: glass waste collection/recycling and fuel (gasoline and diesel). Monitoring of three other markets is ongoing: the motor fuel market (compressed natural gas and liquefied petroleum gas), the nut market and insurance services offered by banks when granting credit.

State aid

The **legal framework** on State aid is not in line with the EU *acquis*. The Law on competition foresees that notification and prior approval of the GNCA is required only for aid for economic development of certain regions and aid to promote the preservation of culture and cultural heritage. Other types of aid, such as aid environmental aid; in the case of a disaster; aid granted to fulfil international obligations; and aid for important national projects do not require notification and prior approval of the agency. The agency has conducted an analysis on the current gaps and priorities to be addressed in the area of State aid, including the availability of a State aid registry.

On the **institutional framework**, enforcement of State aid provision of the Law on competition is the responsibility of the GNCA. In certain economic sectors, such as energy, regulatory bodies are responsible for enforcing applicable provisions, on mergers, antitrust and State aid. They are also responsible for enforcing the Law on competition. There is no formal complaint procedure for State aid.

The **enforcement capacity** of the agency needs to be strengthened, notably through relevant training for staff. On **implementation**, no decisions were taken in 2022 on State aid issues, only information on *de minimis* State aid was collected.

Liberalisation

Georgia's competition and State aid legislation is fully applicable to public undertakings and those with special or exclusive rights. The rules on financing services of general economic interest are not aligned with the EU *acquis*.

Chapter 9 - Financial services

EU rules aim to ensure fair competition between, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on the authorisation, operation and supervision of these institutions.

In the area of financial services Georgia has **some level of preparation**. Georgia made **limited progress** in the reporting period, by adopting legislation on activity of micro banks covered bonds and sustainable finance. The country should make further efforts to align with the financial services *acquis*, focusing on the priorities identified based on the current state of play.

In the coming year, Georgia should in particular:

- adopt and implement legislation on domestic motor third party liability insurance;
- continue efforts in alignment with the EU *acquis* related to the regulation of banking and insurance sectors (including bank resolution and bank deposits guarantee schemes) and the regulation of securities markets, investment funds and investment services.

As regards **banks and financial conglomerates**, the banking sector appears well capitalised (regulatory capital is above 20%, while the Tier 1 capital amounts to over 17%) and highly liquid. Following a substantial rise following the outbreak of the pandemic, the level of non-performing loans declined steeply in 2021 and 2022. The system of deposit insurance is regulated by the Law on deposit insurance, which established the Deposit Insurance Agency, implementing the system, and the Deposit Insurance Fund. The Law on Deposit Insurance is based on the EU Deposit Guarantee Schemes Directive but requires further alignment with the EU *acquis*. The coverage level in particular is GEL 15 000 (around EUR 5 300), far below the EUR 100 000 level needed to comply with the EU *acquis*.

Georgia has at its disposal early intervention powers and a resolution regime for banks. The National Bank of Georgia is the designated resolution authority. New institutional features have been put in place to support the execution of the new regime. Additional steps are needed to align the Georgian framework with the EU recovery and resolution framework. Georgia had indicated that legislation establishing a resolution fund and implementing the minimum requirements for eligible liabilities would be passed by the end of the reporting period.

The Law on activity micro banks adopted in February 2023, entering into force on 1 July 2023, was designed to increase competitiveness in the market and foster diversification of products offered by the microfinance sector.

As regards **insurance and occupational pensions**, the adoption and implementation of legislation on domestic motor third party liability insurance is still pending. On 28 June, Georgia adopted the Law on voluntary private pension, which will enter into force partially on 1 January 2024, and fully on 1 January 2025.

For both insurers and reinsurance undertakings, the current supervisory regime in Georgia is based on the Solvency I regulatory framework. In December 2022, the NBG developed and approved policy guidance on a corrective action framework for banks, in line with relevant guidelines of the European Banking Authority. These clarify the grounds for the use of supervisory measures, early intervention measures and revocation of banking activity licenses.

Georgia's **financial market infrastructure** legislation is only partly aligned with the EU *acquis* and the alignment with several EU Regulations is still pending.

The legislative framework for **securities markets and investment services** is in place. The

Georgian financial sector is moderately sized. The regulated market in Georgia is presented by the stock exchange. There are no Multilateral Trading Facilities or Organised Trading Facilities on Georgian market. Georgia has requirements regarding the listing on the stock exchange which are similar to the rules set out in the EU Listing Directive.

The Parliament adopted legislation on covered bonds in November 2022 with the objective of diversifying the source of financing for the local commercial banks and helping to develop the mortgage market.

The Parliament is also discussing a draft legislation on the development of the securitisation instrument for fund raising.

As regards sustainable and **digital finance**, in September 2022, the NBG published its working paper on central bank digital currencies. In February 2023 the NBG invited local fintech companies to express interest in participating in a pilot project of the digital lari.

Georgia has made some progress on sustainable finance. In January 2023, the Regulation on Loan Classification and Reporting according to the Sustainable Finance Taxonomy (Taxonomy Regulation) entered into force. The Taxonomy Regulation formally defines green, social and sustainable loans and imposes reporting requirements for commercial banks on taxonomy-aligned loans. In addition, the NBG, in cooperation with various local and international stakeholders, has developed the Sustainable Finance Taxonomy for Georgia. The Taxonomy provides the market with a classification system for identifying activities and/or project categories that deliver on key climate, green, social, or sustainable objectives. It is closely linked to the EU Taxonomy, but it is tailored to the features of the Georgian economy and financial sector and closely follows international practices. Further work could be done in this area, in order to implement a comprehensive sustainable finance framework and a disclosure regime for financial and non-financial companies taking into account sustainability considerations.

Chapter 28 - Consumer and health protection

EU rules protect consumers' economic interests, including in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats, including communicable diseases.

Georgia has **some level of preparation** in the field of consumer and health protection. There has been **limited progress** in the reporting period on consumer protection capacity and on alignment to the EU *acquis* on blood. Attention should be paid to aligning national legislation on consumer protection and on health with the EU *acquis* and ensuring it is properly enforced.

In the coming year, Georgia should:

- make progress on aligning consumer law with the EU *acquis*;
- ensure that the staffing and capacity of the national competition agency correspond with its increased competencies on consumer protection;
- make progress to align blood, tissues, cells and organs, tobacco control and on medical devices with the EU *acquis*.

Consumer protection

The main consumer enforcement authority is legally the Georgian National Competition

Agency (GNCA). After the Law on the protection of consumer rights entered into force on 1 June 2022, the agency increased its enforcement capacities. For example, it has had a hotline in place since September 2022 on consumer rights and to file complaints. It also performs awareness raising campaigns.

Georgia's national legislation on consumer protection is partly aligned with the EU *acquis*. It is not aligned with the EU *acquis* on: package travel and linked travel arrangements; timeshares; representative actions; digital content rules; the sale of goods and with the latest changes to EU consumer legislation introduced by Directive (EU) 2019/2161.

Since November 2022, GNCA began receiving consumer complaints and actively conducting investigations, including in the pharmaceutical, fuel and tobacco markets. It also began monitoring prices on the food market. In the first 5 months, 194 applications were submitted to GNCA, out of which 118 investigations were launched. Violation of consumer rights was proved in five cases (based on 16 applications). Twenty-eight commitment agreements (based on 49 applications) have been signed, whereby traders took responsibility to restore the rights of affected consumers and to change their policies in line with relevant legislation. 80 % of applications were related to distance trading and 20% to on-site trading. Monthly statistics are produced and published and will be available in the GNCA's annual report.

Georgia's legal framework on **product safety** is partly aligned with the EU *acquis*. Georgia currently relies on a 'pre-notification' system of **market surveillance** before placement on the market. This is not fully aligned with the EU *acquis*. Currently, it is only applied to what are identified as functions for high-risk products. In 2022, the agency implemented 461 market surveillance inspections, on three types of consumer products (toys, devices working on gas fuel and personal protective equipment) and three types of industrial and construction products (construction goods, machinery and pressure equipment). In the reporting period, the agency took seventeen types of toys off the market.

Public health

As regards **public health**, a national health strategy covering the period 2022-2030 is in place. The objectives are to achieve universal health coverage, ensuring equal access to affordable health care and the highest level attainable of health services with financial risk protection for all. On **eHealth**, some elements are in place, such as: a registry of new cases; a hospital discharge registry; data collection on cancer, births and pregnancies. The national strategy for 2017-2030 has been developed to support healthcare for mothers and new-born children. Maternal mortality remains high in Georgia, most deaths resulting from preventable causes. The total health expenditure in Georgia as a % of GDP – 7.4%.

Georgia is partly aligned with the EU *acquis* on **tobacco control**. Georgia adopted implementing legislation on tobacco products and packaging designed to partly align to the EU *acquis* in December 2022. It is a party to the WHO Framework Convention on Tobacco Control but is yet to complete its accession to the protocol to eliminate illicit trade in tobacco products.

Georgia is partly aligned with the EU *acquis* on serious **cross-border threats to health including communicable diseases**. It has established an epidemiological surveillance system; a list of communicable diseases that are subject to surveillance; a central body for disease control and public health; and an early warning system to notify serious cross-border threats to health. Georgia has in place its 2023-2030 strategy for the prevention of non-communicable diseases.

With regards to **blood, tissues, cells and organs** Georgia's legislation on **blood** is designed to be aligned with the relevant EU *acquis*, it is not aligned on tissues, cells and organs. Oversight

functions are not yet fully carried out in line with EU standards.

As regards **patients' rights in cross-border healthcare**, under Georgia's legal base, citizens of EU Member States and other countries can receive medical treatment in Georgia. In addition, reimbursement is foreseen for Georgian citizens under certain conditions for treatment abroad within the framework of a relevant state programme.

On community-based **mental health**, Georgia's 2022-2030 national mental health strategy supports the deinstitutionalisation of mental health services by strengthening community-based care for people with mental health issues. In 2022, 8.4% of beneficiaries were treated in mental health hospitals, while the remaining received needed care at one of the community-based services.

Georgia is implementing **drug abuse** prevention and harm reduction legislation to be aligned with the relevant EU recommendations. Georgia's legislation is partly aligned with the EU *acquis* to protect the workers from adverse health effects arising from **exposure to electromagnetic fields** in working conditions.

As regards **non-communicable diseases**, Georgia has national **cancer** screening programmes. There is also a national programme in place to treat and provide pharmaceutical products to persons with **rare diseases**.

Georgia's national legislation is partly aligned with the EU *acquis* on market authorisation of **medicines all products for human use**. Pharmaceutical reference prices have been approved in early 2023. Issues remain with quality assurance and post-marketing monitoring. As regards **medicinal products for veterinary use**, information was not available on the state of legal alignment to the EU *acquis*, nor was it available on the administrative capacity or enforcement system. Information was also not available on aligning **cosmetics** with the EU *acquis*. Georgia is not aligned with the EU *acquis* on **cosmetics** or on **medical devices**.

As regards **health inequalities**, access to health services for the Roma population is guaranteed under Georgia's laws on healthcare and on the elimination of all forms of discrimination.

The Georgian Law on medicines and pharmaceutical activities is a legal basis for the state to ensure the lawful practice of circulating pharmaceutical products. The pharmaceutical sector in Georgia has a high-level of vertical and horizontal integration and a holding structure. The medications and medical equipment are procured mainly by means of electronic public bidding at specifically designated electronic platform.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers: digital transformation and media (Chapter 10); taxation (Chapter 16); economic and monetary policy (Chapter 17); social policy and employment (Chapter 19); industrial policy (Chapter 20), science and research (Chapter 25); education and culture (Chapter 26); and the customs union (Chapter 29).

Georgia has reached a moderate level of preparation in economic and monetary policy; enterprise and industrial policy; science and research, education and culture; and the customs union. Georgia has some level of preparation in digital transformation and media, social policy and employment and has some level of preparation/is moderately prepared in taxation. The country has made some progress in digital transformation and media, taxation and science and research and limited progress in enterprise and industrial policy.

Chapter 10 - Digital transformation and media

The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audio-visual services. The rules protect consumers and support the

universal availability of modern services.

Georgia has **some level of preparation** in the area of information society and media. **Some progress** was made towards alignment with the Directive on audio-visual media services (2010/13/EU) with amendments addressing the key issues of non-incitement to hatred and protection of minors. Georgia should ensure its digital policy strategies are aligned with the EU strategies ‘Shaping Europe’s Digital Future’ and the ‘Digital Compass’. The lack of a universal service regime prevents universal services being implemented under the EU Electronic Communications Code.

In the coming year, Georgia should:

- ensure high-level as well as inter-institutional coordination on digitalisation reforms;
- swiftly implement the recently adopted Laws (Law on infrastructure sharing and on Electronic-commerce) to align with the EU *acquis*;
- strengthen the effective independence of the media regulator (the Georgian National Communication Commission), and develop a cybersecurity strategy towards alignment with the directive on measures for a high common level of cybersecurity across the union(NIS 2).

Georgia lacks an overarching digital strategy, although the 2021 national broadband development strategy covers the majority of digital related topics and seeks to address the urban rural divide by investing in broadband connectivity. A system to monitor the progress of implementing the strategy should be developed.

Internet is accessible to over 88% of households in the country with the number of mobile internet subscribers rapidly growing. Full coverage with high-speed internet of some rural, remote and high mountainous areas remains a challenge.

On 21 May 2023, parliament adopted the Law on infrastructure sharing, inspired by the Broadband Cost Reduction Directive (2014/61/EU).

On 13 June 2023, the parliament adopted the law on "Electronic Commerce" and related laws, aiming to regulate the rights and obligations of intermediary service providers, and enhance consumer protection through increased transparency and standardisation of information services.

In the field of **information society services**, Georgia’s basic legal framework on the open reuse of public sector information is only partly aligned with the Directive on open data. Georgia has not aligned with the Regulation on geo-blocking or the platform-to-business relations Regulation, the Digital Markets Act and the Digital Services Act. Georgia’s participation in the various areas of digital research and innovation covered by Horizon Europe (artificial intelligence, microelectronics, photonics, quantum, etc.) is limited. The Law on e-commerce was adopted on 13 June 2023.

The 2021-2024 **cybersecurity** strategy would benefit from alignment with the latest EU *acquis* in the field (NIS 2 Directive). Implementing legislation – such as a technical regulation of the network sensor of critical information system entities of first and higher categories – is being prepared.

Georgia has expressed an interest to join the EU’s ‘roam like at home’ regime, which would require approximation of the roaming-related EU *acquis* and its implementation. The Commission has assessed that a long-term roaming arrangement between the EU and Georgia is possible, building on Georgia’s Association Agreement with the EU. As a follow up, Georgia

should start aligning with the relevant EU *acquis*. In addition, a revised regional roaming agreement is under negotiation among the five concerned eastern partnership countries (excluding Belarus).

Regarding **audiovisual policy**, amendments to the broadcasting Law were adopted in October 2023. The issues of protection of minors and non-incitement to hatred were addressed in line with the Audiovisual Media Service Directive. The Law also introduced a self-regulation system with a legal backstop as recommended by the EU. Outstanding issues remain on the effective independence of the national regulator. In particular, further work should be undertaken to increase transparency (i.e publishing of all decisions) and reinforce the grounds for dismissal.

The Georgian National Communication Commission (ComCom) is the national regulatory authority. In addition to the Constitution, the Law on National Regulatory Bodies formally establishes ComCom's independence both financially and politically, although there are problems with the effectiveness of this independence. ComCom is mandated to develop **media literacy**. Both state and non-state actors are working to promote and improve media literacy skills of children and teachers. During the reporting period, the Ministry of Education and the National Communication Commission trained 600 teachers in tackling disinformation and promoting digital literacy.

Chapter 16 - Taxation

EU rules on taxation cover value added tax, excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.

Georgia is in between **some and moderate level of preparation** in terms of taxation. There was **some progress** in the reporting period aligning the legislation with the EU *acquis* on VAT and excise duties. Georgia undertook important legal and administrative steps in order to introduce an automatic exchange of financial account information in line with OECD global standards.

In the coming year, Georgia should:

- further align legislation on direct taxation with the EU *acquis* and international best practices.
- ensure the implementation of the automatic exchange of tax information with EU Member States in line with the OECD Global Standards.
- further align legislation on VAT and excise duties with the EU *acquis*.

As regards **indirect taxation**, the standard VAT in Georgia is 18%. Tax legislation on VAT is partly aligned with the EU *acquis*. As regards excise duties on tobacco products, there was limited progress in reintroducing duties equally for national and imported products. Excise duties on alcohol and alcoholic beverages are partly aligned. Georgia confirmed that it will reach the EU minimum levels of taxation on tobacco products by the end 2025. Progress is needed, energy products and electricity to reach the EU minimum levels of taxation and to adopt the EU's system of warehousing and duty suspension. The EU excise movement control system has to be put in place.

As regards **direct taxation**, residents of Georgia are taxed on their worldwide income; the income tax rate is 20%. Income from rent is taxed by 5% and from gambling business by 10%. A special tax regime is applied for micro and small businesses. Since 2017, only distributed profit is subject to taxation, retained or reinvested profit is not taxed. Legislation for direct

taxation has to be brought in line with a number of EU Directives (on merger, parent-subsidiarity, interest and royalties).

Georgia has taken no action to lay down rules that would cover the scope of the Directives on parent-subsidiarity, interest and royalties, merger, and anti-tax avoidance.

Regarding **administrative cooperation and mutual assistance**, Georgia is a member of the inclusive framework on base erosion and profit shifting. Georgia has signed the Multilateral Convention to implement tax treaty-related measures to prevent base erosion and profit shifting. The country is also a member of the OECD Global Forum on Transparency and the OECD Exchange of Information for Tax Purposes. Georgia has committed to introducing the international standard on automatic exchange of financial account information by 2023. Double taxation agreements with all EU Member States are in force.

In November 2022, Georgia signed the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information. In December 2022, Georgia then passed primary legislation and signed the Common Transmission System Agreement, which will take effect before their first exchange in 2024. Georgia also joined the Global Revenue Statistics Initiative in December 2022.

Georgia joined and is a full member of the EU Fiscalis programme.

On **operational capacity and computerisation**, the Georgian revenue service under the Ministry of Finance is tasked with collecting all national taxes. It is also tasked with customs control of incoming and outgoing goods. The revenue service employs around 3 700 staff in 15 departments, organised along functional lines. This allows for a separation of policy and planning, as well as operational and support responsibilities. The revenue service adequately performs its functions and is broadly in line with international practice.

Chapter 17 - Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

Georgia **is moderately prepared** in the area of economic and monetary policy. **No progress** was made in the reporting period. Any change to the central bank's governance framework should be carefully contemplated not to undermine its independence.

In the coming year, Georgia should:

- maintain the independence of the National Bank of Georgia and ensure an orderly appointment of the next governor of the bank;
- make steps towards strengthening the institutional set up of the independent fiscal institution, its legal mandate and the capacity to undertake qualitative analytical work.

On **monetary policy**, the country's legal framework is partially aligned with the EU *acquis*. The National Bank of Georgia (NBG) oversees monetary policy, and its primary objective is to ensure price stability, which is in line with the EU monetary policy legislative framework.

The NBG intervenes sporadically to offset short-term fluctuations arising from capital flows. Last year's NBG interventions on foreign exchange markets contributed to increased foreign currency reserves.

The institutional independence of the NBG is guaranteed by the constitution and the organic Law on the NBG. The NBG is presided by the governor and the board; the bank's governor is

selected by the bank's board and appointed by the President. The incumbent Governor completed his seven-year term in March 2023. His successor needs to be appointed in an orderly manner to ensure that the independence of the NBG is maintained.

In February 2023, the amendments adopted by the Parliament created a new position of first vice-president of the NBG to assume the role of an acting governor after the expiry of the governor's term for an undetermined period of time. This provision is not in line with EU *acquis*, which requires that the statutes of national central banks should provide clear rules for the appointment of the new governor in order to ensure the institutional independence and avoid any external interference. The amendments were subsequently vetoed by the President of Georgia. Parliament overrode the veto with the adoption of amendments on 13 June 2023. In line with these amendments, the first vice-president of the bank, acting also as its governor, was selected in June. In September, three vice presidents resigned over a decision taken by the acting governor to reverse an initial NBG decision to enforce US sanctions imposed on a Georgian-Russian businessman.

Regarding **economic and fiscal policy**, the system of public finances in Georgia is considered strong and transparent, as confirmed by the Public Expenditure and Financial Accountability Assessment carried out in 2022. However, there are some issues where further alignment with the international standards and EU *acquis* is needed, including on the role of Georgia's independent fiscal institution.

The Parliamentary Budget Office (PBO) provides budget analysis and macro-fiscal projections and is considered by the authorities as the independent fiscal institution. A self-assessment in line with the OECD Principles for Independent Fiscal Institutions carried out by the PBO in 2022 indicated several areas for improvement, including PBO's official mandate, legal guarantees of independence and autonomy, strengthening skills in quantitative analysis, and the necessity to add an advisory council. Therefore, the institutional set up, legal mandate and capacity to undertake analytical work of the independent fiscal institution need to be substantially strengthened to be in line with the OECD and EU requirements.

Georgia implements a medium-term budgetary framework that covers macro-fiscal framework and sectoral expenditures over a four-year period.

Georgia's numerical fiscal rules set ceilings on general government deficit (3% of GDP) and government debt (60% of GDP). These rules were strictly complied with before the pandemic, then suspended and complied with again in 2022.

Chapter 19 - Social policy and employment

EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion, social protection, and social dialogue at EU level.

Georgia has **some level of preparation** in the field of social policy and employment. **Some progress** was made in the reporting period, including the adoption of resolutions on health and safety at work aimed at aligning with the EU *acquis*, and strengthening the capacity of the Labour Inspection Office. On social policy, further steps were taken towards a more comprehensive and sustainable social protection system. Across all policy areas Georgia needs to continue work on aligning with the EU *acquis*.

In the coming year, Georgia should:

- further align with the EU labour and occupational safety and health *acquis*; specifically with the pending Directives on occupational safety and health;

- adopt a comprehensive and sustainable social protection system, including unemployment and minimum income benefits, promote social dialogue, and engage in a wider discussion on the reform of the minimum wage;
- ratify and implement relevant International Labour Organization conventions, in particular C081 on labour inspection.

Regarding **labour law**, Georgia has legislation concerning all eight Directives where it has an obligation to harmonise with the EU *acquis* under the AA/DCFTA. Legislation concerning the rights of young workers aims at aligning with the relevant EU *acquis*. Georgia demonstrates an overall good understanding of the EU *acquis* in most areas of labour law. However, further alignment efforts are required, including as regards directives applicable in specific sectors, such as transport.

The Labour Code reform of 2020 significantly improved the labour regulations in the country, however, the reform contains major gaps in terms of introducing gender-responsive family policies in particular paternity or carer's leave and flexible working arrangements.

Georgia has not yet ratified some relevant International Labour Organization conventions, including those on labour inspections, occupational safety and health at work, and violence and harassment at work. As regards labour inspections, Georgia is working towards ratification of ILO Convention 81.

On occupational **health and safety at work**, the 2019 Organic Law on Occupational safety is mainly based on the EU Framework Directive. However, it seems not fully aligned with the EU *acquis* on occupational safety and health since it only applies to employers and workers bound by a labour agreement – including child workers, – and limits the possibility to detect/identify instances of exploitation and forced labour. This limits its application and leaves out informal employers and employees outside its application.

Work is also ongoing to align legislation with individual directives on health and safety at work. In this context, between July 2022 and May 2023, Georgia adopted four resolutions aimed at incorporating provisions of 5 EU Directives (90/270/EEC, 89/654/EEC, 89/656/EEC, 92/58/EEC, 90/269/EEC).

The enforcement of labour law and health and safety at work is covered by the mandate of the Labour Inspection Office under the Ministry of Internally Displaced Persons. In the course of 2022, the Labour Inspection Office's capacities – both institutional and human resource – were strengthened. Due to the specific nature of the work, continuous upskilling activities are needed to maintain a high quality of inspection activities.

During 2022, 35 people died – compared to 37 in 2021 – and 253 were injured at work. Although there is a steady decrease in the number of occupational accidents the average incidence of fatal occupational accidents remains higher than in the EU.

Concerning **social dialogue** there is a limited coverage of collective agreements in the country. Collective agreements are mostly signed at company or enterprise level and only one sectoral collective agreement has been concluded. Social partners require capacity-building activities in order to allow for effective social dialogue.

On **employment policy**, there are two main policy documents: the Law on Employment Promotion and the 2019-2023 National Strategy of Labour and Employment policy. Some efforts have been made to adopt legislation in line with the EU *acquis* on guidelines for employment policies and on enhanced cooperation between public employment services.

On **Labour force participation**, the government's new initiative to improve the employability

of the population receiving social allowances, managed by the State Employment Support Agency, benefited 29 323 individuals between March 2022 and March 2023.

The **unemployment rate** in 2022 in Georgia constituted 17.3%, down from 20.6% in 2021, presumably as a result of post-COVID-19 recovery. However, already in the first quarter of 2023, unemployment rate increased to 18%. Unemployment rate among men is higher than that of women (19.3% vs 14.6%). In 2022, women's labour force participation rate (%) remained much lower (41.5%) compared to men's (64%). Women's employment rate (%) is again much lower (35.4%) than that of men (51.7%).

Informal employment remains a challenge, with approximately a third of the population being engaged in it in 2022 (28.4%). Here, again, more men are engaged in informal employment than women (33.4% vs 22.5%).

Share of NEETs (youth aged 15-29 not in employment, education or training) remains high, ranging between 23.4% (15-24) and 30.7% (15-29 years old) and needs to be addressed.

On **social protection and inclusion** Georgia's social protection system is funded by the general tax revenue, except for statutory funded pensions, which are funded by contributions. In 2022, 5.7% of GDP was spent on social protection programmes – compared to 6.4% in 2021. Universal pension was increased in 2023. In 2021, 17.5% of the population lived below the national poverty line.

In February 2023, the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social affairs adopted the 2023-2030 action plan for the strategy on the independent living and de-institutionalising of persons with disabilities. This started the process of shifting from institutional to community-based care for vulnerable people. The legislative framework to enable municipalities to plan social services, as well as their capacities to implement these, need to be strengthened.

Georgia lacks a national strategy on the **de-institutionalisation** of children. However, the government has made steps to deinstitutionalise remaining non-state regulated religious residential institutions. Further measures are needed to address the lack of proper standards in boarding schools.

The Constitution of Georgia includes several articles related to principles and rights at work, including **equality and non-discrimination**. The Law on the elimination of all forms of discrimination forbids all forms of discrimination.

As regards **equality between women and men in employment and social policy**, the basic institution and provisions exist in current legislation.

The government increased the state allowance of maternity/child adoption benefits from GEL 1 000 to 2 000 from 1 January 2023. Secondary school teachers can now receive 100% salary during maternity leave.

Chapter 20 - Enterprise and industrial policy

EU industrial policy strengthens competitiveness, facilitates structural change, and encourages a business-friendly environment that stimulates small and medium-sized enterprises.

Georgia is **moderately prepared** in the area of enterprise and industrial policy. There was **limited progress** in the reporting period. Special attention is needed to diversify inward foreign direct investment to tradable industries and linkages to the domestic industrial tissue.

In the coming year, Georgia should:

- adopt strategies for green growth and on investment promotion;
- develop an industrial strategy and action plan with stakeholder consultations for implementation starting 2025;
- align with EU legislation on late payments;
- strengthen the capacity of the administration and of the private sector to apply regulatory impact assessments.

As regards **industrial and enterprise policy principles**, Georgia bases its development strategy on the driving forces of infrastructure development, domestic and foreign direct investment in industry as well as on SMEs, notably innovative start-ups. digital transformation (*see chapter 10 - Digital transformation and media*). Georgia's government programme expresses the orientation of its industry strategy, yet not its means. Its expiry in 2024 requires the early start of formulating a strategy for economic and industrial development, with sufficient concrete detail to reduce a fragmentation and thorough stakeholder consultations. An update to the "investment promotion strategy and action plan 2020-2022" is overdue and the adoption of a green growth strategy still outstanding. Georgia is piloting the design of a smart specialisation strategy in the Imereti region. The reduction of skill mismatches through re-training of the workforce remains to be seen.

The business environment is overall good with certain important challenges in need of determined improvement (*see the section on Functioning of product markets*). Informal business practices may hinder scale up notably in non-food manufacturing.

The government adopted in December 2022 a new governance code for state-owned enterprises. A strong oversight role of the Ministry of Finance is part of it. Three of the main state-owned enterprises started introducing the new governance in the first quarter of 2023.

The scope of applying regulatory impact assessment remains limited. Capacity within the government and within the private sector needs to be strengthened in this regard.

The **SME policy environment** in Georgia is generally considered to be well-developed and supportive. The strategy for the development of small and medium-sized enterprises for 2021-2025 continues to be implemented. Women entrepreneurship policies were enhanced with the state concept on the economic empowerment of women. The SME definition is in line with the EU definition to the extent that it is based on staff headcount and annual turnover.

As regards **industrial and enterprise instruments**, an alignment is needed with the Late Payment Directive. Notably provisions on payment terms require clarification and the key provision on late payment interests to be introduced.

Enterprise Georgia is launching an export assistance programme to promote the growth of export-oriented small and medium-sized businesses. A technology transfer pilot programme has been successfully implemented by the Georgian Innovation and Technology Agency. The government plans to adopt and expand the programme under the state budget and institutionalise a central technology transfer office at the innovation and technology agency.

No practical steps were taken to implement the cluster development framework.

Negotiations are currently in their early stages regarding Georgia's participation in the new Single Market Programme. In the event of a positive outcome of these negotiations, considerable awareness-raising and capacity building would be needed to support Georgian applicants.

As regards **sectoral policies**, noteworthy is the expected development of a new mining code.

Chapter 25 - Science and research

The EU provides significant support for research and innovation. All Member States can participate in the EU's research and innovation programmes and benefit from them, especially where there is scientific excellence and solid investment in research and innovation.

Georgia is **moderately prepared** in the area of science and research. There was **some progress** in the reporting period, particularly in terms of integration into the European Research Area (ERA) and increasing participation in Horizon Europe. Georgia expressed a commitment to participate in all 20 ERA Actions, launched open science initiatives and opened its Horizon Europe Office.

In the coming year, Georgia should:

- prepare and adopt a national European research area roadmap including a strategic and well-defined approach to open science, researchers' mobility, and implementing European Research Area voluntary actions;
- proactively support cooperation between research and industry and promote innovation in line with the 5 flagships of the new European innovation agenda;
- strengthen the implementation and internationalisation of sector-specific scientific priorities, and implement smart specialisation in the Imereti Region.

Georgia has been taking important steps to modernise its research and innovation policy and to align with EU policies, following the recommendations of the Horizon 2020 Policy Support Facility. The new Unified National Strategy for Education and Science for 2022-2030 and the Sectoral Action Plan for 2022-2024 were adopted in 2022. Both are aligned with the strategic objectives of the European Research Area. The internationalisation strategy approved in March 2023 for the Shota Rustaveli National Scientific Foundation should contribute to further integration into the European Research Area.

Since January 2021, Georgia has been associated to the **framework programme** Horizon Europe with 16 grants awarded to Georgian research and innovation stakeholders, a success rate of 16.54% and an overall EU contribution of EUR 2.2 million. Georgia joined the European Cooperation in Science and Technology (COST) association in 2022. Georgia remains active in Eastern Partnership regional cooperation on research and innovation.

There were 11 860 researchers in Georgia in 2021. State funding for science and research is gradually increasing. In 2023, the total state funding amounts to EUR 27,563,787.20 which is 13.8% higher than in 2022.

Georgia has successfully implemented several measures in the reporting period aiming to increase its participation in Horizon Europe. A Georgian researcher mobility scheme was launched with EU funding. The Georgian Horizon Europe office trained stakeholders in proposal drafting and organised National Contact Points (NCP) information events. Georgia is well connected to all NCP Networks (including the Widera network).

Georgia launched in cooperation with the European Open Science Cloud Association a national open science cloud (GEOSC) and took important steps to establish the GEOSC National Association and to integrate in the European Open Science Cloud.

The Georgian Innovation and Technology Agency (GITA) launched new national funding schemes for public grants and established a centralised Technology Transfer Office (TTO). Georgia should be encouraged to take up the opportunities presented by the European Institution of Innovation and Technology (EIT).

Work on developing a regional **smart specialisation** strategy in Imereti was launched following the finalisation of the entrepreneurial discovery process in October 2022. The adoption of the strategy document is planned for the end of 2023.

Chapter 26 - Education and culture

The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policy through the ‘open method of coordination’. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

Georgia is **moderately prepared** in the area of education and culture. There was **some progress** in the reporting period in that policies are in place which need to be adopted and implemented. The education system and youth policy, and training and qualifications policy, are broadly aligned with EU objectives. Cultural policy broadly reflects the general priorities of the new European agenda for culture. Georgia enjoys a good level of cooperation with its European partners on sport.

In the coming year, Georgia should:

- implement its education and science strategy, and adopt and start implementation of the 2022-2027 vocational education and training strategy;
- adopt and start to implement the 2022-2027 career guidance strategy;
- enhance public consultation and civil dialogue on culture.

On **education and training**, the constitution ensures the right to education. In August 2022 the government approved a unified strategy of education and science for 2022-2030.

Data collection on education is well-developed, overseen by EMIS – the education management and information system¹². Georgia participates in international surveys, such as PISA – the OECD programme for international student assessment. In the 2018 PISA studies, Georgia’s share of 15-year-old underachievers in reading was 64.4%, compared to an EU average of 22.5%. Georgia participated in PISA 2022 and results will be available in Autumn 2023.

In the field of higher education, Georgia has been a member of the Bologna process since 2005 and has ratified the Lisbon Recognition Convention.

Concerning social inclusion in education, the state ensures universal access to primary, basic and secondary education for every child. The Law on general education and the national curriculum recognise the individual and alternative forms of education. For accessible and quality education, Georgia developed additional services for students with special educational needs in public schools.

In the field of **vocational education training** (VET), Georgia aims to promote private sector involvement in work-based learning and dual education. Creating partnerships with business is a guiding principle in Georgia’s technical and VET reform. The Vocational Skills Agency was established in 2021 by the Ministry of Education and Science and Georgian Chamber of Commerce and Industry to promote interaction and partnership with private sector. Two new strategies: the 2022-2027 VET strategy and career management services strategy for all formal education levels are expected to be approved in 2023. Parliament adopted on 28 June 2023

¹² EMIS collects data on pupils/students and teachers/trainers at the different levels and sectors of the educational system, including: early childhood education and care; school education; vocational education and training; higher education; and adult learning.

amendments to the Law on education quality enhancement regarding teaching of VET programmes.

In 2022, Georgia joined the European Alliance for Apprenticeships.

Georgia has revised its regulations, procedures and tools to align with the EU's 2012 recommendation on validation of non-formal and informal learning.

The development of digital skills is an integral part of Georgia's educational curricula in VET and at each level of higher education.

On green education the new national strategy places emphasis on digital transformation, global citizenship, democratic culture, and the green transition, and sustainable development is required in institutional and program level programmes. Green and digital education and STEM are priority topics of the new national curriculum, and teacher training on environmental education and on sustainable development takes place. In order to promote scarce environmental professions, the "Green Scholarships" programme was introduced.

In the field of **youth** policy, both the 2020-2030 Georgian national youth policy concept and the 2023-2026 state youth strategy prioritise the active involvement of young people in public life and democratic processes. There are no concrete mechanisms for youth participation in policy making at national and local levels. although the local self-government code describes the principles and forms of citizen's participation in local self-government in general.

Georgia cooperates on **sport** with European partners, including through the European Week of Sport Beyond Borders and the Council of Europe's sport partnership.

Overall, Georgia's **cultural policy** documents and programmes, including the 2020-25 culture strategy, reflect the general priorities of the new European agenda for culture, although in the reporting period there were a few cases of limiting cultural freedom. There is limited dialogue on overall cultural policy between the government and civil society in general.

Georgia participates in international actions of the 2021-2027 Erasmus+ programme and in eTwinning, and benefits from international youth actions of Erasmus+ and European Solidarity Corps programmes, participates in the Culture and Cross-Sectoral (and partially in the MEDIA) strands of the Creative Europe programme, and regional actions such as EU4Culture.

Chapter 29 - Customs union

All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementing and enforcement capacity, and access to the common computerised customs systems.

Georgia is **moderately prepared** in the area of the customs union. There was **some progress** in the reporting period. Customs legislation is not aligned with the EU *acquis*.

In the coming year, Georgia should:

- further align its 2019 national Law on customs with the Union Customs Code;
- improve administrative and operational capacity and increase resources of the customs service;
- strengthen the administrative capacity in the IT customs sector.

Customs legislation

The new customs code entered into force in 2019 and is partly aligned with the Union Customs Code. The code needs to further align on duty relief; value added tax on imports; transit; and

simplification procedures. In January 2023, Georgia adopted an amendment to its code on duty relief. Namely, Book X, on an exemption from customs debt, which will enter into force on 1 January 2026.

Georgia is a party of the Pan-Euro Mediterranean Convention on the rules of origin. Georgia also benefits from diagonal cumulation of origin between the Pan-Euro Mediterranean Convention member countries. Georgia completed the procedure to apply revised transitional rules of the convention in 2021.

Since August 2022, there is progress with two authorised economic operators now in operation in the country. Nevertheless, the national programme for authorised economic operators needs to mature.

Georgia is in the process of accession to the Convention on the Simplification in Trade in Goods and the Convention on a Common Transit Procedure. Georgia has developed the NCTS IT system and on 3 April 2023, Georgia has started the national application of transit and published national instructions on the possibility of using the new computerised transit system when carrying out customs formalities. For the past year, Georgia regularly attends the EU counter-terrorism coordinator working group meetings as an informal observer.

The risk management system is automated and compares import, export and transit data against active risk profiles.

The legislation on customs enforcement of intellectual property rights is generally in line with the EU *acquis*, despite some divergences. Clarifications are needed on whether Georgia's law on border measures related to intellectual property predicts the destruction of goods suspected of infringing intellectual property rights sent in small consignments. Georgia is aligned on *ex officio* control measures on IPR at the border, although trends for *ex officio* detentions are declining.

Georgia seems to have in place a cash controls system that appears to be aligned with the EU *acquis* despite some differentiations.

The legislation concerning the import and export of cultural goods is in broadly aligned with the EU *acquis*. Cross-border smuggling of tobacco products and other illicit activities in the regions close to breakaway regions is an area where improvements are needed. It is recommended that Georgia joins the WHO Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products.

In October 2022, Georgia expressed interest in deploying the electronic freight transport information (eFTI scheme) within the framework of the EU4Digital project. Georgia's participation in the eFTI network would further strengthen the regulatory convergence in the relevant customs areas.

Administrative and operational capacity

The Georgia Revenue Service is the legal entity established under the Ministry of Finance. It has adequate financial and operational capacity to cope with assigned tasks. The revenue service needs to adapt its structure to the EU customs requirements and attract additional resources. The revenue service also has to upgrade its procedures and customs information and technology systems to make it compatible with those of the EU.

Georgia is a full member of the EU Customs programme.

CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

The cluster on Green Agenda and sustainable connectivity covers: transport policy (chapter

14); energy (chapter 15); trans-European networks (chapter 21); and environment and climate change (chapter 27).

Georgia is at an early stage of preparation in environment and climate change. Georgia adopted its long-term low emission development strategy. It has some level of preparation in the areas of energy, transport policy and trans-European networks. A new market-based support scheme for renewable energy production was introduced. Some progress was achieved on trans-European networks and more efforts are needed to improve transport and energy infrastructures. Some progress was recorded with the adoption of the National Transport and Logistics Strategy (2023-2030) in August 2023, the adoption of the new Rail Strategy in February 2023 and the adoption of the Maritime Code in May 2023. More efforts are needed in the transport sector, with notable focus on road safety, rail sector reform and incorporation of the smart and sustainable mobility strategy principles. Georgia continued improving its civil protection system and showcased a clear commitment in strengthening its resilience in the area of disaster risk.

Chapter 14 - Transport policy

The EU has common rules on technical and safety standards, security, social standards, State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

Georgia has **some level of preparation** in terms of transport policy. **Some** progress was noted in the reporting period with the adoption of the National Transport and Logistics Strategy (2023-2030) and its 2023-2024 action plan in August 2023, the adoption of the new Rail Strategy in February 2023 and the adoption of the Maritime Code in May 2023. Georgia needs to make additional efforts on road safety (e.g align with EU *acquis* concerning the procedures for checks on the transport of dangerous goods by road).

In the coming year, Georgia should:

- align and implement itself with the transport *acquis* in all sectors and at all levels of government;
- enhance the administrative capacity and infrastructure maintenance for road safety, as well as launch and implement awareness-raising campaigns to reduce the high number of road accidents and fatalities.

On **general transport**, since December 2022, Georgia is an observer member of the Transport Community Treaty and is collaborating pro-actively within the treaty's structures. This association will contribute to closer integration of Georgia within the EU transport market. Closer association with the Transport Community can support Georgia on its European path, as the Transport Community plays an important role supporting the enlargement process through the implementation of the relevant EU transport *acquis*. The national transport and logistics strategy was adopted on 15 August 2023 for the period 2023-2030, with a corresponding action plan for 2023-2024. Larger cities should develop sustainable urban mobility plans, which respect of environmental and social standards, following best EU practices.

The main competences in the transport sector are exercised at state level by the Ministry of Economy and Sustainable Development. The other key bodies are: the Land Transport Agency, the Maritime Transport Agency and the Civil Aviation Agency. The gradual integration of Georgia into the EU internal aviation market is governed by the European Common Aviation Area Agreement signed in 2010 and in force since 2 August 2020.

Regarding **road transport** and **road safety**, the 2022-2025 national Road Safety Strategy was approved in July 2022 and is in line with EU and UN targets to reduce fatal and serious road traffic injuries. Road safety is still a concern with higher levels of casualties than the EU average. Georgia is largely aligned with relevant provisions of the European agreement concerning the work of crews of vehicles engaged in international road transport. Tbilisi will host the Secretariat of the Regional EaP Road Safety Observatory (RSO), due to be established in 2023.

Georgia has not adopted main EU texts related to driving and rest times, such as the Regulation on the harmonisation of certain social legislation relating to road transport; the Directive for posting drivers in the road transport sector; and the Directive on the organisation of the working time of people performing mobile road transport activities. Amendments were made to the Regulation on periodic technical inspection in December 2022, including on noise inspection. Georgia acceded on 19 September 2016 to the UNECE Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) and should now extend the scope of its legislation to the national operations with dangerous goods. Relevant EU *acquis* (e.g. concerning the procedures for checks on the transport of dangerous goods by road) needs to be transposed as well.

Regarding market access, the regulation establishing common rules on conditions to be complied with to pursue the occupation of road transport operators has been fully aligned for domestic transport operators, but only partially for transport operators dealing with international transportation of goods and passengers.

On rail transport, the latest amendments to the Railway Code of May 2023 foresee the establishment of a Railway Transport Agency, under the Ministry of Economy and Sustainable Development, as of 1 July 2023. The Agency will act as an incident and accident investigation body. There is no market and no competition for rail services. Separation between infrastructure management and transport operations is not provided. There is only one integrated railway, the JSC Georgian Railway. Safety responsibilities lay solely with the incumbent rail company JSC Georgian Railway.

There is no independent safety supervision. Technical specifications for interoperability are not implemented.

On maritime transport, the country is a member of the Black Sea Memorandum of Understanding and has implemented the Directive on port state control to some extent. Georgia needs to implement legislation aligning to the Port Services Regulation. The Maritime Code was adopted end May 2023 and improves the labour and social status of the Georgian sailors. The national procedure for the ratification of the International Labour Organisation's Maritime Labour Convention is completed. Georgia also participates in the Black and Caspian Sea (BCSEA II) technical assistance project implemented by the European Maritime Safety Agency (EMSA).

On civil aviation, Georgia has implemented more than half of the aviation *acquis* governing market access, air traffic management, aviation safety, security, environment, and consumer protection which is fully implemented. The EU regulations on social aspects have not been implemented yet. Georgia is signatory of EUROCONTROL, the International Civil Aviation Organization and the European Civil Aviation Conference. It is an observer of the European Union Aviation Safety Agency.

There are some provisions on **EU passenger rights** and clear progress made in terms of passenger rights in the aviation sector. Further efforts are needed to reinforce passenger rights in all modes of transport.

There are no provisions on **multimodal and combined transport**.

Chapter 15 - Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy, nuclear safety, radiation protection and nuclear safeguards.

Georgia has **some level of preparation** in the area of energy. There was **limited progress** in the reporting period. The country needs to reinforce interinstitutional cooperation and coordination to improve its fragmented and inconsistent legislative framework. Overall, Georgia needs to step up its efforts towards establishing functional internal markets and integrating into the regional market. Unbundling its energy utilities remains an important priority for Georgia, as does establishing its oil stocks.

In the coming year, Georgia should:

- finalise electricity market opening and the unbundling of the transmission system operators in electricity and gas;
- transpose and implement the Electricity Integration Package adopted by the Energy Community Ministerial Council in December 2022.
- Adopt the National Energy and Climate Plan (NECP) in line with the Energy Community 2030 energy and climate targets, taking due account of recommendations issued by the Energy Community Secretariat and commit the necessary institutional capacity for its implementation.

Georgia developed an adequate regulatory framework and liberalised their energy markets in line within a fixed timeframe and in line with the treaty requirements. Parts of the EU *acquis* are derogated since Georgia currently has no direct connection to energy networks of any EU or Energy Community Treaty country.

There are currently no main **overarching strategic documents** on energy policy in place. The draft National Energy and Climate Plan (NECP) has been submitted to the Energy Community Secretariat on 21 July 2023, slightly beyond the deadline of 30 June. The final NECP will have to be in line with the Energy Community 2030 energy and climate targets and take due account of recommendations issued by the Energy Community Secretariat. Georgia does not have emergency oil stocks to ensure **security of supply**. There is a lack of human resources in the Ministry of Energy, in particular concerning fulfilling security of supply obligations. The country has not aligned with Directive on oil stocks imposing an obligation to maintain minimum stocks of crude oil and/or petroleum products. The adoption of gas security of supply rules is pending. Georgia's main electricity supplier, the Enguri/Vardnili hydropower cascade, is partially located in the breakaway region of Abkhazia.

Concerning the **internal energy market**, Georgia has aligned with the third energy package, mainly through the Law on energy and water supply, as well as with a set of implementing legislation. The transposition and implementation of the newly adopted Electricity Integration Package is still pending (transposition deadline is end of 2023). Georgia has not finalised the unbundling of the transmission system operators in electricity and gas. The Georgian electricity transmission system operator GSE is still not unbundled, despite the Georgian National Energy and Water Supply Regulatory Commission provisionally certified the electricity transmission system operators in 2021. The electricity distribution system operators are legally and functionally unbundled. The gas distribution system operators (including SOCAR owned undertakings) are not unbundled. The Georgian National Energy and Water Supply Regulatory

Commission is responsible for maintaining balance in the energy and water supply sectors between the interests of customers and regulated companies. This ensures the development of the regulatory framework and promotes competition.

In the **electricity** sector, the launch of day-ahead, intra-day, balancing and ancillary services markets was postponed. The deregulation of production and large customers follows the market opening scheme of the electricity market concept design and is expected to be finalised in the upcoming years. Small enterprises and households will remain subject to the historical electricity supplier. A high number of renewable energy producers are under power purchase agreements. A new support mechanism – market-based contracts for differences – has already been introduced. The first auction for 300 MW of renewable energy was successfully completed in April 2023. Joint capacity allocations between Georgia and Türkiye via the allocation platform for the region of Southeast Europe should be discussed following the launch of market opening.

Georgia is not directly interconnected with EU Member States. Its electricity network is synchronised with Russia's and Azerbaijan's electricity grids. Electricity is either exported or imported from its neighbours, including Türkiye, depending on the season.

In the **gas** sector, Georgia concludes supply contracts bilaterally for the long term. The natural gas market concept includes the establishment of a natural gas exchange and an over-the-counter auction platform. The Georgian gas exchange was established but is not yet operational. The gas market is characterised by a high level of concentration. Gas-fired thermal power plants operate with gas received from Azerbaijan. Georgia already aligned its legislation with the Regulation on wholesale energy market integrity and transparency.

The country hosts important gas and oil pipelines for the Southern Gas Corridor. It is dependent on gas imports from Azerbaijan and Russia, though at a marginal level from the latter. Georgia needs to implement the security of gas supply regulation. Gas cross-border interconnection points are nearing their maximum physical operating capacities. Georgia does not possess gas storage, which poses some risks during high-demand peak days.

In the area of **renewable energy**, the Law on promotion of generation and consumption of energy from renewable sources needs to be aligned with the Renewable Energy Directive. The revision is in its final stages. A new market-based support scheme for renewable energy production was introduced in December 2022, envisaging auctions for a total installed capacity of up to 1 500 MW. The first auction announced in February 2023 has been completed. Provisions related to the sustainability of biofuels are pending.

On **energy efficiency**, Georgia is aligned with the Directives on energy labelling and the energy performance in buildings. Fifteen energy efficiency bylaws were adopted in 2022 and 2023. The remainder of implementing legislation is still to be adopted. On energy labelling, the adoption of eleven product regulations is pending, in addition to three that are already adopted. An advanced draft of the long-term building renovation strategy has already been developed.

On **nuclear energy, nuclear safety and radiation protection**, Georgia has no nuclear power sites on its territory. Georgia is a party to international conventions concluded under the auspices of the International Atomic Energy Agency, except for the Convention on Nuclear Safety. Georgia has developed a national strategy for radioactive waste management taking into consideration provisions under the Directive on radioactive waste. Georgia has adopted the Law of Georgia on radiation protection, nuclear safety and security on 15 June 2023. Georgia still has to fully align with and implement the Directives on nuclear safety; the management of spent fuel and nuclear waste; basic safety standards and drinking water. Georgia still also has to consider accession to the Convention on Nuclear Safety.

On **nuclear safeguards**, upon accession, the existing systems of accountancy and control of nuclear materials in Georgia would need to be adapted to accommodate for the safeguards provisions (Chapter 7) of the Euratom Treaty. This means that state and operators systems would need to incorporate reporting obligations to the Commission and allow for access to nuclear materials and installations by Commission Inspectors.

Georgia would also have to accede to the existing safeguards agreement (INFCIRC/193 and its Additional Protocol) between the Euratom Non-nuclear Weapon States, the Euratom Community and the International Atomic Energy Agency (IAEA). Georgia's own existing comprehensive safeguards agreement with the IAEA would be suspended.

Chapter 21 - Trans-European networks

The EU promotes trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.

Georgia has **some level of preparation** in trans-European networks. There was **some progress** in the reporting period, notably with the adoption of the 2023-2030 National Transport and Logistics Strategy and the actual implementation of TEN-T projects (e.g East-West Highway). The legislative framework needs to be aligned with the trans-European networks for transport and trans-European networks for energy regulations to implement transport and energy projects. Transport and energy infrastructures are insufficiently developed. The implementation of connectivity reform measures in Georgia is slow.

In the coming year, Georgia should:

- improve the performance of the rail and road networks in terms of quality, capacity and safety;
- align with the Regulation on guidelines for trans-European energy infrastructure.

The Trans-European **Transport Networks** (TEN-T) were extended to the Eastern Partnership, including Georgia. The extension to Georgia identifies core and comprehensive networks. An indicative trans-European transport networks investment action plan for the Eastern Partnership was jointly prepared by the World Bank and the European Commission. The action plan supports key investments priorities with EUR 3.4 billion for all modes of transport on the extended core network. Its deadline is in 2030.

Developing transport infrastructure is listed in key strategic documents, such as the 2021-2024 Towards Building a European State programme and the recently adopted 2023-2030 National Transport and Logistics Strategy.

An amendment to the TEN-T map was formalised through the signature of the High-Level Understanding between the EU and Georgia on the adaptation of the indicative TEN-T in March 2023 and added a new core road alignment in Algheti-Sadakhlo. The Georgian indicative network consists of 751 km of railways (out of which 599 km are on the core network), 856 km of motorways (out of which 795 km are on the core network), three ports (one of which is core) and one core airport. Georgia has yet to inform if transport infrastructure meets TEN-T infrastructure requirements.

The limited capacity of existing international state roads are the main bottlenecks reducing the performance of the core motorway network. The road infrastructure is generally of a poor standard, in terms of safety, capacity and quality.

Concerning railways, authorities are addressing bottlenecks that have been identified on

the core network via the railway modernisation project. The works are expected to be finalised by the end of 2023. The rail network infrastructure and rolling stock are often obsolete with respect to quality, capacity and safety standards. The Baku-Tbilisi-Kars railway line is another major railway project, which is 85% completed.

Alignment with the Regulation on guidelines for the **trans-European energy infrastructure** – TEN-E Regulation – as adapted and adopted by the Ministerial Council of the Energy Community is required. The project application was selected in the list of projects to potentially be included in the 2022 European Network of Transmission System Operators ten-year electricity network development plan. Replacing the dead-end gas supply system with a highly secure circular-type system of loops and interconnectors is the objective of the 2021-2030 ten-year natural gas transmission network development plan.

Challenges to the gas transmission network include: the difficulty or even impossibility of the existing transmission system or contractual limitations to balance hourly consumption disparity; non-backed-up cross-border pipelines; and suspended construction of natural gas storage. The non-back up of interconnection lines; the radial/inadequately backed-up network of western Georgia; the dead end (mainly 220 kV) transmission lines both in the western and eastern part of the power transmission system; and exploring alternative solutions to ease the impacts of cross border infrastructure constraints are the main challenges for the electricity transmission network.

A derogation from cross-border cooperation rules applies until Georgia has a physical interconnection with the EU or the Energy Community electricity markets. At this stage, there is only a bilateral cross-border capacity allocation on the interconnectors with Türkiye. Rules for the management of cross-border electricity flows and capacity allocation were drafted as part of the transmission grid code. No agreements with neighbouring transmission system operators and the development of the framework for market-based mechanisms for cross-border exchange are yet signed.

Chapter 27 - Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

Georgia is at an **early stage of preparation** in the field of environment and climate change. There was **some progress** in the reporting period, notably with the adoption of a long-term low emission development strategy and with the improvement of the capacity of its civil protection and disaster risk management system. The gaps in the level of alignment with policy ambition and legal obligations in sectors covered under this chapter remain wide. Climate neutrality by 2050 was established as a policy target. Moving more vigorously towards a low-emission, resilient, green economy needs increased political attention, as well as a whole-of-government and whole-of-the-economy approach. Georgia continued to strengthen its civil protection and disaster risk management system.

In the coming year, Georgia should:

- strengthen administrative and inspection capacities in the environment and climate sector and implement structural reforms;
- align with the EU water *acquis*;
- implement commitments under the Energy Community's Decarbonisation Roadmap and

urgently prepare for the Emissions Trading System (ETS) in line with the Energy Community recommendation, notably on the Monitoring, Reporting and Verification of emissions;

→ adopt a climate law in order to enhance the level of ambition of Georgia on climate change mitigation and adaptation and ensure consistent, timely implementation.

Environment

Georgia has some level of alignment with EU **horizontal legislation**. The country is party to the Aarhus Convention and follows some of its provisions on access to environmental information and justice. Several IT portals help to ensure a certain degree of public access to environmental information. This remains insufficient, fragmented and cumbersome. Environmental policy **implementation and enforcement** represent a challenge, notably due to limited administrative capacity. Various aspects of Georgia's environmental compliance assurance system must improve to tackle the high level of environmental non-compliance in the country.

Although Georgia's legislation on environmental impact assessments is in place, it still needs to be further developed and effectively implemented. This includes transboundary cooperation given that Georgia is not a party to the Espoo Convention. The country signed but has not ratified the protocol on strategic environmental assessment. Overall, there are significant capacity constraints in implementing, monitoring and enforcing the Environmental Assessment Code.

The Law on environmental liability establishes financial liability for environmental damage and a requirement to remediate environmental damage. While being a step in the right direction, the Law is not fully in line with the EU Environmental Liability Directive as concerns its scope and definitions. Four resolutions necessary for the implementation of the Law were adopted during the reporting period.

On **air quality**, Georgia is partially aligned with the EU *acquis*. Air quality standards were established for all pollutants covered by the Directives on ambient air quality. Exceedances are recorded, notably those concerning particulate matter in major cities. The air quality monitoring system is partially aligned with EU standards and an air quality index website is accessible. The Central Zone Air Quality Plan was approved in July 2023. Since 2021, continuous monitoring of air emissions applies to 94 large stationary facilities but only about a fifth of them report information to an electronic system established to this end. An air quality monitoring plan for Rustavi has been prepared. Significant gaps still exist regarding alignment with the Directive on national emission reduction commitments, but progress is made notably on emission projections and inventories. The technical regulation determining the emission standards for vehicles was approved in June 2023. The regulatory framework was amended in order to ban the export of catalyst converters for three years. Georgia is party to the United Nations Economic Commission for Europe Air Convention but not yet to any of the latest three protocols.

Georgia is at an early stage of alignment with EU **noise** legislation. Preparation of the strategic noise maps and action plans needs to start.

Georgia's alignment with the EU **waste management** and circular economy legislation is at an early stage. Alignment with the revised Waste Framework Directive, and all relevant waste streams legislation needs to be further consolidated. This includes adopting national legislation in line with the EU sewage sludge and ship recycling rules. Significant investments are needed to modernise the waste management system and put in place waste collection and treatment

infrastructure, especially at municipal level. The 2013-2030 national waste management strategy was amended in August 2022, incorporating modified targets and addressing the issues of bio-degradable and hazardous waste. A new structural unit for industrial emissions and waste control services was established in April 2023, as part of the Department for Environmental Supervision.

In the area of **water quality**, the level of alignment is limited. A new water Law has been adopted in June 2023. A Georgian water information system has been developed. Identification of nitrate vulnerable zones and an assessment of the need to upgrade the existing surface and groundwater monitoring networks are currently conducted. The legal framework for the protection of marine environment is included within the fourth national environmental action programme adopted in 2022. The country conducts hydrobiological monitoring of coastal waters of the Black Sea.

There is good alignment on **nature protection**, notably through compliance with some of the obligations under the Bern Convention. Georgia's current emerald network presents a sufficiency rate to achieve the network objectives by only 30% despite the relatively constant progress. Georgia needs to update its national biodiversity strategy and action plan. A dedicated biological diversity Law is being developed. A biodiversity monitoring system and a strategy for invasive alien species need to be developed. Georgia should strengthen administrative capacities and increased dedicated financial resources. A new national forest programme process was approved in April 2023, which will further enhance discussion in the forestry sector.

Regarding the EU *acquis* on **industrial pollution control and risk management**, compliance with the EU's industrial emissions legislation require significant legislative work and investments. Further legislative alignment with the EU industrial accidents *acquis* is also necessary. A single national pollutant release and transfer register that gathers the various information in one place does not yet exist in the country. Public authorities view the existing electronic systems for air emissions reporting and water reporting, as well as the waste reporting system that is under development, as steps towards having a national pollutant release and transfer register. Georgia is a signatory of the Protocol on pollutant release and transfer registers to the Aarhus Convention and plans to eventually ratify it. Work in this area needs to be accelerated and guided by the European Regulation on pollutant release and transfer register.

As for **chemicals management**, to implement the Stockholm Convention on Persistent Organic Pollutants, the polychlorinated biphenyls inventory of equipment in the electricity supply sector was carried out and a database was developed. Rules and safety norms for the management of equipment and oils containing polychlorinated biphenyls and their waste were adopted in December 2022. The level of transposition of the chemicals *acquis* is limited and important provisions are missing. The Parliament ratified the Minamata Convention on Mercury in May 2023. Significant efforts are needed to enforce and implement the chemicals legislation, considering the complex tasks under this sector.

Georgia made progress in building the capacity of its **civil protection and disaster risk management** system at central and local levels. It has a 24/7 operational duty service, which cooperates with the European Commission's Emergency Response Coordination Centre. Roles and responsibilities of different actors involved in disaster risk management are clearly defined and, together with the establishment of the Training Division, the basic training programme has been upgraded. Emergency management plans have been developed at a local level in six municipalities. The overall strategy for the development and modernisation of its civil protection system should be developed focusing on preparedness and prevention measures. In this regard, the early warning systems of Georgia could be further strengthened.

Climate change

Georgia is at an **early stage of preparation** and made **some progress** over the reporting period on the **climate change acquis**, including its obligations under the Energy Community Treaty. A long-term low emission development strategy was adopted on 24 April 2023 with a climate neutrality target in 2050. Georgia submitted an updated Nationally Determined Contribution under the Paris Agreement in May 2021 including an unconditional 35% emission reduction target by 2030 compared to 1990 and a conditional 50-57% target; it adopted a 2030 climate change strategy and a 2021-2023 action plan. Georgia has no climate change law yet.

Georgia has currently only a basic national system for monitoring and reporting of greenhouse gas emissions. Georgia prepares its greenhouse gas inventory biennially. Considerable efforts are needed to align Georgia with relevant EU legislation in that respect, notably in the context of the Energy Community.

Consistently with the Energy Community's Decarbonisation Roadmap, Georgia needs to roll out a robust MRV system for as a preliminary step to carbon pricing. Georgia needs to take the necessary steps to set up a mechanism for emission trading to stimulate industrial and energy decarbonisation and to appropriately prepare for the introduction of the EU Carbon Border Adjustment Mechanism.

Georgia did not align with the Directive establishing a scheme for greenhouse gas emission allowance trading and needs to urgently step up the introduction of an emission trading system.

Regarding emissions from transport Georgia has not implemented CO₂ performance standards for new vehicles, nor has it enacted measures to promote monitoring and availability of consumer information on fuel economy and CO₂ emissions in respect of the marketing of new cars. Concerning fuel quality, legislation is in place and the quality of petrol and diesel meets the Euro 5 standard. The country participates in the European Civil Aviation Conference and volunteered to participate in the global carbon offsetting and reduction scheme for international aviation.

Georgia is a party to the Montreal Protocol on substances that deplete the ozone layer. The parliament ratified the Kigali amendment to the Montreal Protocol in June 2023. Georgia is not fully aligned with the current versions of the Regulation on ozone depleting substances or the Regulation on fluorinated greenhouse gases. Some efforts have been made to align with the basic elements of previous versions of those regulations.

Georgia has not developed relevant national legislation in line with the Directive on carbon capture and storage.

Georgia established a climate change council at ministerial level to ensure better coordination; However, the country still lacks a consistent whole-of-government approach systematically mainstreaming climate considerations into policy-making. Administrative capacity remains weak in terms of both human and financial resources and needs to be urgently enhanced.

Over the reporting period, major pieces of EU climate legislation were updated in order for the EU to cut emissions by at least 55% by 2030 compared to 1990, starting with the EU ETS Directive. Georgia should take this revision into account and align its own legislation.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

Cluster 5 on resources, agriculture and cohesion covers: agriculture and rural development (chapter 11); food safety, veterinary and phytosanitary policy (chapter 12); fisheries and aquaculture (chapter 13); regional policy and coordination of structural instruments (chapter 22); financial and budgetary provisions (chapter 33).

Georgia is at an early stage of preparation in the chapters agriculture and rural development, financial and budgetary provisions. Georgia is in between an early stage and some level of preparation regarding regional policy and coordination of structural instruments. It has some level of preparation in food safety, veterinary and phytosanitary policy and fisheries and aquaculture. Some progress was made in regional policy and limited progress in agriculture and rural development with the amendment of the Law on agricultural cooperatives. No progress was registered in fisheries and aquaculture and on financial and budgetary provisions. Additional efforts are needed to increase human and administrative capacity in the field of fisheries and aquaculture. It is also important to adopt the new regional development strategy and consider expanding the coverage to the whole country.

Chapter 11 - Agriculture and rural development

The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.

Georgia is at an **early stage of preparation** in the area of agriculture and rural development. **Limited progress** was made in the reporting period, such as on the amendment of the Law on agricultural cooperatives. Georgia will need to fully align with the EU's *acquis* in the area of agriculture and rural development, and establish the structures, systems and the administrative capacity to be able to implement and enforce it effectively.

In the coming year, Georgia should:

- progress on aligning the legal framework with the EU *acquis* in the field of agriculture and rural development;
- continue efforts towards a full-scale land parcel identification system layer for the entire country and create a plan;
- the setting-up of an integrated administration and control system in line with the EU *acquis*;
- start the creation of a farm accountancy data network (FADN) or similar system monitoring farm income activities;
- review the resolution on organic production to align it with the EU's new regulation on organic production, in force since January 2022.

On **horizontal issues**, Georgia's policy in this area is governed by the 2021-2027 strategy for agriculture and rural development and an action plan for its implementation. The Ministry of Environmental Protection and Agriculture (MEPA) is responsible for agriculture and rural development policy formulation. Within the food and rural development department of MEPA, two sectoral departments were created in 2023.

An integrated administration and control system (IACS) in line with the EU *acquis* will need to be established. A land parcel identification system (LPIS) software is in place at the National Wine Agency, but progress is needed towards a full-scale LPIS for the entire country. Amendments to the Law on wine were adopted in June 2023 envisaging the production of a single cadastre of vineyards by the National Wine Agency.

A National Pasturelands Management Policy document was adopted focusing on the prevention of land degradation, biodiversity conservation of pasture lands, improvement of

their productivity and promotion of sustainable development of livestock production. There is no farm accountancy data network (FADN) or similar system monitoring farm income activities. A farm advisory system operates under the Rural Development Agency (RDA) providing information at centres across the country on RDA programmes and projects.

On Common market organisation (CMO), alignment with the EU *acquis* remains limited mostly related to certain marketing standards where Georgia should make efforts to fully align with EU *acquis*. The Law on agricultural cooperatives was amended in December 2022 with the ambition to modernise and align it with the EU *acquis*. A vineyard register is in place with more than 80% of the vineyards registered based on orthophoto maps design by global positioning system (GPS) technology and the declaration of grape growers.

On rural development, the 2021-2027 agriculture and rural development strategy with its 2021-2023 action plan constitutes Georgia's policy framework. An inter-agency coordination council, including relevant stakeholders, coordinate and closely monitor the strategy's implementation. Funding is provided through the agriculture budget. No progress on approximation was registered.

As regards **quality policy**, Georgia has legislation regulating the registration, protection and use of protected designations of origin and geographical indications.

Legislation in the area of **organic farming**, needs to be further aligned with the EU's *acquis*.

Chapter 12 - Food safety, veterinary and phytosanitary policy

EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with the quality of seeds, plant protection material, the protection against harmful organisms and animal nutrition.

Georgia has **some level of preparation** in the area of food safety, veterinary and phytosanitary policy. There was **some progress** made over the reporting period, by signing an amendment to Annex XI-B of the Association and Deep and Comprehensive Free Trade agreement. There is a risk of a widening gap between legal approximation and effective implementation. A comprehensive food safety implementing strategy, review of policy and institutional reforms needs to be carried out. There are significant delays in effective implementation of new legislation, weakening some of them and leading to reduction in controls.

In the coming year, Georgia should in particular:

- further align legislation with the EU *acquis*;
- enhance implementation of aligned legislation by regional and local services as well as industries concerned;
- strengthen surveillance capacity and diagnostic resources.

In the area of **general food safety, food safety rules and specific rules for feed**, Georgian producers have not obtained yet authorisation for the export to the EU of queen bees and fishery products from aquaculture. Budgetary allocations have not increased since 2020. They are insufficient to effectively implement some elements of the new legislative framework or to provide the required support to food business operators. Meeting the EU requirements for hazelnuts remains difficult for Georgia. The EU maintains a high level of regulated imports controls to detect contaminations with aflatoxins.

In March 2023, Georgia and the EU signed an amendment to Annex XI-B of the Association and Deep and Comprehensive Free Trade agreements, according to the Council Decision (EU)

2023/187 of 23 January 2023.

Legislation and organisation of the Georgian control system is partially in line with EU *acquis*. National legislation and implementing rules for export to the EU are generally in line with EU requirements. Due to ineffectiveness of the surveillance system and lack of diagnostic resources, the competent authorities cannot yet deliver the full necessary level of assurances.

Alignment on **veterinary policy** has not yet been achieved on animal welfare, notably during transport and slaughter. Georgia continued to carry out activities to control, prevent and eradicate communicable animal diseases in line with the 'One Health' approach. National legislation to align with the *acquis* on crisis management has not yet been achieved. Georgia's state laboratory of agriculture oversees food safety, veterinary and phytosanitary inspection activities. Its main responsibilities are laboratory testing. The laboratory has been accredited according to ISO IEC 17025. The laboratory network operates countrywide. Residue monitoring is being carried out. Georgia has established the rapid alert system for food and feed and has a national contact point of communication with the relevant team in the EU.

As regards **placing on the market of food, feed and animal by-products**, the National Food Agency continued to carry official checks. Business operators producing, processing and distributing food of animal origin are not yet registered in the registry of economic activities. Laboratory testing of samples taken within the scope of official controls is performed at laboratories accredited in accordance with the ISO 17025 standard. Georgia's in-country laboratory testing capacity does not yet correspond to the EU *acquis* on either sanitary and phytosanitary or food safety. Some operational issues persist as regards EU's trade control and export system, notably on issuing electronic certificates. Georgia is now able to add new establishments, as well as apply for amendments through the system.

On **phytosanitary policy**, considerable implementing legislation to align with the EU *acquis* is in place. Economic operators with relevance in the field of plant health are not yet registered in the register of economic activities. National legislation on maximum residue levels of pesticides in or on food and feed of plant and animal origin is not yet aligned with the EU *acquis*.

As regards **genetically modified organisms**, legislation is in place to regulate their use in closed systems; cross-border movement; traceability; labelling; marketing; safety and packaging.

Chapter 13 - Fisheries and aquaculture

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

Georgia has some level of preparation in this chapter. There was **no progress** made in the reporting period. Georgia lacks a standardised fisheries policy and effective implementation across the country in line with the EU *acquis*. Focus should be on improving administrative structures, including the establishment of a managing authority.

In the coming year, Georgia should particularly:

- continue aligning its legislation with the EU's common fisheries policy and fisheries and aquaculture *acquis*;
- increase its human and administrative capacity in the field of fisheries and aquaculture;

→ become a fully-fledged member of the General Fisheries Commission for the Mediterranean.

Georgia has adopted legislation to manage fisheries and aquaculture in line with the principles of the common fisheries policy. Georgian legislation effectively defines the basic requirements such as the obligation of the flag state, coastal state, port state and market state. The number of marine fishing vessels was indicated by Georgia as 32 in 2022. These vessels are only active in national waters.

Sea fishing production was 53 53 500 tonnes in 2022 (declined from 89 600 tonnes in 2019). Aquaculture production in 2019 reached almost 2 500 tonnes, exceeding the production in 2017 by 20 percent.

Georgia manages the **fisheries resources** based on scientific advice and on the collection of data. The data collection framework needs to be strengthened. Georgia should invest efforts in reducing by-catch of sensitive species and promote the use of selective gear. There is active and constructive cooperation in the framework of the bilateral EU-Georgia dialogue in the fight against illegal, unreported and unregulated fishing. A proper level of implementation has yet to be achieved. A **fleet management system** is in place. A fishing vessel register and regime are lacking.

Some limited elements of an **inspection and control** system have been developed but an overall approach to checks and inspection is needed. Georgia has no specific **structural actions for fisheries**. A limited number of **state aid** measures exist applicable to fishing, including a specific credit programme with low interest rates.

Concerning **market policy**, general standards on hygiene for food and products of animal origin are in place. Product information is provided to consumers, such as ingredients, weight, and shelf life. Georgia needs to align specific provisions on fishery and aquaculture products put on the market with the EU Common Market Organisation Regulation. Legal Framework of recognition of professional organisations, such as producer or inter-branch organisations are not in place.

Regarding **international agreements**, Georgia cooperates on marine fisheries with the General Fisheries Commission for the Mediterranean as the relevant regional fishery management organisation. It is strongly encouraged that Georgia becomes a full member. The country has to invest efforts in reducing by catch of sensitive species and promote the use of selective gear. Georgia has a bilateral agreement on fish farming with Ukraine.

Georgia participates in the Common Maritime Agenda, the EU sea-basin strategy for the development of a sustainable blue economy in the Black Sea. It is quite active in the implementation of its priorities, with a positive commitment both at the national and grassroots level. Georgia is encouraged to continue its positive regional cooperation under the Common Maritime Agenda with the other participating countries and to lead work on areas that are considered important for the country.

Chapter 22 - Regional policy and coordination of structural instruments

Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU acquis elements such as environmental or public procurement legislation.

Georgia is in between an **early stage and some level of preparation** in the area of regional policy and **some progress** was made with the adoption of the intermediate harmonisation plan to align with the EU statistical system. The legislative framework on regional policy should be further aligned with the EU *acquis* to implement this policy effectively. The country needs to strengthen its administrative capacity in programming, implementing, monitoring and evaluating EU funds, while building on the experience from the European Neighbourhood Instrument (ENI) cross-border cooperation (CBC) and Interreg NEXT programmes. Regional development and cohesion remain important challenges. Efficient coordination is needed among the levels of government on preparing and implementing relevant sector strategic and planning documents. Strengthened capacity is needed to identify and target regional disparities and plan interventions (in terms of programmes and projects) in line with the EU practice (programming cohesion funds).

In the coming year, Georgia should in particular:

- build on its experience with EU shared management through involvement in ENI CBC and Interreg NEXT programmes;
- use positive outcomes of the pilot regional development programme (PIRDP 2019-2022) in the new state programme targeting territorial development and increase coverage to potentially the whole country (excluding large urban centres Tbilisi and Batumi) and deepening the competitive project selection procedure.

The **legislative framework** remained broadly unchanged. A number of initiatives related to transferring certain types of property to local authorities and fostering inter-municipal cooperation were adopted during the reporting period. Those changes cleared administrative bottlenecks and facilitated the successful implementation of regional policy programmes.

On the **institutional framework**, at national level, the Ministry of Regional Development and Infrastructure oversees regional development policy planning and coordination. In 2022, municipalities were equipped with six new devolved powers in the fields of education; child protection; social protection; natural resources management; and environmental protection to increase the role of municipalities in managing a substantial share of public affairs. As of 2023, a minimum guaranteed amount under VAT has been introduced for municipalities with smaller revenues to further strengthen their financial independence and complement the equalisation concept.

Georgia has number of regional policy strategies and programmes that aim to align with EU cohesion policy principles, including the 2019-2022 pilot regional development programme and 2019-2023 strategy for development of Georgia's mountain settlements. The first phase of the programme covered four regions¹³ and was implemented according to the participatory model of multilevel governance used under the EU cohesion policy.

The regulation regarding the distribution of funds for projects to be implemented in the regions of Georgia – which is one of the tools to tackle disparities within the country – was amended in 2022. The regulation introduces competition between municipalities based on their performance.

Georgia has gained experience with EU shared management through its participation in the 2014-2020 European neighbourhood instrument cross-border cooperation programme for the Black Sea basin. It also actively participates in its successor the Interreg NEXT 2021-2027 Black Sea programme that is fully in line with EU cohesion policy principles.

¹³ Kakheti, Imereti, Guria, Racha-Lechkhumi and Kvemo Svaneti

Georgia started piloting smart specialisation in the Imereti region with the support of the European Commission's Joint Research Centre. The entrepreneurial discovery process was implemented in 2022, which followed a framework methodology agreed with the Commission's Joint Research Centre.

Monitoring data is collected according to the methodology approved by the government commission on regional development. The annual monitoring reports present financial and physical progress and the achievement of outputs. The annual budget allocations, as well as actual expenditures are included in the monitoring data that is collected.

Evaluations of the programmes are performed on an *ad hoc* basis and are mostly conducted by external experts, with support from international partners.

The nomenclature of territorial units for statistics methodology is not yet applied in Georgia. The intermediate harmonisation plan that aims to align Georgia's statistical system with the European system was consolidated and adopted in early 2023, paving the way for further integration in the EU system and practices.

On **financial management, control and audit**, the financial framework doesn't allow budget flexibility in terms of carryover to the next year's budget. There are good examples of EU-funded programmes that involve co-funding from the State. These include the pilot integrated regional development programme, as well as EU direct grants provided to municipalities under 'Mayors for Economic Growth', 'Covenants of Mayors' and 'Civil Society Organisations and Local Authorities' instruments.

The financial management and control system for EU funds in place is entrusted to the authorities. The internal financial control system (as described in chapter 32) remains weak.

Internal audits are established in (i) line ministries and autonomous republics, (ii) legal entities of public law and state-owned enterprises, (iii) local administrations. External audit is performed by the State Audit Office which is part of the group of auditors for the ENI CBC and Interreg programmes. The office has a commitment to audit each municipality every three years. There were no developments in the reporting period.

Chapter 33 - Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value-added tax. EU Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.

In the area of own resources Georgia is **at an early stage of preparation**. There was **no progress** made. The basic principles and institutions for the underlying policy areas are in place and functioning but need further alignment with the EU *acquis*. The country should focus on aligning with the accounting standards of the 2010 European System of Accounts. It should also focus on setting up a coordinating body to implement the own resources' administrative conditions.

In the coming year, Georgia should:

- further align its 2019 Law on customs with the Union Customs Code;
- strengthen the operational capacity of the revenue service;
- align with the accounting standards of the 2010 European System of Accounts.

As regards **traditional own resources**, Georgia has structures in place to levy customs duties at the point of import. It operates a national VAT system. VAT legislation is partially aligned with the EU *acquis*. Some provisions still need to be standardised. Georgia needs to further align its 2019 Law on customs with the Union Customs Code.

The mid-term revenue strategy 2021-2024 sets out three strategic priorities: improved tax and customs legislation; institutional development; and international cooperation.

Georgia will need to continue to work on establishing the relevant institutions involved in the own resources system, an own resource coordination body and implementing rules.

As regards **administrative infrastructure**, the Ministry of Finance has the overall responsibility for financial and budgetary issues. The revenue service, in charge of tax and customs issues, is a legal entity of public law under the Ministry of Finance. The revenue service needs to strengthen its operational capacity and computerise its key business processes.

National accounts and gross national income are computed but they are based on the definitions and accounting rules of the 2008 United Nations System of National Accounts and not on the 2010 European System of Accounts standards. There has been no work to switch to the European system or to collect national data.

CLUSTER 6: EXTERNAL RELATIONS

There are two chapters in this cluster: external relations (Chapter 30); foreign, security & defence policy (Chapter 31). Georgia is moderately prepared and made limited progress in both.

Chapter 30 - External relations

The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.

Georgia **is moderately prepared** in the area of external relations. There was **limited progress** made. Some measures were taken to improve the investment climate Georgia has good administrative capacity to manage commitments in external commercial relations, and as a World Trade Organization member, is already following a large part of the main multilateral trade agreements that the EU also follows.

In the coming year, Georgia should, in particular:

- align the relevant legislation with the EU *acquis* on trade in certain goods that could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment;
- establish a legal framework covering international cooperation and development policy as well as humanitarian aid towards non-EU countries in line with EU policies and principles.

On the **common commercial policy**, Georgia officially became a member of the joint initiative on the Services Domestic Regulation at the 12th WTO Ministerial Conference in June 2022, based on EU recommendations. Georgia also became a party to the joint initiatives on the investment facilitation for development and on micro, small and medium enterprises. Georgia participated in the Ukraine solidarity meeting in the WTO and aligned with the meeting press statement on 12 June 2022.

For Georgia, it remains important to focus on removing regulatory constraints to improve the investment climate – including the wider legal framework, investment promotion strategy and

institutions, policies to promote responsible business conduct, and impediments to growth of priority sectors. This will help Georgia attract FDI that can have a positive impact on productivity and inclusive, sustainable growth.

Concerning **dual-use items**, export controls on dual-use goods are applied in accordance with its 2013 Law on the control of military and dual-use goods. Georgia is not a member of multilateral export control regimes such as the Wassenaar 53 arrangement, the Nuclear Suppliers Group, and the Missile Technology Control Regime. Additionally, Georgia is neither a participant nor an adherent to the Australia Group. There are certain trade restrictions in place, particularly regarding some goods from the Russian Federation and Belarus. Regarding the transit of goods through Georgia, customs controls on the movement of military and dual designation goods (as well as other sanctioned products) are particularly tightened.

Regarding trade defence instruments, Georgia has a law in place on anti-dumping measures. No legislation on the application of countervailing and safeguard measures is in place. Until now, there have been no cases recorded. The Georgian Competition Agency is equipped with the necessary personnel and is encouraged to share European experience on awareness raising among the industry.

No specific legislation regarding **export controls** on goods that could be used for capital punishment, torture or other cruel, inhumane or degrading treatment is in place. Georgia is a member of the Alliance for Torture-Free Trade. Georgia is not a member of the Kimberley Process and as such does not control trade in rough diamonds. There is no national framework in place to control foreign direct investment in strategically sensitive sectors, infrastructure, technologies or inputs.

In terms of **administrative capacity**, Georgia has shown good capacity in managing its commitments in external commercial relations in implementing the Deep and Comprehensive Free Trade Agreement Area and in its function as a member of the WTO. Regarding enforcement, the institutional capacity has been reinforced and modified in line with the country's regulatory approximation commitments under the Deep and Comprehensive Free Trade Agreement.

As regards **bilateral agreements with third countries**, Georgia is a party to 16 free trade agreements, including with the European Free Trade Association, China, Türkiye, and the United Kingdom. Preferential agreements are in place with some countries with whom the EU does not have preferential agreements: Armenia, Azerbaijan, the Russian Federation, Turkmenistan and Uzbekistan. In March 2023, the United Arab Emirates and Georgia concluded negotiations on the Comprehensive Economic Partnership Agreement.

Georgia has 34 Bilateral Investment Treaties in force with other countries, including with 16 Member States, the United Kingdom and Belarus. In February 2023, the fifth round of negotiations on the Foreign Investment Promotion and Protection Agreement with Canada was completed. The sixth round is expected by the end of 2023.

As regards **development policy and humanitarian aid**, Georgia is a recipient of aid programmes rather than a humanitarian aid donor. Only limited support to other countries was provided. There is no legislation in place on humanitarian aid and no dedicated budget line. Dedicated administrative structures are not in place. Georgia has no legislation on development policy nor an administrative structure for it.

Chapter 31 - Foreign, security and defence policy

Member States must be able to conduct political dialogue under the EU foreign, security and defence policy, align with EU statements, take part in EU action, and apply agreed sanctions

and restrictive measures.

Georgia is **moderately prepared** in this area. **Limited progress** was made in the reporting period. Following Russia's war of aggression against Ukraine, Georgia aligned with EU positions in international fora, including in the UN General Assembly (UNGA). Georgia has not aligned with restrictive measures (sanctions) against the Russian Federation and Belarus and with the High Representative (HR) declarations on this matter. However, Georgia cooperated very closely and proactively with the EU on prevention of sanctions circumvention. Georgia's alignment rate with declarations by the High Representative on behalf of the EU and Council decisions on restrictive measures remained largely at the same level. Georgia continued to participate in EU crisis management missions and operations under the common security and defence policy.

Considerable additional efforts are needed to increase the convergence in the area of foreign and security policy, in particular the alignment with declarations by the High Representative on behalf of the EU and Council decisions as well as the application of restrictive measures.

In the coming year, Georgia should, in particular:

- considerably increase its alignment rate with EU CFSP statements and decisions; avoid actions and statements that go against EU positions on foreign policy; continue efforts to increase hybrid/cyber resilience, through the adoption of a whole of society approach.
- continue to ensure that the territory of Georgia and/or legal entities registered in Georgia are not used to circumvent EU sanctions, notably in relation to Russia and Belarus.

The **political dialogue** between the EU and Georgia on common foreign and security policy (CFSP) continued. The EU and Georgia engaged in a policy dialogue on CFSP in the framework of the EU-Georgia Association Council in September 2022. In addition, the annual High-Level Political and Security Dialogue was held in January 2023, complementing regular exchanges and further promoting gradual convergence. Annual consultations on security and defence also took place in January 2023 with representatives of the Ministry of Defence.

In the area of the CSFP, in 2022, Georgia's alignment rate with relevant statements of the High Representative on behalf of the EU and Council decision was 44%. The rate has remained largely at the same level (decreased to 43%) in 2023.

In line with its long-standing policy, Georgia did not align with the EU's **restrictive measures** regarding Russia, including airspace closure. Georgia aligned with the special "Donetsk and Luhansk" sanctions. Georgia also did not align with any of the Belarus sanctions, the statements by the High Representative on behalf of the EU and Council Decisions on Iran, Türkiye and several African countries, nor with sanctions under the EU Global Human Rights sanctions regime.

Despite the lack of alignment, Georgia has pro-actively engaged in ensuring that the territory of Georgia and/or legal entities registered in Georgia are not used to circumvent these sanctions, including financial sector sanctions. Georgia introduced control for sanctioned goods at its borders. Georgia also controls transit of goods destined not only to Russia and Belarus, but also to Central Asia, Armenia and Iran. Georgia is reporting cases of controlled/stopped goods where circumvention of EU sanctions is suspected with relevant EU authorities.

More widely, Georgia has aligned itself with international and EU initiatives in support of Ukraine, including on resolutions adopted by the General Assembly of the United Nations, the Human Rights Council, the Council of Europe.

Georgia cooperates constructively with the EU in international fora and is a member of various **international organisations**, including the United Nations, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation of the Black Sea Economic Cooperation. Georgia is a member of the Human Rights Council until 2025. Georgia ratified the Rome Statute of the **International Criminal Court** in 2003. Georgia aspires to North Atlantic Treaty Organisation membership (enshrined also in its Constitution) and has been contributing to NATO-led operations.

Georgia is actively engaged in supporting **disarmament and non-proliferation** at international, regional and bilateral levels. Georgia is fulfilling all its commitments to the International Atomic Energy Agency, the Organisation for the Prohibition of Chemical Weapons and the Biological Weapons Convention.

On **security measures**, Georgia and the EU signed an agreement on security procedures for the exchange and protection of classified information in 2016, but the agreement is not yet implemented as the finalisation of relevant procedures is still ongoing on both sides.

Security and defence cooperation strengthened over the reporting period, including in the framework of the European Peace Facility. Georgia continued to actively participate in EU crisis management missions and operations under the Common Security and Defence Policy (CSDP), notably the EU Training Mission in the Central African Republic. Georgia discontinued its contribution in June 2023.

Georgia continued to cooperate with the EU to address its vulnerabilities to **hybrid threats**, identified through the hybrid risk survey process.

ANNEX I – RELATIONS BETWEEN THE EU AND GEORGIA

On 3 March 2022, Georgia presented its application for membership of the European Union. The European Council granted **European perspective** to Georgia in June 2022, with 12 priorities to be addressed in order to be granted candidate status.

The EU and Georgia signed an **Association Agreement, including a Deep and Comprehensive Free Trade Area** in 2014, which fully entered into force on 1 July 2016. The AA/DCFTA is the legal instrument serving as the basis for political association and economic integration between the EU and Georgia. Overall, Georgia continued to broadly implement its obligations under the Association Agreement. Regular political and economic dialogue between the EU and Georgia has continued through the AA/DCFTA structures. The Association Council met in September 2022, the Association Committee in Trade Configuration in December 2022 and the Association Committee in July 2023 and the Regular subcommittee meetings were held throughout the period. The Parliamentary Association Committee met in June 2023.

In addition to the AA/DCFTA structures, a Human Rights Dialogue with Georgia is in place since 2009 and convenes annually. The High-Level Strategic and Security Dialogue, taking forward cooperation on foreign and security policy, was held in January 2023.

The Georgian government does not exercise effective control over the breakaway regions of Abkhazia and South Ossetia. The EU supports Georgia's sovereignty and territorial integrity within its internationally recognised borders and has been engaged since 2008 in peaceful conflict resolution efforts, including through the **EU Monitoring Mission** and the work of the **EU Special Representative** for the South Caucasus and the crisis in Georgia. The EU Monitoring Mission is the only international presence on the ground, counting more than 300 personnel.

Citizens of Georgia enjoy **visa free travel** to the Schengen since March 2017. As part of the visa liberalisation monitoring mechanism, the Commission has been regularly assessing the progress made by the country in implementing reforms introduced under the visa roadmap. The Commission's sixth Report under the Visa Suspension Mechanism published in October 2023 concluded that Georgia continues to fulfil the visa liberalisation benchmarks and has taken action to address the Commission's previous recommendations, however, further efforts are needed. A readmission agreement between the European Union and Georgia is in place since 2011.

Regarding **bilateral financial assistance**, the indicative bilateral allocation for Georgia for the period 2021-2024 amounts to EUR 340 million under the Neighbourhood, Development and International Cooperation instrument – Global Europe 2021-2027 (**NDICI-GE**). The 2022 annual action programme was adopted in December 2022 with an envelope of EUR 85 million, with two action documents focusing on support Georgians SMEs, the implementation of the DCFTA as well as supporting the new public finance management reform strategy. In addition, EUR 25 million are allocated for the Neighbourhood Investment Plan (NIP) and EUR 6 million for the Civil Society Facility. The bilateral annual programmes are complemented by a package of multi-country and regional programmes supporting, among others, the environmental sector, dealing with migration, education, culture, as well as TAIEX and competitiveness programmes together with IFIs and international organisations. Georgia also actively participates in the Interreg NEXT 2021-2027 Black Sea programme. To facilitate progress on sustainable development in the country, Georgia is participating as observer in a pilot project under the Technical Support Instrument.

Since its launch in 2009, Georgia has participated in the Eastern Partnership (EaP). This overarching framework has further boosted bilateral and regional relations with the EU. Under the Eastern Partnership **Economic and Investment Plan (EIP)**, in cooperation with European financial institutions, the EU aims to mobilise for Georgia around EUR 3.9 billion in public and private investments. The EIP accompanies the recovery, resilience and reform: post 2020 Eastern Partnership priorities as agreed during the Eastern Partnership Summit in 2021. The core of these investments is the six flagships identified with the Georgian government, including Black Sea connectivity (electricity and digital cables) and transport, SME development, digital connectivity, air quality and energy efficiency). Implementation under the flagships is generally progressing well. So far EUR 1.7 billion has been leveraged in key sectors of the Plan.

The new activities are built on and added to the closed and the few on-going regional programmes under **European Neighbourhood Instrument 2014-2020** which are providing significant support through EU Technical Cooperation Facility, budget support, the Civil Society Facility and projects aiming at the social and economic development of the country, as well as improving the reform process of the Rule of Law sector, Fundamental Rights, Public Administration Reform, and other critical sectors.

Since 2014 Georgia has progressively extended its **participation in EU programmes**. It currently takes part in Horizon Europe, Creative Europe, EU4Youth, and the Black Sea Interreg programme and has recently joined the Customs programme. Organisations and individuals from Georgia can also benefit from certain actions of the Erasmus+ and European Solidarity Corps Programme.

STATISTICAL DATA (as of 31/08/2023)
Georgia

Basic data	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		4 436 s	3 726 s	3 730 s	3 723 s	3 717 s	3 729 s
Total area of the country (km ²)		69 700 w	69 700 w	69 700 w	69 700 w	69 700 w	69 700 w

National accounts	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million national currency)	1)	21 822 w	40 762 w	44 599 w	49 253 w	49 267 w	60 003 w
Gross domestic product (GDP) (million euro)	1)	9 229 w	14 392 w	14 910 w	15 609 w	13 871 w	15 732 w
GDP (euro per capita)	1)	2 437 w	3 861 w	4 001 w	4 196 w	3 726 w	4 242 w
GDP per capita (in purchasing power standards (PPS))		:	:	:	:	:	:
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		:	:	:	:	:	:
Real GDP growth rate: change on previous year of GDP volume (%)	2) 1)	6.2 w	4.8 w	4.8 w	5.0 w	- 6.8 w	10.5 w
Employment growth (national accounts data), relative to the previous year (%)		- 28 bsw	- 1 sw	1 sw	0 sw	- 4 sw	- 2 sw
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)	1)	:	5 w	4 w	5 w	- 3 w	13 w
Unit labour cost growth, relative to the previous year (%)	1)	:	- 3 w	- 1 w	2 w	- 2 w	- 7 w
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	133.8 sw	128.3 sw	123.2 sw	118.7 sw	114.6 sw
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)	1) 3)	9.6 w	7.2 w	7.8 w	7.4 w	8.3 w	7.4 w
Industry (%)	1) 3)	14.9 w	14.2 w	14.6 w	14.7 w	15.5 w	17.0 w
Construction (%)	1) 3)	4.2 w	9.1 w	8.3 w	8.5 w	8.7 w	7.5 w
Services (%)	1) 3)	71.4 w	69.5 w	69.3 w	69.4 w	67.5 w	68.1 w
Final consumption expenditure, as a share of GDP (%)	1)	96.5 w	83.7 w	82.5 w	83.7 w	95.4 w	97.5 w
Gross fixed capital formation, as a share of GDP (%)	1)	18.9 w	25.5 w	25.1 w	24.0 w	22.4 w	20.9 w
Changes in inventories, as a share of GDP (%)	1)	1.6 w	1.8 w	3.0 w	1.3 w	1.5 w	- 2.0 w
Exports of goods and services, relative to GDP (%)	1)	33.0 w	46.5 w	50.6 w	54.8 w	37.3 w	43.2 w
Imports of goods and services, relative to GDP (%)	1)	49.9 w	57.5 w	61.2 w	63.8 w	56.6 w	59.6 w
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)		:	:	:	:	:	:
Number of active enterprises (number)	4)	42 524 w	124 982 w	127 153 w	128 623 w	129 659 w	139 741 w
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)	5)	:	18.2 w	18.5 w	23.0 w	17.5 w	21.2 w

Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)	5)	:	15.4 w	19.2 w	19.7 w	17.4 w	17.5 w
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)	4)	67.3 sw	67.7 sw	67.7 sw	66.1 sw	63.7 sw	63.4 sw
Value added by SMEs (in the non-financial business economy) (EUR million)	4)	1 528 sw	4 454 sw	4 553 sw	4 856 sw	4 205 sw	4 647 sw
Total value added (in the non-financial business economy) (EUR million)	4)	2 835 w	6 721 w	6 929 w	7 383 w	6 268 w	7 300 w

Inflation rate and house prices	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)	6)	7.1 w	6.0 w	2.6 w	4.9 w	5.2 w	9.6 w
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		- 905.2 w	- 1 163.0 w	- 1 004.9 w	- 917.2 w	- 1 728.8 w	- 1 641.0 w
Balance of payments current account: trade balance (million euro)		- 1 983.6 w	- 3 361.5 w	- 3 489.5 w	- 3 390.4 w	- 2 771.0 w	- 3 211.4 w
Balance of payments current account: net services (million euro)		415.1 w	1 779.7 w	1 905.4 w	1 945.4 w	120.4 w	615.9 w
Balance of payments current account: net balance for primary income (million euro)		- 162.8 w	- 709.6 w	- 576.1 w	- 700.6 w	- 653.2 w	- 997.5 w
Balance of payments current account: net balance for secondary income (million euro)		826.2 w	1 128.4 w	1 155.2 w	1 228.4 w	1 575.0 w	1 952.0 w
Net balance for primary and secondary income: of which government transfers (million euro)		:	:	:	:	:	:
**3 year backward moving average of the current account balance relative to GDP (%)		:	:	:	:	:	:
**Five year change in share of world exports of goods and services (%)		:	:	:	:	:	:
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		552.1 w	1 515.7 w	854.5 w	956.6 w	498.7 w	783.6 w
Foreign direct investment (FDI) abroad (million euro)		101.7 w	237.7 w	286.5 w	252.3 w	30.1 w	271.7 w
of which FDI of the reporting economy in the EU-27 countries (million euro)		56.8 w	92.8 w	124.3 w	90.3 w	120.8 w	110.1 w
Foreign direct investment (FDI) in the reporting economy (million euro)		653.8 w	1 753.5 w	1 141.0 w	1 208.9 w	528.8 w	1 055.4 w
of which FDI of the EU-27 countries in the reporting economy (million euro)		139.8 w	493.3 w	355.8 w	388.0 w	299.7 w	299.8 w
**Net international investment position, relative to GDP (%)		- 97.8 w	- 139.2 w	- 131.4 w	- 138.0 w	- 158.6 w	- 142.3 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)	1)	3.4 sw	4.6 sw	4.9 sw	5.3 sw	7.4 sw	8.6 sw

Public finance	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)	1)	- 4.3 w	- 0.8 w	- 0.7 w	- 2.7 w	- 9.3 w	- 6.3 w
General government gross debt relative to GDP (%)	1)	35.0 w	41.0 w	40.4 w	41.8 w	60.1 w	49.6 w
Total government revenues, as a percentage of GDP (%)	1)	26.9 w	26.8 w	26.5 w	26.2 w	25.2 w	25.2 w
Total government expenditure, as a percentage of GDP (%)	1)	25.1 w	23.7 w	21.5 w	22.0 w	27.2 w	25.6 w

Financial indicators	Note	2010	2017	2018	2019	2020	2021
Gross external debt of the whole economy, relative to GDP (%)	1)	83.7 sw	100.6 sw	104.5 sw	107.8 sw	135.5 sw	124.0 sw
Gross external debt of the whole economy, relative to total exports (%)		253.9 w	217.1 w	206.2 w	197.2 w	361.6 w	284.6 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		1 068.1 w	3 069.2 w	2 621.5 w	2 900.6 w	2 825.9 w	2 970.3 w

Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		1 259.7 w	3 694.7 w	3 234.2 w	3 644.3 w	3 845.8 w	4 223.3 w
Money supply: M3 (M2 plus marketable instruments, million euro)		2 637.9 w	8 054.7 w	6 932.0 w	7 729.1 w	8 553.1 w	8 874.2 w
Total credit by monetary financial institutions to residents (consolidated) (million euro)		2 638.4 w	:	:	:	:	:
**Annual change in financial sector liabilities (%)		:	:	:	:	:	:
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)	1)	30 w	54 w	59 w	64 w	79 w	72 w
Interest rates: day-to-day money rate, per annum (%)	7)	8.49 w	7.97 w	8.12 w	7.05 w	8.45 w	9.50 w
Lending interest rate (one year), per annum (%)	8)	6.50 w	6.97 w	7.00 w	6.98 w	8.52 w	9.46 w
Deposit interest rate (one year), per annum (%)	9)	7.64 w	7.06 w	7.22 w	7.22 w	8.46 w	9.13 w
Euro exchange rates: average of period (1 euro = ... national currency)		2.364 w	2.832 w	2.991 w	3.155 w	3.552 w	3.814 w
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)		85.8 w	103.8 w	107.6 w	102.1 w	97.8 w	97.3 w
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)		0.1 sw	0.2 sw	0.1 sw	- 0.0 sw	- 0.1 sw	- 0.1 sw
Value of reserve assets (including gold) (million euro)		1 707.9 w	2 537.8 w	2 867.3 w	3 132.6 w	3 532.4 w	3 787.3 w

External trade in goods	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)	10) 11)	3 919 sw	6 718 sw	8 176 sw	8 474 sw	6 563 sw	8 917 sw
Value of exports: all goods, all partners (million euro)	10) 11)	1 255 sw	2 289 sw	2 952 sw	3 381 sw	2 726 sw	3 746 sw
Trade balance: all goods, all partners (million euro)	10) 11)	- 2 663 sw	- 4 429 sw	- 5 224 sw	- 5 093 sw	- 3 838 sw	- 5 171 sw
Terms of trade (export price index / import price index * 100) (number)		:	:	:	:	:	:
Share of exports to EU-27 countries in value of total exports (%)	10) 11)	17.4 sw	23.4 sw	21.1 sw	21.2 sw	20.9 sw	16.9 sw
Share of imports from EU-27 countries in value of total imports (%)	10) 11)	26.8 sw	26.4 sw	26.2 sw	24.2 sw	23.0 sw	22.9 sw

Demography	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		3.3	1.5	1.2	0.4	- 1.1	- 3.8
Infant mortality rate deaths of children under one year of age (per thousand live births)		11.2	9.6	8.1	7.9	7.9	:
Life expectancy at birth: male (years)		70.0	69.2	69.7	69.8	:	:
Life expectancy at birth: female (years)		78.8	77.8	78.2	78.4	:	:

Labour market	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		76.3 w	76.7 w	75.2 w	74.5 w	63.2 bw	64.5 w
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		61.7 w	65.3 w	64.9 w	65.1 w	51.1 bw	50.6 w
Male employment rate for persons aged 20–64 (%)		68.7 w	71.4 w	72.2 w	72.3 w	58.7 bw	58.1 w
Female employment rate for persons aged 20–64 (%)		55.4 w	59.5 w	58.2 w	58.3 w	43.9 bw	43.5 w
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		64.4 w	66.8 w	67.2 w	65.8 w	47.0 bw	47.3 w
Employment by main sectors							

Agriculture, forestry and fisheries (%)	12)	48.0 w	43.2 w	38.9 w	38.2 w	19.8 bw	18.9 w
Industry (%)	12)	7.2 w	8.1 w	8.3 w	7.8 w	11.4 bw	11.3 w
Construction (%)	12)	:	:	:	:	6.9 bw	7.8 w
Services (%)	13) 12)	44.8 w	48.8 w	52.8 w	54.0 w	61.9 bw	62.1 w
People employed in the public sector as a share of total employment, persons aged 20–64 (%)		20.6 w	17.7 w	18.6 w	18.3 w	23.5 bw	24.3 w
People employed in the private sector as a share of total employment, persons aged 20–64 (%)		79.4 w	82.3 w	81.4 w	81.7 w	76.5 bw	75.7 w
Unemployment rate: proportion of the labour force that is unemployed (%)	14)	17.4 w	13.9 w	12.7 w	11.6 w	18.5 bw	20.6 w
Male unemployment rate (%)	14)	19.1 w	15.0 w	13.9 w	12.8 w	20.2 bw	22.7 w
Female unemployment rate (%)	14)	15.5 w	12.7 w	11.2 w	10.1 w	16.2 bw	17.8 w
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		37.9 w	28.9 w	29.9 w	30.4 w	39.4 bw	42.9 w
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)	14)	8.1 w	5.8 w	5.1 w	4.3 w	5.8 bw	7.2 w
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)	15)	10.2 w	9.3 w	10.5 w	10.8 w	25.0 bw	32.1 w
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		21.0 w	15.7 w	12.6 w	11.3 w	14.5 bw	15.3 w

Social cohesion	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)		598 w	999 w	1 068 w	1 129 w	1 191 w	1 305 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		:	100 w	104 w	105 w	106 w	106 w
GINI coefficient		47 w	42 w	40 w	39 w	37 w	36 w
Poverty gap	16)	7.4 w	6.7 w	5.9 w	5.7 w	5.5 w	5.5 w
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		:	8.9 w	9.6 w	9.3 w	8.2 w	7.3 w

Standard of living	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		130.1 sw	277.2 sw	291.1 sw	303.7 sw	320.2 sw	339.5 sw
Number of mobile phone subscriptions relative to population size (number per thousand population)		984.7 w	1 399.1 w	1 392.9 w	1 314.1 w	1 273.7 w	1 343.6 w
Mobile broadband penetration (per 100 inhabitants)		:	:	:	:	:	:
Fixed broadband penetration (per 100 inhabitants)		:	:	:	:	:	:

Infrastructure	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km ²)		22.5 sw	22.6 sw	22.6 sw	22.6 sw	22.6 sw	22.2 sw
Length of motorways (kilometres)		69 w	158 w	208 w	208 w	208 w	263 w

Innovation and research	Note	2010	2017	2018	2019	2020	2021
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Public expenditure on education relative to GDP (%)	17) 1)	2.8 sw	3.6 sw	3.5 sw	3.9 psw	3.8 psw	3.6 sw
*Gross domestic expenditure on R&D relative to GDP (%)	1)	0.28 sw	:	:	:	:	:
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)	1)	0.19 w	0.23 w	0.23 w	0.23 w	0.23 w	0.21 w
Percentage of households who have internet access at home (%)	18)	18.6 w	70.7 w	75.8 w	79.3 w	83.8 w	86.1 w

Environment	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)		:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		:	:	:	:	:	:
Electricity generated from renewable sources relative to gross electricity consumption (%)		107.1 w	75.3 w	76.8 w	68.1 w	66.1 w	73.0
Road share of inland freight transport (based on tonne-km) (%)	19)	9.1 ew	18.7 ew	21.0 ew	19.3 ew	19.6 ew	17.8 ew

Energy	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		1 105 w	1 334	1 251	1 092	1 043	1 248
Primary production of crude oil (thousand TOE)		:	32	31	36	32	36
Primary production of solid fuels (thousand TOE)		:	109	56	6	40	60
Primary production of gas (thousand TOE)		:	7	9	8	8	14
Net imports of all energy products (thousand TOE)		:	3 642 s	3 752 s	4 118 s	3 984 s	4 133 s
Gross inland energy consumption (thousand TOE)		:	4 992	4 957	5 205	4 998	5 385
Gross electricity generation (GWh)		10 058 w	11 531	12 149	11 857	11 160	12 645

Agriculture	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		:	:	:	:	:	:
Livestock numbers: live bovine animals (thousand heads, end of period)		1 049.4 w	909.7 w	878.9 w	869.5 w	925.8 w	928.6 w
Livestock numbers: live swine (thousand heads, end of period)		110.1 w	150.7 w	163.2 w	155.5 w	165.7 w	152.9 w
Livestock numbers: live sheep and live goats (thousand heads, end of period)		653.9 sw	907.0 sw	869.4 sw	891.6 sw	946.5 sw	956.8 sw
Raw milk available on farms (thousand tonnes)		587.7 w	528.4 w	555.3 w	561.8 w	569.0 w	587.9 w
Harvested crop production: cereals (including rice) (thousand tonnes)		:	:	:	:	:	:
Harvested crop production: sugar beet (thousand tonnes)		:	:	:	:	:	:
Harvested crop production: vegetables (thousand tonnes)	20)	216.6 w	206.0 w	212.4 w	241.0 w	259.7 w	226.9 w

Source: Eurostat and/or the statistical authorities in Georgia

: = not available
b = break in series
e = estimated value
p = provisional
s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) Based on 2008 SNA.
- 2) Based on 1993 SNA.
- 3) Calculations are made according to NACE Rev. 2.
- 4) The value given is the size of the survey frame for business statistics. This excludes NACE Rev. 2 Sections K, O, T and U and Group 47.8.
- 5) Includes: limited liability companies, joint stock companies, joint liability companies, cooperatives, limited partnerships, individual enterprises, foreign enterprise branches. Excludes: NACE Rev. 2 Sections K, O, T and U.
- 6) Consumer price inflation
- 7) TIBR 1 Day
- 8) Refinancing credits auctions.
- 9) CD auctions.
- 10) Data converted in EUR by Eurostat for 2005-2014
- 11) Data converted in EUR by Eurostat
- 12) Since 2020 - NACE Rev.2, before 2020 - NACE Rev.1.1.
- 13) Including construction.
- 14) Persons aged 15 years and older.
- 15) Persons without education are excluded.
- 16) Consumption based relative poverty.
- 17) GDP is calculated according to 2008 SNA. Based on 2008 SNA.
- 18) Percentage of households having fixed internet connections at home (therefore excluding mobile phone network).
- 19) Does not follow the 'territorial principle'; including the performance of all resident carriers on the national territory and abroad.
- 20) Including kitchen gardens.



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Republic of Moldova 2023 Report

Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions**

2023 Communication on EU Enlargement policy

{COM(2023) 690 final} - {SWD(2023) 690 final} - {SWD(2023) 691 final} -
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1. INTRODUCTION

1.1. CONTEXT

Following the application of the Republic of Moldova for EU membership in March 2022, the Commission identified nine steps for Moldova to proceed on its accession process in its opinion on the membership application.¹ These steps relate to the EU's values and standards, in particular democracy and the rule of law, including justice reform and public administration reform, as well as fundamental rights. In June 2022, the European Council granted candidate status to Moldova and invited the Commission to report on the implementation of the nine steps.² To complement the opinion, in February 2023, the Commission published the analytical reports on the country's alignment with the EU *acquis*.³

Since the start of Russia's war of aggression against Ukraine, Moldova has been tackling unprecedented challenges, including large numbers of refugees, inflation, threats to its energy supplies, violations of its airspace, and many hybrid actions such as foreign interference and information and manipulations and cyberattacks. In addressing these challenges, Moldova has shown its resilience and commitment to progress its EU agenda while taking measures to mitigate the impact of Russia's war of aggression. Moldova continues to implement the EU-Moldova Association Agreement, including its Deep and Comprehensive Free Trade Area. Over the past year, Moldova has also taken decisive action on the nine steps. The executive and legislative branches of power have worked together on the country's reform agenda with the support of the Moldovan people. The granting of candidate status for EU membership in June 2022 has accelerated reform efforts.

Moldova has welcomed the highest number of displaced persons fleeing Russia's war of aggression against Ukraine per capita in Europe. By doing so, the country has demonstrated once more that it is a reliable partner. In 2023, Moldova hosted the European Political Community, underlining its readiness to stand together with its European Union partners to address the current challenges.

The EU remains fully committed to support a comprehensive, peaceful and sustainable settlement of the Transnistrian conflict. This should be based on the sovereignty and territorial integrity of Moldova in its internationally recognised borders, with a special status for the Transnistrian region. The DCFTA applies to the entire territory of Moldova.

1.2. SUMMARY OF THE REPORT⁴

On the **political criteria**, Moldova has continued reform efforts to strengthen democracy and the rule of law despite multiple challenges linked to Russia's war of aggression against Ukraine. Good progress was made on electoral legislation over the reporting period in

¹ COM(2022) 406 final

² EUCO 24/22

³ SWD(2023) 32 final

⁴ This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of the Republic of Moldova, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law.

The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

addressing and implementing the remaining recommendations made by the Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (ODIHR) and the Venice Commission, in their opinions issued in December 2021 and October 2022. The electoral legislation has been comprehensively amended to address inconsistencies, and a new Electoral Code was adopted in December 2022. Further amendments to the Electoral Code were adopted in October 2023, which provided for the possibility to ban from running for elected office members of political parties that have been declared unconstitutional by the Constitutional Court. These amendments still need to be consulted with the Venice Commission, to ensure alignment with European standards.

In addition, the authorities need to implement the electoral legislation by strengthening the Central Election Commission with sufficient authority, resources and technical expertise to carry out its work effectively. Moldova needs to ensure the transparency of political party funding and the accountability of campaign finance. To further reduce the risk of malign interference, the country needs to regulate the involvement of third parties in election campaigns, in line with the Group of States against Corruption (GRECO) and ODIHR recommendations.

Over the reporting period, **Parliament** played a major role in the EU accession process, supporting the government's reform efforts. Distrust and an occasional lack of transparency resulted in a low engagement of the opposition in the law-making process. Further efforts should be made to improve transparency by planning oversight activities and public hearings, publishing the parliamentary calendar sufficiently early, and increasing the level of accountability of parliamentarians. The process of amending Parliament's Rules of Procedures should be accelerated and ensure a broader involvement of civil society. A strong parliamentary majority supported the reforms initiated by President Maia Sandu and the government. A government reshuffle took place in February 2023, and the new government has remained focused on Moldova's reform agenda. The government worked actively on the EU reform agenda and on dealing with the consequences of Russia's war of aggression against Ukraine. It took steps to improve the transparency of decision-making and democratic accountability mechanisms. It also ensured a good level of coordination and policy planning. Decisive efforts are needed to ensure that adopted legislation is implemented effectively, and all parts of regulatory policy are applied at all levels of government.

An enabling environment exists for **civil society** organisations (CSOs), with legal and financial frameworks in place. The legislative framework is in line with international standards. Moldova has involved civil society in decision-making. Further efforts should focus on adopting the national strategy on civil society development and improving the quality of public consultation processes to improve transparency and get CSOs more involved in policy dialogue, especially in parliamentary debates and at local level.

Moldova has some level of preparation in the area of **public administration reform**, and some progress has been made. In particular, the new public administration reform strategy for 2023-2030 was adopted in March 2023, and its implementation programme for 2023-2026 was adopted in June 2023. Due to a complex salary grid and the many different job classifications, civil servants' pay varies and is inconsistent across the administration. Moldova started addressing this issue by adopting a new law on salaries. Moldova needs to continue increasing its capacity to implement the reforms and provide good quality public services at all levels.

Moldova has some level of preparation in the area of the **judiciary**. The country made good progress in the reform of the justice sector. Candidates for the Superior Council of Magistracy (SCM) and the Superior Council of Prosecutors (SCP) had to undergo a pre-

vetting based on the corresponding law adopted in line with Venice Commission recommendations. Parliament also adopted a law on Supreme Court of Justice (SCJ) reform and the vetting of its candidates and of its sitting judges has started, in line with Venice Commission recommendations. On 31 July 2023, Parliament adopted a law on the further vetting of judges and prosecutors in high level positions, which was consulted with the European Commission and broadly aligned with Venice Commission recommendations. However, the President then returned the law to Parliament with additional changes, which Parliament adopted on 22 August 2023. The additional revisions were sent to the Venice Commission for review.

The length of proceedings, low clearance rates and the large backlog of cases negatively affect the judicial system's efficiency. There was no significant progress in the prosecution of high-profile corruption cases and long-standing criminal cases. One verdict was passed on two fugitive oligarchs. Due to the lack of a quorum in the SCM, no new judges have been appointed in the past 3 years. However, following the appointments of three non-judge members and four judge members to the SCM in March and April 2023 respectively, the SCM restored its quorum and made new appointments across the judiciary, including to new ranks. The new judicial map, which should reform the court system, needs to be finalised.

Moldova has some level of preparation in the **fight against corruption**. Some progress has been made and needs to be sustained to remove the many remaining blockages that hinder the reform processes. The legislation was amended by the Parliament in July 2023 to clarify the mandates of the National Anticorruption Centre and the Anticorruption Prosecutor's Office. New legislation for trials *in absentia* that entered into force in July 2022 was used to finalise a judgment in the case against two well-known oligarchs. The track record of high-level corruption convictions increased slightly. Amendments to the law on whistle-blowers were adopted by Parliament in June 2023.

Moldova has some level of preparation in implementing the EU *acquis* on the **fight against organised crime**. Some progress was made including the fight against financial crime and the recovery of assets. Assets belonging to three prominent oligarchs were seized. The national asset recovery programme for 2023-2027 and its action plan were adopted in December 2022 and are now being implemented. The good progress on seizure and confiscation of assets linked to organised crime should be sustained. Cooperation with EU Members States, the European Border and Coast Guard Agency (Frontex), Europol and the EU Agency for Law Enforcement Training (CEPOL) has been expanded with steer provided by the EU Moldova Support Hub for Internal Security and Border Management. Moldova has signed a Status Agreement with Frontex. Moldova has made repeated commitments to and progress in the fight against arms trafficking, drugs, trafficking in human beings and migrant smuggling. It adopted a new sectoral development strategy on the prevention and fight against organised crime for 2022-2025 in December 2022 to support the implementation of the integrated home affairs strategy (2022-2030), which was adopted in September 2022, and appointed a national firearms focal point. In March 2023 the country also revised its Law on the regime of arms and ammunition for civilian use, aiming to align it with the EU *acquis*.

Moldova's anti-terrorism legislation is generally aligned with the EU *acquis* and applicable international law. The national programme for the consolidation and realisation of anti-terrorist protection measures for the critical infrastructure objectives for 2022-2026 and the action plan for its implementation were adopted in October 2022. The country adopted legislation to prevent and combat the financing of terrorism in April 2023.

The legislative and institutional framework on **fundamental rights** is largely in place, and the government has made a clear commitment to meet its international obligations on human

rights. Several steps were taken to implement the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. In particular, the Government strengthened the mandates of the Equality Council and the People's Advocate and adopted programmes on strengthening gender equality and support to the Roma⁵. Persons belonging to minorities, persons with disabilities, lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons and the Roma in particular continue to face discrimination, including in the labour market. Detention conditions in prisons exceed their intended capacity and need to be improved. Issues of overcrowding, inadequate access to medical treatment and lack of reporting or investigations of potential ill treatment and violence remain largely unaddressed.

Moldova has a pluralistic media environment and has some level of preparation in **freedom of expression**. The country made some progress during the reporting period, in particular on the issue of ownership concentration. Legislation contains provisions to prevent concentration of media and ensure transparency of media ownership. The Audiovisual Council needs to boost efforts to implement these rules. To ensure compliance with the European Media Freedom Act, the Audiovisual Media Services Code must address political bias in state media. The government is taking steps to address disinformation in media, which remains a challenge, especially disinformation spread online. In an attempt to limit Russian disinformation, in December 2022, the Commission for Exceptional Situations ordered the suspension of six TV stations that rebroadcast content from Russia; the decision was challenged in court. Several attempts of intimidation and harassment of journalists were reported in 2022, primarily in Găgăuzia.

On **good neighbourly relation and regional cooperation**, Moldova maintains good dialogue and actively participates in various regional cooperation platforms. These include the Central European Initiative (CEI), the Black Sea Economic Cooperation Organization (BSEC), the Organization for Democracy and Economic Development (GUAM), the Southeast European Cooperation Process (SEEC) and the Regional Cooperation Council (RCC). The country also contributes to implementing the Central European Free Trade Agreement (CEFTA). Moldova chaired the GUAM in 2022 and the BSEC in the second half of 2022 and assumed the Presidency of the CEI in January 2023.

On the **economic criteria**, Moldova is in between an early stage and some level of preparation in establishing a functioning market economy. The authorities have remained committed to pursuing macroeconomic stability and economic reforms in a difficult economic and social environment caused by Russia's full-scale invasion of neighbouring Ukraine. During the last decade, Moldova has been able to sustain economic growth of about 3.1% per year on average amid the pandemic and other economic headwinds. Public finances have been stable with a low deficit (at about 1.5% of GDP on average over 2014-2019)) and a comparatively low debt level. The National Bank of Moldova had been generally successful in keeping inflation within the target range set at 5% (+/-1.5 percentage points). After a strong rebound from the COVID-19 crisis, growth contracted sharply in 2022 due to the energy crisis and a severe drought that caused output in agriculture and related industries to plummet. High inflation, caused by soaring energy and food prices, depressed households' disposable incomes and consumption, while war-related uncertainty contributed to weaker investment. On the external side, the already high current account deficit widened further, reflecting the weak export base and low productivity. As a result of the deep recession and

⁵ In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

the increase in social spending to alleviate the energy price shock, the budget deficit widened in 2022, and it is set to remain at a comparable level in 2023. Public debt remains low and is largely extended on concessional terms.

The state still has a considerable influence on key economic sectors, including telecommunications, energy, and transport, as well as in price-setting. The authorities are carrying out a comprehensive screening of state-owned enterprises, some of which are loss-making, in order to restructure and privatise them. At the same time, they are working to improve corporate governance and accountability in the sector. Despite the economic recession, the financial sector remains stable, reflecting the impact of previous reforms and prompt regulatory action to curb the rapid increase in household lending. The labour market recovered from the pandemic and was relatively robust in 2022. However, it continues to be characterised by a very low participation rate, which is linked to the high share of people working abroad or only willing to work abroad.

Moldova is in between an early stage and some level of preparation in terms of its capacity to cope with competitive pressure and market forces in the EU. Despite large investments in education, outcomes remain well below those in the EU. This contributes to the persistent mismatch between the skill level of the workforce and what employers require, which is one of the key business environment obstacles for firms. Investment in research and development remains low and has been falling despite the government's strategy to increase it. Moldova's physical infrastructure remains underdeveloped in part due to the lack of government investment. The stock of foreign direct investment is also low, reflecting weaknesses in the business environment and continuing problems with corruption and the protection of property rights. Digitalisation is lagging behind: just over two thirds of households are connected to the internet and about 40% of government services for businesses are available online. The Moldovan economy remains heavily reliant on the agricultural sector, and there is a large productivity gap compared with the EU. Moldova is a relatively open economy and is closely integrated with that of the EU.

On its ability to assume the obligations of EU membership, the country continues its work on alignment with the EU *acquis* in many areas. Moldova is in the early stages of preparation regarding the freedom of movement for workers **in cluster 2 on the internal market**. On company law Moldova is in between early stage to some level of preparation. There has been some level of preparation in the other areas under this cluster: right of establishment and freedom to provide services, free movement of goods, intellectual property law, financial services, competition policy and consumer and health protection. There has been limited to some progress during the reporting period in these areas, good progress was made in financial services, and some progress was made in the free movement of capital.

Moldova has some to moderate level of preparation in areas linked to **cluster 3 on competitiveness and inclusive growth**. It made some progress in economic and monetary policy, enterprise and industrial policy, science and research and education and culture. It has achieved some level of preparation in digital transformation, media and taxation, where it also made good progress. Moldova has some level of preparation in social policy and employment, where some progress has been made. On customs union Moldova is in between some and moderate level of preparation while achieving some progress during the reporting period.

On **cluster 4 on the Green Agenda and sustainable connectivity**, Moldova is at an early stage of preparation in the environment and climate change. It has made some progress during the reporting period by passing cross-cutting environmental legislation and implementing laws on nature protection and industrial emissions. Moldova has some level of

preparation in the areas of transport and trans-European networks, including the association to the Connecting Europe Facility and the observer status in the Transport Community. On energy, Moldova made good progress: it had the highest progress performance rate among contracting parties in the Energy Community Annual Implementation Report 2022.

Moldova is mainly at an early stage of preparation for all chapters of **cluster 5 on resources, agriculture and cohesion**, except food safety, veterinary and phytosanitary policy where it has achieved some level of preparation. Overall, during the reporting period, there was good progress on food safety, veterinary and phytosanitary policy. The remaining chapters achieved some or limited progress. Further efforts are needed in all these areas.

On **cluster 6 on external relations**, Moldova is moderately prepared in the area of external relations where it made some progress during the reporting period. In the area of common, foreign, security and defence policy, the country is in between moderate and good level of preparation. In the latter, good progress was made during the reporting period. Moldova's alignment with declarations by the High Representative on behalf of the EU and Council decisions under the EU's common foreign and security policy (CFSP) was 54% in 2022 and has considerably increased to 78% in 2023. Following Russia's war of aggression against Ukraine, Moldova aligned with EU positions in international fora, including in the UN General Assembly (UNGA), the Human Rights Council, and the Council of Europe. On **migration**, since the outbreak of Russia's war of aggression against Ukraine, Moldova has faced unprecedented inflows of refugees (the highest number of refugees per capita in Europe). As of 31 July 2023 and since the Russia's full scale invasion of Ukraine, out of the 792 605 individuals that entered Moldova across Ukrainian borders, 86 363 Ukrainian citizens and 7 624 third-country nationals remained on its territory. Since 1 March 2023, the government has implemented a decree granting temporary protection to displaced persons from Ukraine, enabling its beneficiaries to obtain an identity document issued free of charge for 1 year. Following the unprecedented influx of people fleeing Ukraine, which put Moldova's already limited capacity under pressure, the country's authorities maintained their efforts and mobilised resources to provide immediate humanitarian assistance as prescribed in the state of emergency.

1.3. ASSESSMENT OF THE IMPLEMENTATION OF THE NINE STEPS SPECIFIED IN THE COMMISSION'S OPINION

Step 1 – Complete essential steps of the recently launched comprehensive justice system reform across all institutions in the justice and prosecution chains, to ensure their independence, integrity, efficiency, accountability and transparency, including through efficient use of asset verification and effective democratic oversight; in particular, fill all the remaining vacancies of the Supreme Council of Magistracy and in its specialised bodies.

Moldova has reformed its judicial framework and consulted the Venice Commission on the most important laws including on: reforming the Supreme Court of Justice, external evaluation of judges and candidates to the Supreme Court of Justice, the Prosecutor's Office, the disciplinary liability of judges and the external evaluation of judges and prosecutors. Moldova initiated the vetting of candidates to the Supreme Council of Magistrates, the Supreme Council of Prosecutors as well as to the Supreme Court of Justice. The Supreme Council of Magistrates is now fully operational with 8 out of 12 new members appointed. At the end of October, a competition for the Prosecutor General position was also launched. Judges and prosecutors in training now need to declare their assets when enrolling in the National Judicial Institute.

Moldova should ensure a transparent and merit-based process for appointments to the main judicial and prosecutorial governance bodies, including for the appointment of a new Prosecutor General .

Step 2 - Across all these areas, address shortcomings identified by OSCE/ODIHR and the Council of Europe/the Venice Commission.

Moldova adopted the electoral code in 2022 that was drafted in cooperation with OSCE/ODIHR and the Venice Commission. Other nine laws were submitted for review and recommendations are being addressed. **This step is completed.**

Step 3 – Deliver on the commitment to fight corruption at all levels by taking decisive steps towards proactive and efficient investigations, and a credible track record of prosecutions and convictions; substantially increase the take up of the recommendations of the National Anticorruption Centre.

Moldova has adopted legislation to reform special investigation activities, to protect whistle-blowers and to delineate the competencies of the anti-corruption institutions. New legislation facilitating investigations *in absentia* was applied in more than 20 corruption cases. The number of investigations, convictions and prison sentences for corruption cases increased in 2022. Additional amendments to the Code of Criminal Procedure have streamlined court proceedings and will reduce their duration. The General Prosecutor’s Office and the European Public Prosecutor’s Office signed a working arrangement, resulting in joint training and an exchange of information. New heads of the National Integrity Authority and the National Anti-Corruption Centre were appointed.

Moldova should ensure that anti-corruption institutions are functioning within a clear organisational structure and with adequate resources.

Step 4 – Implement the commitment to “de-oligarchisation” by eliminating the excessive influence of vested interests in economic, political, and public life.

Moldova has adopted an action plan, pursuing a strategic approach to de-oligarchisation by setting up an inclusive and robust mechanism for coordinating and monitoring, and demonstrating implementation with clear timelines and planning of sectoral interventions. It has addressed the supervision and control of political party financing through amendments to the electoral and criminal codes. It has strengthened the Audiovisual Media Services Code to prevent dominant players on the media market, and it adopted amendments to the competition law. Parliament also adopted amendments to the Law on public-private partnership. The mechanism for conviction *in absentia* was used to convict a well-known oligarch and in ongoing proceedings against a second oligarch. Both cases are accompanied by substantial asset seizures and measures to combat the electoral influence of the said individuals.

Moldova should continue updating and implementing the de-oligarchisation action plan, including through relevant regulations such as on cash payments and on financial flows. The existing coordination should allow for timely review and to complement the plan whenever needed.

Step 5 - Strengthen the fight against organised crime, based on detailed threat assessments, increased cooperation with regional, EU and international partners and better coordination of law enforcement agencies; in particular, put in place a legislative package on asset recovery and a comprehensive framework for the fight against financial crime and money laundering, ensuring that anti-money laundering legislation is in compliance with the standards of the Financial Action Task Force (FATF).

In December 2022, Moldova adopted a new sectoral development strategy on the prevention and fight against organised crime for 2022-2025 to support the implementation of the integrated home affairs strategy (2022-2030), which was adopted in September 2022. The country adopted a mechanism for extended confiscation, amendments to the law on combating money laundering and approved a national asset recovery programme. As a result of these regulations, it is possible to confiscate assets that have been transferred by those convicted to third parties as well as to confiscate assets in the absence of the convicted person. Thanks to these regulations and its enforcement, assets belonging to prominent oligarchs were seized. Moldova works closely with international partners through the EU Support Hub for Internal Security and Border Management. International cooperation has developed significantly at investigative and operational levels with effective use of joint investigation teams. Moldova has also signed a Status Agreement with Frontex. **This step is completed.**

Step 6 - Increase the capacity to deliver on reforms and provide quality public services including through stepping up implementation of public administration reform; assess and update the public administration reform strategy.

In March, Moldova adopted a new Public Administration Reform Strategy for 2023-2030. After functional review of the ministries, a significant number of new positions were created to strengthen the capacity of institutions to work on EU accession. Moldova has adopted a law on increasing salaries for certain categories of public servants. The country adopted and started implementation of a law on the voluntary amalgamation of local authorities. It continued improving the accessibility of public services through digital platforms. Cooperation with OECD has been stepped up notably with the Support for Improvement in Governance and Management (SIGMA) initiative and Moldova has undergone a structural review of its public administration. In this context, Moldova established an action plan to implement the ensuing recommendations. **This step is completed.**

Step 7 - Complete the reform of Public Financial Management including improving public procurement at all levels of government.

The government adopted a Strategy for the Development of the Public Finance Management for the years 2023 – 2030. Moldova has adopted legislation addressing public capital investment projects and low value public procurements together with a National Programme for the Public Procurement System Development. The country has thus established a unified set of rules for public investment projects financed from the state budget. To implement its Public Finance Management Development Strategy Moldova is putting in place an implementation action plan and shared its core elements this October. **This step is completed.**

Step 8 - Enhance the involvement of civil society in decision-making processes at all levels.

Moldova established a Platform for dialogue and civic participation in the Parliament's decision-making process. The country adopted a new programme for the development of the civil society organisations and a law on access to information of public interest. It amended its regulation on the grant financing mechanism to strengthen the financial sustainability of civil society. It will be important to continue systemic involvement of civil society actors in public consultations, maintain transparent and timely agenda setting of Parliament and finalise Parliament's rules of procedure. **This step is completed.**

Step 9 - Strengthen the protection of human rights, particularly of vulnerable groups, and sustain its commitments to enhance gender equality and fight violence against women.

Moldova has transposed the Istanbul Convention into the national legislation, strengthened the Equality Council and improved the institutional capacity of the Ombudsman. The country adopted programmes to promote and ensure gender equality to support the Roma population and to implement strategy for strengthening inter-ethnic relations. **This step is completed.**

2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

2.1.1 Democracy

The reporting period was marked by the government's stability amid polarisation of the political scene. A strong parliamentary majority supported the reforms initiated by President Maia Sandu and the government. A government reshuffle, which took place in February 2023, did not affect the political stability or the political drive to continue pro-European reforms. Following the nine steps of the Commission Opinion, Moldova adopted a new Electoral Code in December 2022 and took steps to reduce the influence of vested interests in political life. The government organised comprehensive working groups aiming to align the country's legislation with the EU *acquis*.

Elections

Good progress has been made over the reporting period in addressing and implementing the outstanding recommendations on electoral legislation made by the Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (ODIHR) and the Venice Commission, in their opinions issued in December 2021 and October 2022. The electoral legislation has been comprehensively amended to address inconsistencies, and a new Electoral Code was adopted. Moldova needs to consult with the Venice Commission the latest changes to the Electoral Code, to ensure alignment of the provisions related to the electoral ban with European standards. In addition, the authorities need to implement the electoral legislation by strengthening the Central Election Commission with sufficient authority, resources and technical expertise to carry out its work effectively. The focus should be placed on ensuring the transparency of political party funding and the accountability of campaign finance. To reduce the risk of malign interference, further options could be explored to regulate the involvement of third parties in election campaigns, in line with GRECO and ODIHR recommendations.

Candidate lists for parliamentary and local elections are drawn up in compliance with the 40% minimum representation quota for men and women. The latest round of parliamentary elections in July 2021, according to the ODIHR, were well run and competitive, and fundamental freedoms were largely upheld.

The new Electoral Code was adopted by Parliament in December 2022 and entered into force on 1 January 2023. The new version addressed key recommendations by international and local expert organisations, including from the ODIHR July 2021 Election Observation Mission report and Venice Commission Opinions, issued up until the end of October 2022. Measures have been taken to: (i) strengthen laws on financing initiative groups and electoral campaigns; (ii) clarify the rules on voting abroad; (iii) improve the impartiality of the Central Election Commission (CEC) and (iv) address undue influence on public officials and voters, political bias of news outlets and possible vote-buying.

The CEC's capacity was strengthened by creating a special unit to oversee the financing of political parties and electoral campaigns. The CEC has initiated contravention proceedings for late or a lack of reporting against seven political parties and initiated investigation procedures against 12 political parties for unjustified use of public funds allocated to them. There was also progress in establishing interoperability with and a data exchange through the governmental MConnect platform, which enabled the CEC to carry out checks on political party financing more effectively.

The first round of elections of the Bashkan (Governor) in the autonomous region of Gagauzia was held on 30 April 2023. Anti-corruption prosecutors raided the offices of the Şor political party on 7 and 16 May and started an investigation into vote-buying. The second round of the elections was held on 14 May 2023, and it was won by Evghenia Guţul, a candidate from the Şor party. No international observation mission or official local observation mission was deployed; 75 international observers were registered. The elections were validated by the Appeal Court in Comrat on 22 May 2023.

The new Electoral Code will only apply to the territory of Gagauzia as of 1 January 2024. Further efforts are needed to ensure that the Gagauzian electoral legislation and the Moldovan Electoral Code are consistent and to apply the legislation across the country equally in line with international principles and standards.

In June 2023, the Constitutional Court, in response to a notification from the government, delivered a judgement which declared unconstitutional the Şor Party. The Şor Party was subsequently dissolved. In July 2023, the Electoral Code was amended introducing the possibility to ban certain individuals from running for elected office on the basis of their membership in political parties that have been declared unconstitutional by the Constitutional Court.

After the constitutionality of these amendments was successfully challenged before the Constitutional Court, new legislative amendments to the Electoral Code were adopted on 4 October 2023. The new amendments, which revise the criteria for banning individuals from running for elected office, still have to be consulted with the Venice Commission, to ensure alignment with European standards.

Parliament

Over the reporting period, Parliament played a major role in the EU accession process, supporting the government's reform efforts. Distrust and an occasional lack of transparency resulted in a low engagement of the opposition in the law-making process. Further efforts should be made to improve transparency by planning oversight activities and public hearings, publishing the parliamentary calendar sufficiently early, and increasing the level of accountability of parliamentarians. The process of amending Parliament's Rules of Procedures should be accelerated and ensure a broader involvement of civil society.

The Parliament of the 11th legislature, elected in the early elections of 11 July 2021, has a record number of women Members of Parliament in the history of the Moldovan Parliament: 41 out of 101 MPs (40.6%). A major contribution to this development is the 40% gender quota for cabinet and party lists, which was introduced in 2016. There are no female party leaders. Nevertheless, many women hold other leadership positions in political parties and are chairs of parliamentary committees.

Key legislative initiatives on European integration, such as the national development strategy "European Moldova 2030", were voted through by the parliamentary majority. Parliament adopted new legislation and amendments to existing legislation to address the nine steps of

the Commission Opinion in line with European standards and the EU *acquis*. In this process, Moldovan lawmakers requested opinions of the Venice Commission and broadly implemented its recommendations before final adoption of this legislation.

Russia's war of aggression against Ukraine and its aftereffects on Moldova has further divided political and societal attitudes over the foreign policy course of the country. There was limited inter-party dialogue to address reconciliation and key matters of national interest. The opposition does not have a clear position on the strategic choice of the country's leadership to join the EU. Distrust among the political forces remains prevalent and incentives to constructively engage in a political dialogue and consensus building remain weak. Out of 362 legal drafts adopted in 2022, only 13 were submitted by the opposition or together with the opposition. It is important that Parliament follows up the European Parliament's proposal to support dialogue between the majority and the opposition, including by organising a preparatory mission for the first round of the Jean Monnet Dialogue in 2023.

The new Electoral Code strengthens the supervision of party financing. This is an area that has been seen as a source of high-level corruption and attempts to capture state institutions. Investigations were launched into the Şor Party's alleged illegal financing, both in terms of expenses for public events and the financing of party staff⁶. Leaders of major political parties have left the country to avoid corruption trials.

The fugitive oligarch and leader of the Şor Party was found guilty in the "bank fraud" case and sentenced to 15 years in prison. He has also been sanctioned by the EU, as well as the US and UK, for carrying out actions that undermine or threaten the sovereignty and independence of Moldova; several people affiliated with the party have been arrested on suspicion of illicit financing and preparing mass unrest. On 19 June 2023, the Constitutional Court admitted a notification by the government on the unconstitutionality of the Şor Party, based on an article of the Constitution that states that "parties that oppose political pluralism, the principles of rule of law, sovereignty and independence and the territorial integrity of Moldova are unconstitutional". The Şor Party was dissolved with immediate effect and excluded from the political party register.

Parliament's oversight role, control of the government and scrutiny of legislative developments are in place. Annual reports by public institutions are submitted on time, and Parliament is making efforts to organise hearings on the reports during the plenary. However, implementation of some methods and instruments of parliamentary control, including *ex post* impact assessments, should be improved, especially for legislation related to EU integration. The working methods of special investigative parliamentary committees should be strengthened as they have so far failed to deliver tangible results.

CSO monitoring in 2022 highlighted several gaps hindering the transparency of decision-making and public participation in Parliament. In 2022, 71 draft normative acts were approved by Parliament under the priority or the urgent procedure (around 20% of the total). A total of 65 draft laws were voted in two readings at the same plenary in 2022, and 124 draft laws were adopted in two readings within 30 days (34% of the total) from the moment the draft was registered.

Laws adopted in shortened procedures or within the minimum timeframes reduced the opportunity for inclusive legislative processes and meaningful debates, thus affecting the

⁶ The Şor Party is suspected of illegal financing, both in terms of expenses for public events and the financing of party staff: the party spent EUR 600 000 but reported only 2% of this amount (EUR 12 000); (ii) the monthly salaries paid to party staff amounted to EUR 100 000; and (iii) expenses for transporting protest participants amounted to about EUR 182 000 (MDL 3.5 million). More than 97 locations associated with the Şor Party were searched.

quality of legislation.

There were 44 announcements of public consultations in 2022. Parliament created in June 2023 a Platform for dialogue and civic participation in the decision-making processes of the Parliament, to facilitate participation, improve involvement, and encourage civic initiatives in the future.

Governance

The government worked actively on the EU reform agenda and addressing the consequences of Russia's war of aggression against Ukraine. It took steps to improve the transparency of decision-making and democratic accountability mechanisms. It also ensured a good level of coordination and policy planning. Decisive efforts are needed to ensure that adopted legislation is implemented effectively, and all parts of regulatory policy are applied at all levels of government.

The government should adopt a mechanism for the effective parliamentary scrutiny of decisions issued by the Commission for Emergency Situations, in line with the Siracusa Principles⁷.

The government should pursue local government reforms, including creating incentives for local authorities to amalgamate.

The current government has publicly declared its commitment to accelerating the reform process and strengthening good governance. This follows a long period of effective state capture, with vested political interests exerting control over key parts of Moldova's government.

On 10 February 2023, the Prime Minister, Natalia Gavriluța, announced her resignation after 18 months in office. The new Prime Minister, Dorin Recean, was appointed by the President with Parliament's support, and the new government was sworn into office on 16 February 2023. The change of government did not affect the country's political stability. The main priorities of the new government programme are economic development, state security, discipline in state institutions and order in the country. European integration features as one of the key objectives, including fully implementing the nine steps and aligning national legislation with the EU *acquis*. In July 2023, the government underwent a reshuffle, which resulted in the resignation of three ministers (Internal Affairs, Infrastructure and Regional Development as well as Education and Research). Women's representation is lower at local level where they hold 22.2% of mayoral positions and 38.8% of seats in local, district and municipal councils.

The government set out its long-term priorities in the national development strategy. The national development plan for 2023-2025 was adopted in February 2023 to implement the measures of a long-term strategic plan as well as to integrate requirements related to the country's candidate status into the national reform agenda. In February 2023, the government also adopted the action plan for 2023, which contains specific commitments to harmonise national legislation with the EU *acquis*. Sectoral strategies have been adopted to implement the national development plan in several areas, such as education and youth.

In December 2022, the government set up a coordination mechanism for European integration. This brings political and government representatives together and is chaired by

⁷ Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights.

the President of the Republic. The National Commission for European Integration adopted the action plan to implement the nine steps, the action plan to align national legislation with the EU *acquis* and a separate action plan on de-oligarchisation.

The government adopted several strategies, including the strategy for public administration reform for 2023-2030 in March 2023 and the strategy of public finance management development for 2023-2030 in February 2023. Amendments to the Law on the People's Advocate were also adopted by Parliament in February 2023, which helped strengthen the independence of the institution and reinforced democratic accountability mechanisms in Moldova.

The transparency of legislative decision-making improved over the reporting period. A new Law on free access to public information entered into force in April 2023. The law is in line with the Council of Europe's Trømso Convention and the recommendations of the OECD and the World Bank. Around 80% of draft decisions and laws initiated by ministries during 2022 were opened for public consultation. However, draft legislative acts lack accompanying information and explanatory documents and do not provide a full overview of the decision-making cycle.

The legal framework for regulatory impact assessments is in place and is in line with the best international practices suggested by the OECD. The Guidelines on *Ex ante* Analysis For Policy and the Handbook for Assessment of Economic Costs Of Public Policy were amended and adjusted in 2022 with the help of EU donors.

Independent and regulatory agencies in Moldova are still prone to influence by private interests and by the bodies or industries they are charged with regulating. Additional efforts are needed to shield regulatory agencies from third-party influence, including by strengthening accountability and introducing measures to promote integrity. The senior management of regulatory enforcement structures should be appointed in a transparent manner, following clear procedures and based on professional skills. The government introduced a state of emergency, approved by Parliament, on 24 February 2022, which is extended every 60 days. This enabled the government to adopt measures to handle the energy crisis and attempts at external destabilisation. The use of extraordinary tools, in the form of decisions by the Commission for Emergency Situations, has been limited overall and related to the need to react quickly to crisis situations. A mechanism for effective parliamentary scrutiny of the decisions issued by the Commission for Emergency Situations is needed, in line with the Siracusa Principles. The adoption of a related law should be accelerated.

A persistent problem is the limited capacity of Moldova's public administration and a chronic shortage of qualified human resources. This affects the government's ability to implement strategies and reforms. To increase the efficiency of existing staff, Moldova needs to set up better regulation at all levels of government, improve coordination and avoid overlapping responsibilities among regulatory authorities and levels of government. Limited fiscal space impedes further possibilities to increase government wage expenditure. From 1 January 2023, the salaries of public sector employees were raised by a fixed sum of MLD 1 300 (EUR 260). The government also took targeted measures to increase salaries for some categories of public employees, such as those working on priority tasks on EU accession, as of January 2023. However, salary reform remains a crucial issue to be addressed to ensure a uniform approach and make working in the public service more attractive.

Moldova needs to advance with reforms of local government to make it more efficient and accountable. Voluntary amalgamation, the first stage of the local public administration reform, should be followed by further measures. Upcoming local elections in autumn 2023

have led to the local administrative reforms becoming highly politicised. The overall reorganisation of competencies between central and subnational levels is needed to secure additional financial resources for municipalities and strengthen public finance management at local level.

Civil society

An enabling environment exists for CSOs, with legal and financial frameworks in place. The legislative framework is in line with international standards. Moldova has involved civil society more in decision-making.

Further efforts should focus on adopting: the national strategy on civil society development and improving the quality of public consultation processes to improve transparency and get CSOs more involved in policy dialogue, especially in parliamentary debates and at local level.

Moldovan public institutions recognise that an empowered civil society is a crucial component of democracy. Civil society has played an essential role by monitoring government policies, such as the progress on the nine steps of the Commission Opinion. CSOs provided essential support to refugees and public institutions during the massive inflow of displaced persons in 2022 resulting from Russia's invasion of Ukraine. The overall legal and regulatory framework governing the establishment and functioning of CSOs is in line with international standards.

The registration procedure for CSOs is free of charge and takes a maximum of 15 days. Since June 2022, registration forms can be submitted electronically, signed by a qualified electronic signature. Registration is carried out based on a list of documents set out in legislation. The declaration on the beneficial owner of the legal entity, which is required under anti-money laundering and counter-terrorism financing rules, has been criticised by civil society as restricting the right to associate. In 2022, there were no cases of involuntary suspension or liquidation of CSOs. In February 2023, Parliament adopted the Law on associations for intercommunity development, recognising the important role of CSOs in local development.

State funding can be provided to CSOs through different mechanisms. These include non-reimbursable financing, contracting works and services or special purpose financing, such as social order, percentage designation, and direct subsidies. In a positive development, in July 2022, Parliament adopted amendments improving the legislation on philanthropy and sponsorship. This clarifies rules on donations and ensures the transparency of philanthropic activity and sponsorship. In September 2022, the government adopted the Framework Regulation on the non-reimbursable financing mechanism for projects of non-commercial organisations. The government Decision created a uniform and stable framework for financing CSOs from the public budget through cooperation between central and local public administrations and non-commercial organisations.

A concept for a new strategy for civil society development opened for public consultation in May 2023. One of the successful actions of the NGO council on advocacy was to reactivate the Certification Commission for public benefit status, which allowed CSOs to continue having this status. The new concept for the development of civil society and the establishment of a permanent platform for dialogue and civic participation in the legislative decision-making process needs to be accelerated.

The mechanism for public consultations with civil society clearly sets out stages, deadlines and conditions for conducting public consultations in the decision-making process. Draft decisions and calls for consultation by the public authorities, except Parliament and local administration who publish announcements, are uploaded to the online platform. The

platform does not always provide the necessary documents, information or changes made to the proposed drafts (such as the divergences table, which includes suggestions from CSOs), and authorities do not give public feedback on CSOs' proposals.

Civilian oversight of the security and intelligence sector

Parliament's National Security, Defence and Public Order Committee and its subcommittee, which was set up within this Committee specifically for parliamentary control over the activity of the Security and Intelligence Service, regularly monitor the security and intelligence sector. The Committee monitored the following areas: national security; data, IT and cybersecurity; national defence; public order; anti-corruption and integrity. Over the reporting period, the Committee held regular weekly sessions and carried out monitoring based on the action plan of parliamentary control by the Committee for 2022. A similar action plan for 2023 was adopted in March 2023. The Committee's oversight work included hearings on activities of relevant security and intelligence institutions, reports on the implementation of laws under the responsibility of the Committee, as well as inspection visits to state agencies of the security sector.

2.1.2. Public administration reform

Moldova has **some level of preparation** in the area of public administration reform, and **some progress** has been made. In particular, the new public administration reform strategy for 2023-2030 was approved in March 2023 and its implementation program 2023-2026 was approved in June 2023. Due to a complex salary grid and the many different job classifications, civil servants' pay varies and is inconsistent across the administration. Moldova started addressing this issue by adopting a new law on salaries.

Moldova also adopted a new strategy for the development of public finance management for 2023-2030.

In the coming year, Moldova should, in particular:

- implement and monitor the public administration reform strategy effectively, including by adopting the complete regulatory framework for territorial reform through voluntary amalgamation, namely the law and the government decision on the methodology for the voluntary amalgamation;
- finalise the salary reform plans and start its implementation;
- implement the new public finance management strategy, including by strengthening inter-institutional coordination.

Strategic framework on public administration reform

A new strategic framework for **public administration reform** for 2023-2030 was adopted by the government on 15 March 2023 and the implementation program of the strategic framework for the period 2023-2026 was approved on 7th of June 2023. This followed an extensive consultation process with key stakeholders, including local public administrations, the Congress of Local Authorities from Moldova, civil society, development partners and Members of Parliament. Their input has been taken into consideration and is reflected in the final approved version of the strategy. The strategy and the implementation program were made available on the platform of the Joint Commission for Decentralisation to increase transparency. The public administration reform strategy targets five major areas: (i) management of the civil service; (ii) the institutional framework of the central public administration; (iii) the strategic planning system and development of public policies; (iv) the simplification and development of e-

services; and (v) local public administration reform, mainly a territorial reform by voluntary amalgamation. In addition, the strategy provides a three-level monitoring framework to coordinate the implementation and monitoring process. A set of performance indicators measuring the achievement of policy objectives have been identified, and their baseline or target values are set by the implementation program 2023-2026. A functional review was published in October and an action plan was established to implement the ensuing recommendations.

In line with the strategy, authorities need to adopt the law on voluntary amalgamation to improve the capacity of local government to provide quality public services for citizens and to approve the methodology for voluntary amalgamation. The law on voluntary amalgamation has been adopted in July 2023. Amalgamation of local governments should reduce excessive fragmentation, improve the viability and capacity of local administrations and ultimately improve service delivery for local communities.

The strategy's financial sustainability is partially ensured by the medium-term budgetary framework and by international donors' technical assistance programmes.

Commitment to the effective implementation of the reform is ensured at the highest level, but it is less clear at the lowest level of political parties and local government associations, notably with regards to local government reforms and in the area of professionalisation of the civil service.

Policy development and coordination

The regulatory and institutional framework of the policymaking system is coherent and well-designed, but it is not effectively implemented. Analytical capacities and sectoral expertise in the line ministries, including policy coordination units, are relatively modest, especially in areas such as data analysis and modelling, quantitative methods of policy analysis and quantitative policy impact assessment. The government adopted several measures to increase the institutional capacity to carry out reforms and improve the policy coordination process, such as restructuring departments dealing with policy analysis, monitoring and evaluation. A special position of deputy secretary general was created to streamline the internal coordination work on EU accession in a number of ministries. The government adopted a regulation allowing a monthly financial incentive of up to 50% of the base salary for staff involved in policy design, evaluation and monitoring related to the European integration process.

Inter-ministerial and public coordination and consultation procedures and mechanism are formalised and function relatively well, even if the early policy preparation process remains fragmented and isolated at the level of central public initiator. For instance, during the period June 2022 – March 2023, over 90% of policy and legal proposals were included in public consultation and coordination with the major stakeholders, including business organisations, NGOs.

Despite a suitable regulatory framework, important problems remain. These problems, mostly caused by the low administrative capacity in central public institutions, are: (i) an isolated approach to policy design and a lack of consultation, transfer of information and dialogue across the central public administration from the early stages of policymaking; (ii) a very limited use of *ex-ante* and *ex-post* evaluations and no overall effective use of **evidence-based policy instruments**; (iii) limited use of cost estimations or linking financial resources requests in policy documents with the medium-term expenditure framework; (iv) a fragmented approach to monitoring and no systematic collection of the relevant data; (v) limited use of consultation platforms and transparency during the process; and (vi) poor

cross-cutting policy coordination, particularly among the State Chancellery, the Ministry of Finance and the Ministry of Foreign Affairs and European Integration.

Public financial management

On 22 February 2023, Moldova adopted a new multiannual strategy for the development of **public finance management** for 2023-2030 in line with the national and sub-national public expenditure and financial accountability assessments published in 2022 and 2023. The *ex-post* evaluation of the 2013-2023 public finance management strategy emphasised improvements in the implementation period, notably on the budgetary process at central and local levels. The strategy includes seven major reform areas with medium- and long-term priorities and expected results.

Moldova has also applied to participate in the economic reform programme, which will help the country with medium-term budget planning and prioritisation of structural reforms. The Ministry of Finance continued its efforts to improve the **transparency of public finance management**, which is reflected in the improved Open Budget score.

Following the publication of the public finance management strategy, the authorities organised the first Public Finance Management Policy Dialogue in Chişinău in May 2023 with the participation of national and international stakeholders. The commitment of the authorities to improve the governance of public funds was further confirmed, including by setting up an independent and credible Fiscal Council. The government has adopted a new regulation on public investment management, its provisions need to be properly implemented to efficiently support the selection and channelling of domestic and external financing resources for infrastructure development. There is also consensus that additional efforts are necessary to improve public procurement and national public sector accounting standards to improve accountability and **effective governance of public finances**. The implementation of the public finance management strategy requires time to implement, resources and external support, and the Ministry of Finance needs to strengthen its capacity and improve the quality of dialogue on the governance of public finances with public and private stakeholders.

Public service and human resources management

The State Chancellery is nominally in charge with the management of the civil service. The legal framework is in place for a professional and non-politicised public service: the legislation and regulation regarding the recruitment procedure for the civil service were mainly developed based on the principles of public administration. Some 70% civil service positions were recruited based on competition and promotion, but the turnover rate was in 2021 high: 11,24% and participation to competitions limited: 1,7 persons for a vacant position. Integrity of the civil servants are well regulated through a civil servants' code of conduct, legislation on the evaluation of institutional integrity, and regarding wealth and personal interests' declaration, together with a set of control and endorsement procedures from National Integrity Authority, National Anticorruption Centre. Despite this suitable regulatory framework, the implementation is mainly realised through administrative practices on **recruitment** and **promotion** procedures, and is still hindered by formalism, absence of skill assessment, weak evaluation process, and inadequate restrictions on political influence, especially in top management positions.

On gender equality in the administration, there is an imbalance between the high number of women in public positions and the low number of women in senior positions. General public positions are mostly occupied by women (74% women and 26% men). The share of women in senior public positions is 60%, while in public management positions it stands at 70%. In

executive public roles, it reaches 76%. Public positions with special status are mainly occupied by men (80%) are better paid than those with a general status.

The civil service management system is heavily fragmented and understaffed. The national information system for managing human resources in the civil service is not functional due to the problems of maintenance and up-dating by its private provider.

A career in the civil service, especially for young professionals, is not attractive. This is due to the inadequate **remuneration** and an unpredictable career development system. The existing system for the **professional development** of civil servants does not sufficiently respond to the needs of the public service, especially those in the local public administration.

Human resources in Moldova's public administration are heavily affected by external migration and by other specific factors on an already very tight labour market.

The public administration pay system is of critical importance. The initial draft law on a unitary pay system corresponded to the principles of public administration. The law that was finally adopted by Parliament contained amendments that watered down the original draft and the original concept, and other changes were introduced later under special laws. Thus, the current salary pay system in Moldova's budgetary public sector continues having systemic shortcomings: the inequity of the salary pay scales, the lack of a performance-based environment in the system, and the difficulty to attract and keep staff, especially young people.

Accountability of the administration

The legal framework on the structure and accountability lines of public administration establishes the mandates and the competences of the central public authorities, subordinate administrative authorities, and other public institutions. The legal framework does not sufficiently delineate clear functions for the subordinated institutions, nor rules for ensuring their independence. More so, the rules regarding the financial self-management are often unclear. The pay system and the staffing schemes are not aligned and are a source of staff rotation and understaffing.

The legal framework regarding services is unclear, especially between commercial and non-commercial activities and profit or non-profit status. As a result, in many cases public institutions provide commercial services on the side of public services, while being subsidised by the public budget.

Generally, the government reporting allows public scrutiny: evaluation and monitoring reports of major national policies and of action plans are published regularly on the Government portal on the institution's respective official web pages. The public administration is regularly scrutinised by independent oversight bodies, such as the People's Advocate's (Ombudsperson) office and the Court of Accounts, which are autonomous and independent authorities. The competences to issue recommendations and decisions for the relevant independent oversight bodies are set out in their normative acts.

The **right to access public information** is regulated by the Law on access to information and the Law on transparency in decision-making. A new law on access to information was adopted in June 2023, largely in line with CoE Trømso Convention as well as with international organisations recommendations.

Any person who considers that an administrative decision or action/inaction of the public authorities infringes her/his right or freedom established by law, has the right to resort to a prejudicial dispute resolution procedure or to bring an action in administrative litigation. The

right to seek compensation for any administrative prejudice is guaranteed by the Constitution. The effectiveness of the judicial review of administrative actions is an area of concern. While the formal guarantees of access to administrative justice are in place, the public are increasingly affected by growing backlogs.

Service delivery to citizens and business

Public services are delivered online and/or through a one-stop shop. The Public Services Portal (services.gov.md) is a single point of access for individuals and legal entities to information on public administrative services.

Another initiative developed by the Electronic Governance Agency is the establishment of Unified Public Service Centres, providing common access points to a wide range of public services available in electronic format. One of the main objectives of the institution is to simplify the process of providing good quality public services to people from rural areas and the diaspora. A total of 32 public services are now accessible via the public e-services platform. Moreover, another 42 public services have been integrated with the public MDelivery service, which allows documents to be requested and delivered directly to the user's home address.

2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS

2.2.1. Chapter 23: Judiciary and fundamental rights

The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is the respect for fundamental rights in law and in practice.

Moldova has some level of preparation to apply the EU <i>acquis</i> and European standards in the area of justice and fundamental rights and, overall, made some progress in these areas.

Functioning of the judiciary

Moldova has some level of preparation in the area of the judiciary. The country made good progress in the reform of the justice sector. Candidates for the Superior Council of Magistracy and the Superior Council of Prosecutors SCP had to undergo vetting based on the corresponding law adopted in line with Venice Commission recommendations. Parliament also adopted a law on Supreme Court of Justice reform and the vetting of its candidates and its sitting judges, in line with Venice Commission recommendations, has started. At the end of October, Moldova announced a competition for the position of Prosecutor General. In July 2023, Parliament adopted a law on the further vetting of judges and prosecutors in high level positions, which was consulted with the European Commission and broadly aligned with Venice Commission recommendations. However, the President then returned the law to Parliament with additional changes, which Parliament adopted in August 2023. The final version of the law was sent to the Venice Commission for review.
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The length of proceedings, low clearance rates and the large backlog of cases negatively affect the judicial system's efficiency. There was no significant progress in the prosecution of high-level corruption cases and long-standing criminal cases. However, there was a verdict on fugitive oligarchs. Due to the lack of a quorum at in the SCM, no new judges have had been appointed in the past 3 years. However, following the appointments of three non-judge members and four judge members to the SCM in March and April 2023o23 respectively, the SCM restored its quorum and made new appointments across the judiciary, including to new
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ranks. The justice reform strategy and action plan for 2022-2025 were adopted in December 2021, with strong focus on restoring public trust in the judiciary. Moldova has been implementing the justice sector reform strategy and action plan for 2022-2025, with strong focus on restoring public trust in the judiciary. The new judicial map, which should reform the court system, needs to be finalised.

In the coming year, the country should in particular:

- pursue implementation of the justice reform strategy, in particular the pre-vetting and vetting processes in line with Venice Commission recommendations and the subsequent appointment of the remaining members of the Superior Council of Magistracy (SCM), the Superior Council of Prosecutors (SCP) and the Supreme Court of Justice but also the members of the SCM and SCP colleges and other judges and prosecutors in an objective, transparent and merit-based procedure, in line with European standards: demonstrate a clear track record in this regard;
- improve the functioning of the National Institute of Justice, develop human resource strategies for the judiciary and prosecution services and finalise the new judicial map following a systematic approach in line with European standards and based on a comprehensive analysis of the state of play;
- consolidate the capacity of the judicial system and its self-governing institutions, including improving the quality and efficiency of the work of the Superior Council of Magistracy and Superior Council of Prosecutors.

Strategic documents and budget

The implementation of the 2022-2025 justice reform strategy and its action plan is ongoing. This is coordinated by a monitoring group set up in 2022 at the Ministry of Justice. In 2022, the Ministry demonstrated genuine commitment to implement the reforms and took the first steps to implement the strategy. These included the initiation of (subsequently adopted) legislation on the pre-vetting of SCM and SCP candidates, on the reform and vetting of the Supreme Court of Justice and its judges and candidates and on the further vetting of other high level judges and prosecutors.

Management bodies

The SCM and the SCP are the main self-government bodies of the judiciary. The two institutions manage the judicial system and the careers of judges and prosecutors. All members of both the SCM and SCP are appointed for a 4-year term. Their composition and appointment procedures are broadly in line with European standards.

In April 2022, Constitutional amendments concerning the role, the composition and the specialised bodies of the SCM, as well as changes related to the appointment and other career aspects of judges entered into force. These amendments significantly improved the legal framework concerning the independence, accountability and efficiency of the judiciary and judicial administration, in accordance with the recommendations of the Venice Commission and GRECO.

The SCM is made up of 6 judge members and 6 non-judge members. The SCP has 13 members: 5 prosecutors, 4 non-prosecutor members and 4 *ex officio* members: the Prosecutor General, the chairperson of the SCM, the Minister of Justice and the People's Advocate (Ombudsman).

The subordinated Colleges of the SCM are the College for the Selection and Career of Judges, the College for Performance Evaluation of Judges, the Disciplinary College and the

Judicial/Prosecutorial Inspection. The subordinated Colleges of the SCP are the College for Selection and Career of Prosecutors, the College for Performance Evaluation, and the Disciplinary College.

The Law on the extraordinary evaluation (“pre-vetting”) of candidates for vacant positions in the SCM, the SCP and their Colleges entered into force in March 2022, in line with Venice Commission recommendations. It establishes the Pre-Vetting Commission of 3 national and 3 international members. As regards the SCM, the Pre-vetting Commission finalised its evaluation in January 2023. Only five judge candidates and three non-judge candidates obtained positive decisions. Several judges appealed to a special appeals body at the SCJ against the Pre-Vetting Commission’s negative decisions. The mandate of the Pre-Vetting Commission was extended to ensure the functioning of this body until the end of the appeals process. A new call for applications was initiated for the remaining vacant positions for SCM non-judge members as well as for the remaining vacant positions reserved for judges from the second and third instance.

Following several years with an incomplete composition, the SCM quorum was restored when Parliament appointed three non-judge members in March 2023 and the General Assembly of Judges appointed four judge members (in addition to one judge member already in office) in April 2023, bringing the overall number of members to 8 out of 12. Three non-judge members and one judge member remain to be appointed.

The SCM with restored quorum is exercising its mandate, including the appointment of new judges, and has issued a decision on the transfer of judges from lower instances to the SCJ to replace resigning judges following the resignation of 20 out of 25 SCJ judges.

On 9 June, Parliament adopted the amendments to reform the SCM colleges for the selection and performance evaluation of judges. The two colleges were merged into a single body comprising 9 members (5 career judges and 4 representatives from civil society) serving 6-year terms. Judges will now be evaluated every 5 instead of 3 years, based on professional competence, organisational skills, and professional integrity.

In July, the Parliament adopted new rules on the selection, promotion and disciplinary liability of prosecutors, mirroring the new rules for judges and merging the colleges responsible for selection and performance evaluation of prosecutors. It also adjusted the composition of the SCP: From 2026, the Minister of Justice and the SCM President will no longer be SCP members.

In the framework of the pre-vetting process, the candidates for the SCM and SCP colleges still remain to be pre-vetted and appointed and a call for applications has been launched in this regard.

Outstanding issues regarding the functioning of both councils to be addressed include the filling of remaining vacancies in the SCM and its specialised bodies by the General Assembly of Judges (two judge member) and the Parliament (two non-judge members). The evaluation of candidates for the SCP is ongoing and SCP vacancies remain to be filled. Plans to appoint the first pre-vetted members of the SCP in August 2023 failed after the General Assembly of Prosecutors decided to postpone the vote until all pending appeals against the pre-vetting results have been resolved. At the end of October, a competition for the position of Prosecutor General was also launched.

Independence and impartiality

Judicial independence is enshrined in the Constitution. The constitutional amendments which entered into force in April 2022 introduced a number of elements improving judicial

independence in line with Venice Commission recommendations. Changes include introducing the appointment of all judges including the SCJ by the President upon proposal of the SCM (with a one-time veto of the President, however, the final decision lies with the SCM), instead of the Parliament, to reduce the risk of politicisation. In addition, the amendments removed probationary periods for judges, regulated the functional immunity of judges at constitutional level, and changed the composition of the SCM (ensuring that at least half of the members are judges elected by their peers).

In April 2022, in line with Article 16 of the Constitution, the SCM presented a list of 39 judges to be reconfirmed in office to the President. President Sandu rejected 25 judges on the list based on integrity and reputational criteria. She then issued a decree to appoint the other 14 shortlisted judges until their retirement age. The newly formed SCM can have a second review of the rejected judges and submit their list to the President again.

Judicial appointments remain a challenge in Moldova. Graduates from the National Institute of Justice (NIJ) and non-graduates who have 5 years of experience and have passed the NIJ final examination are eligible for appointment. The results of the NIJ final examination are just one of the selection criteria (accounting for 70% of the mark). Other criteria are the length and nature of professional experience and a letter of recommendation. The Selection Committee is not bound to follow the ranking of the NIJ final examination. Candidates with the best marks in the exam were often not among those proposed by the SCM for presidential appointment.

The SCP has selected new prosecutors from the group of NIJ graduates. The SCM, on the other hand, has mainly selected experienced lawyers in the latest rounds of appointments without justifying its decisions on the selection and appointment of new judges. As a result, more than 90 NIJ graduates have been placed on waiting lists for judicial appointments.

On 30 March 2023, Parliament adopted the Law on the Supreme Court of Justice (SCJ), changing its composition and powers in line with recommendations from the Venice Commission. The SCJ was reduced from 33 to 20 members, whereby 11 will be chosen from among judges and 9 from among lawyers, prosecutors and legal academics. The SCJ's main responsibility is still to ensure the law is consistently applied throughout national jurisdiction.

In October 2022, Parliament amended the Law on the Prosecution Service, generally in line with the Venice Commission recommendations. Efforts are still needed to consolidate the functional independence of the Prosecution Service and the efficiency of the General Prosecutors Office.

Accountability

Parliament adopted two laws providing the legal basis for vetting respectively the Supreme Court judges (including candidates) and the other categories of judges and prosecutors, particularly those in high level positions, comprising a third of all judges and prosecutors. The laws were prepared broadly in line with Venice Commission recommendations.

First, on 30 March 2023, Parliament adopted the law on the external evaluation of the sitting judges and candidates for the SCJ. The law provides for setting up an Evaluation Commission comprising three local and three international members tasked with assessing the financial situation and the integrity of SCJ judges and candidates. After this reform measure was announced in February 2023, 20 out of 25 SCJ judges submitted their resignation and the SCM decided to transfer judges to the SCJ from lower courts, to keep the SCJ operational.

Second, in July 2023, Parliament adopted a law on the further vetting of judges and

prosecutors in high level positions, which was consulted with the European Commission and broadly aligned with Venice Commission recommendations. However, the President returned the law to Parliament with additional changes, which Parliament adopted in August 2023. These additional revisions have not been consulted with the Venice Commission. The law foresees the creation of two evaluation commissions, one for judges and one for prosecutors, both comprising three local and three international members each. The final version of the law was sent to the Venice Commission for review in September 2023.

In February 2023, Parliament adopted amendments to the law on the disciplinary liability of judges, which entered into force on 18 April 2023. With these amendments, the composition of the disciplinary board has been reduced to seven members, two broad disciplinary offences have been deleted, certain aspects of the procedure have been clarified and the right to appeal against SCM decisions directly to the SCJ has been restored. However, in accordance with GRECO recommendations of March 2023, the objectivity, efficiency and transparency of the disciplinary liability remain to be further strengthened in law and in practice.

One of the main objectives of the justice reform is to streamline the work of anti-corruption and integrity authorities. In particular, the reform addresses the division of responsibilities of the Anti-corruption Prosecutor's Office (APO) and of the National Anticorruption Center (NAC). The relevant legislation was adopted by Parliament in August 2023.

The Code of Ethics and Professional Conduct of Judges adopted by the SCM in 2018 is generally in line with European standards. A Judicial Ethics Commission was set up in March 2017 in the SCM to effectively promote the judicial integrity of judges.

The Law on the status of the judge provides for an evaluation of the level of judges' professional qualifications and skills. Negative outcomes of such an evaluation may lead to an extraordinary evaluation, including when judicial decisions taken by a judge raise doubts about the level of their qualifications and professional skills. This extraordinary evaluation may result in the SCM dismissing the judge.

The system for detecting breaches of integrity rules needs to be made more effective, objective, consistent and credible. In addition, all cases that give grounds for disciplinary or ethical responsibility must be followed up. There is no legal remedy against decisions of both council's ethical commissions, which do not often provide sufficient justification for their decisions.

Professionalism and competence

An integrated file management programme is now in its fifth improved version. The programme covers all of a judge's procedural activities, including registration, distribution and file transfer.

General objective criteria for distributing cases across courts include specialisation (cases for the investigating judge, civil cases, insolvency, etc.) and the complexity of a case. This allows for equally distributing the workload among judges.

Improvements have been made in recent years to independence and objectivity when distributing court cases via the automated distribution system. To avoid manipulation of the automated system, there must be rules that oblige the court president to proactively monitor the distribution of the cases and provide clear reasons for each case assignment, including any exceptions, and communicate this information publicly.

Quality of justice

In 2022, EUR 23.1 million was allocated to courts of law and EUR 19.4 million to the

prosecutors' office. This shows an increase from 2020 when 21.2 million was allocated to courts and EUR 17.4 million to the prosecutors' office.

The number of judges (17) per 100 000 inhabitants is lower than the European average (22.2) and the number of prosecutors (23) is double the European average (11.8).

The National Institute of Justice (NIJ) allocated budget for 2022 was MDL 20 945 900 (approx. EUR 1 047 295) an increase from the allocated budget for 2021 which was MDL 19 988 600 (approx. EUR 1 001 839). NIJ Board annually approves the staff numbers which consists of 73 units from which 25 are filled by the NIJ trainers. The Law on the National Institute of Justice inadequately regulates admission and graduation. There have been efforts to increase the transparency of the admission and graduation processes, but they have not been enough to reverse the negative perception held by the public. In the short term, the country should introduce a set of additional measures to increase both the actual and perceived objectivity of the admission and graduation processes and reduce the subjectivity of the evaluation. In the long term, the NIJ should redesign the whole cycle of admission, initial training and graduation based on competencies in line with European standards and best practices. Currently, a limited number of NIJ graduates are appointed as judges and prosecutors, whereas NIJ should become the single-entry point to these professions.

Regular and thorough evaluation of initial and continuous training programmes should be conducted to improve them. Trainings on judgecraft, including subjects related to legal reasoning, professional ethics and behaviour, transdisciplinary issues, time and case management, information systems and data collection, and effective court management should be developed or revised.

While there is a legal basis for alternative dispute resolution in Moldova, in the form of non-judicial mediation, conciliation and arbitration, its use is limited to less than 1% of total cases. Awareness of the citizens about the alternative dispute resolution service needs to be improved.

Efficiency

The disposition time – the time a judicial system takes to resolve a case - and the number of pending cases remain a major concern. Disposition time in litigious civil and commercial cases increased to 171 days in 2020 compared with 143 days in 2018. The clearance rate in civil cases is 97% in first instance (and 95% in second instance. The clearance rate in criminal cases is 90.8% in first instance and 93.2% in second instance. In administrative cases, this rate is 95% in first instance and 87.7% in second instance.

The backlog of pending court cases amounts to 22 299 and 3 330 cases for the first and second instances respectively. The disposition time for enforcement documents at the end of 2022 was 715 days, the clearance rate stood at 83.5% and the closing rate was 33.7%. In September 2023, the Ministry of Justice approved a regulation according to which all enforcement agents are obliged to keep records of files in the electronic system, improving the traceability and overview on enforcement proceedings.

The 2020 budget for the judiciary system is 0.40% of GDP, which is less than the 2018 budget (0.48% of GDP).

Fight against corruption

Moldova **has some level of preparation** in the fight against corruption. The legislation was amended to clarify the mandates of the institutions in charge of investigation. New legislation for trials *in absentia* was used to finalise a judgment in the case against a well-known

oligarch. The track record of high-level corruption convictions increased slightly. Draft amendments to the law on whistle-blowers were adopted by Parliament in June 2023. **Some progress** has been made and needs to be sustained to remove the many remaining blockages that hinder the reform processes.

In the coming period, Moldova should in particular:

- adopt the new national integrity and anti-corruption strategy 2024 and beyond and its implementation action plan;
- finalise the reform of the anti-corruption institutional framework, in particular increase the capacity of the institutions concerned;
- implement pending GRECO recommendations and the ODIHR opinion and guidance on transparency and accountability.

Track record

One of Moldova's biggest achievements in this area has been improving international cooperation at investigative and operational levels. The Anticorruption Prosecutor's Office is using joint investigation teams effectively with Eurojust support to investigate fraud of USD 1 billion. The Moldovan-Latvian Joint Investigation Team proved successful, and its methodology will be applied to cooperation with other countries, such as Estonia and Switzerland.

During the reporting period, the General Prosecutor's Office and the European Public Prosecutor's Office signed a working arrangement, resulting in joint training and an exchange of information. The National Anticorruption Center (NAC) has strengthened international cooperation with peer institutions, and several bilateral contacts have been established. An example of improved international cooperation, based on direct contact with the EU authorities, was identifying and freezing assets located in Spain worth approximately EUR 56 million related to the USD 1 billion fraud case. Moldovan authorities made a request to identify and freeze the assets in January 2023 with results produced in March 2023.

In 2022, 434 investigations were initiated into high-level corruption offences. These concerned passive corruption (162 cases), active corruption (56 cases), influence peddling (84 cases), abuse of power/abuse of official position (99 cases), excess of power or excess of official authority (29 cases) and negligent performance of duties (4 cases). Out of these, 180 cases were sent to court, resulting in 108 guilty verdicts. Criminal cases against 1 former President of Moldova, 2 judges, 9 prosecutors and 1 Security and Intelligence Service employee were prosecuted and sent to court in 2022.

On corruption offences, in 2022, courts issued 131 sentences against 147 individuals: prison terms for 18 individuals (12.2% of all 147 convicted individuals against 11.6% in 2021); suspended sentences for 64 individuals (43.53% against 47.8% in 2021); fines for 64 individuals (43.53% against 39.2% in 2021); and unpaid community service for one individual (0.68% against 1.4% in 2021).

The high-level public officials and other individuals sentenced by trial courts in 2022 include 1 prosecutor, 3 judges and 12 company managers.

In 2022, 121 **financial investigations** were started in parallel with 94 criminal cases concerning corruption, actions related to corruption and illicit enrichment.

In 2022, 250 requests were sent to the Criminal Assets Recovery Agency, which is 9% or 21 requests more than in the previous year. These included 171 requests related to corruption

cases, 29.54% more than in 2021 when there were 132.

In 2022, parallel financial investigations carried out by criminal investigation officers identified 630 assets worth MDL 2 162 207 564 (approximately EUR 108 million), which were seized by the Criminal Assets Recovery Agency. Out of the seized amounts confirmed by courts (MDL 786 986 848), MDL 717 773 919 (EUR 35.85 million) are related to corruption cases. In 2021, property seized as part of corruption cases was worth MDL 336 168 560 (EUR 16.8 million). When comparing between years 2021 and 2022, this shows an increase of 113.39%.

In 2022 and 2023, the prosecution services requested, and the courts admitted the **withdrawal of immunity** in 9 cases involving 5 judges and 4 Members of Parliament. These individuals were found guilty of crimes under Article 327 of the Criminal Code (abuse of power or abuse of office), Article 307 (issue of a sentence, decision, order or judgment in violation of the law), Article 352/1 (misrepresentation in statements), Article 330/2 (illicit enrichment), Article 190 (fraud), and Article 243 (money laundering).

In terms of cases of illicit wealth detected, between 2022 and until March 2023 the Anti-corruption Prosecutor's Office (APO) initiated 45 criminal cases. Out of these, 3 were dropped and 3 went to court (involving a former judge, a former prosecutor and a former chief of the Security and Intelligence Service). In March 2023, the APO had 50 ongoing criminal cases.

On **whistle-blowers protection**, the People's Advocate's (Ombudsperson's) Office examined 11 complaints from alleged whistle-blowers.

On **conflicts of interest**, in 2022, the National Integrity Authority (NIA) assessed 219 cases of suspected conflicts of interest, out of which 91 were found to be pertinent. As a result of the assessment, it was found that the applied sanctions were a deterrent. On **asset declarations**, as of 1 January 2023, 840 323 declarations were published on the NIA website in the dedicated e-Declaration Portal. Out of these, 72 202 declarations were submitted in 2022. In line with Article 330/2 of the Contravention Code, in 2022, the NIA found 140 misdemeanours breaching the rules on declaring assets and personal interests. In 38 cases, the NIA found reasonable suspicions that a crime had been committed and reported them to the prosecution authorities. In 2022, the NIA applied fines of MDL 487 595 (EUR 24 504).

In 2022, integrity inspectors checked the assets and personal interest declarations of 402 of 440 judges (approx. 91%), 627 of 634 prosecutors (approx. 99%), 2 of 9 members of the Superior Council of Magistracy (approx. 22%), and 3 of 10 members of the Superior Council of Prosecutors (approx. 30%).

On cases infringing the legislation on **political party and electoral campaign financing** in 2022, the Central Election Commission (CEC) started contravention cases against 10 political parties suspected of violating the use of state budget allocations. In Decision 678 of 9 September 2022, the CEC found that the Şor Party had spent undeclared financial and material funds and exceeded the funds ceiling set for the new local election of 29 May 2022. As a result, the CEC sanctioned the party by banning it from receiving state budget allocations for 6 months from 1 January 2023 to 30 June 2023. The legality of the CEC decision was confirmed on 24 October 2022 by a judgment of the Chişinău Court of Appeals and on 31 October 2022 by an irrevocable decision of the Supreme Court of Justice.

Institutional framework

The National Anticorruption Center (NAC), the Anti-corruption Prosecutor's Office (APO) and the National Integrity Authority (NIA) are the main institutions specialised in anti-

corruption and are responsible for integrity and preventing and fighting corruption.

Prevention of corruption

The institutions dealing with preventing and fighting corruption are the police, the border police, the Customs Service, the State Tax Inspectorate, the Office for Prevention and Fight against Money Laundering, and the Criminal Assets Recovery Agency. In November 2022, the NAC organised the European Partners Against Corruption and European Anti-corruption Networks annual summit, which contributed to improved international cooperation and bilateral contacts.

Legislative amendments on the division of investigative powers of the NAC and the APO were adopted by Parliament. The latest amendments adopted in August foresee that the APO will prosecute high-level corruption cases, illegal party funding and corruption involving high amounts of money. NAC and territorial prosecution offices will deal with systemic corruption (e.g. education, health) and petty corruption.

The draft law amending the Law on whistle-blowers was adopted by Parliament in June 2023. It aims to improve the mechanism for disclosing integrity issues and provides for new protective measures for whistle-blowers.

Law enforcement

Under the institutional framework, the prosecution bodies empowered to handle corruption cases include the NAC and the APO. There are no specialised anti-corruption courts or judicial panels, however in June 2023 the President introduced a concept for an Anti-Corruption Court. The law concerning this court was submitted in August 2023 to the Venice Commission. The in-service training programmes for judges and prosecutors used by the National Institute of Justice include the module ‘Economic, corruption, and related crimes’.

The country’s leadership shows strong political will to counter corruption. Concrete action has been taken, aiming for a credible record of prosecutions and convictions. Legislative amendments entered into force in July 2022 introducing new mechanisms for criminal investigation that provide for trials and sentencing *in absentia* of people who try to evade persecution. The first procedures for the completion of criminal proceedings *in absentia* concern a former MP and a party leader oligarch, and a fugitive oligarch, in the case commonly referred to as the ‘bank fraud’ occurred in 2014.

In December 2022, Parliament adopted the national assets recovery programme for 2023-2027 and its action plan. These aim to increase the transparency and accountability of the agencies involved in seizing criminal property.

Amendments to the Criminal Code and the Criminal Procedures Code voted in July 2022 create an extended confiscation mechanism. This allows confiscating assets that were transferred by convicted individuals to third parties. It is applicable in cases involving goods worth 20 medium wages and above and when the person concerned cannot prove legal possession.

Moldova has also pursued systematic efforts to adjust the regulatory framework to ensure the de-oligarchisation of economic, political and public life. Initially, a two-pronged approach was envisaged: (i) the adoption of a framework law on de-oligarchisation; and (ii) a set of amendments to a wide range of laws aimed at consolidating institutions and, therefore, eliminating the influence of oligarchic interests. A law on de-oligarchisation was drafted and submitted for examination to the Venice Commission in its plenary session in March 2023. Following the publication of the Venice Commission’s opinion on it, it was decided to shift

the focus in a more systemic action plan on measures to limit excessive economic and political influence in public life. The draft action plan was opened for public consultation on 13 April 2023. and adopted in May 2023.

Legal framework

Moldova has ratified the UN Convention against Corruption and the Council of Europe conventions in this field. Amendments of the Law on whistle-blowers, aiming to partly harmonise it with the provisions of EU Whistleblowing Directive was adopted by Parliament in June 2023. There are laws in place governing the prevention and sanctioning of conflicts of interest, the declaration and verification of assets, financing of political parties, access to information and protection of whistle-blowers. There is no law on **lobbying**.

The Law on political party financing was amended in December 2022 to ensure transparency on the financing of political parties and effective financial reporting by them.

The legal framework governing **declarations of assets and conflicts of interest** was adopted in 2016 with subsequent amendments adopted in 2021 strengthening the powers of integrity inspectors.

Code of ethics

As mentioned above, Moldova has made systemic efforts to adjust the regulatory framework to ensure the de-oligarchisation of economic, political, and public life. The abovementioned action plan with measures to limit excessive economic and political influence in public life includes seven groups of actions: (i) the use of offshore jurisdictions, privatisation and state property management; (ii) the prevention of money laundering and capacity building for detecting suspicious transactions; (iii) effective identification of the beneficiary owner; (iv) investigation and confiscation of illicit assets; (v) consolidation of competition authorities and prevention of manipulating opinion on audiovisual markets; (vi) improvements in the banking risk assessment; and (vii) ensuring a level playing field in politics.

Strategic framework

The national integrity and anti-corruption strategy (NIAS) for 2017-2023 is the third policy document implemented in the field of anti-corruption and integrity. The six objectives of the current NIAS are: (i) the deterrence of involvement in corruption; (ii) recovery of proceeds obtained from corruption offences; (iii) ethics and integrity in the public, private and non-government sectors; (iv) protection of whistle-blowers and victims of corruption; (v) transparency of institutions, financing of political parties and the media; and (vi) education of society and officials.

The objectives of the NIAS are well interconnected with the UN's Sustainable Development Goals. Additionally, the NIAS is structured into seven pillars, with each pillar clearly setting specific objectives to be achieved. Monitoring and reporting mechanisms should be improved to ensure effective and efficient implementation of the actions. The sectors most vulnerable to corruption require targeted risk assessments and dedicated actions.

Fundamental rights

The legislative and institutional framework is largely in place, and Moldova has made a clear commitment to meet its international obligations on human rights. Efforts were made in the reporting period to implement the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). . These efforts included strengthening the mandates of the Equality Council and the People's Advocate and adopting programmes on strengthening gender equality and support to the Roma. Persons

belonging to minorities, persons with disabilities and the Roma in particular as well as LGBTIQ persons, continue to face discrimination, including in the labour market. Detention conditions remain poor.

In the coming year, Moldova should in particular:

- further improve gender equality including by undertaking further measures to eliminate gender-based violence, including by adopting and implementing the new national programme on preventing and combating domestic violence and violence against women for 2023-2027 and the new national programme on the acceleration of gender equality for 2023-2027 and its corresponding action plan;
- implement the programme in support of the Roma population for 2022-2025 at all levels of government;
- implement the Committee for the Prevention of Torture recommendations on the prevention of torture and ill-treatment.

Moldova has ratified most key **international human rights instruments**. Moldova is a States Party to all UN core human rights treaties, except the Convention for the Protection of All Persons from Enforced Disappearance. It has also ratified all fundamental and governance Conventions of the International Labour Organisation (ILO), 29 out of 176 technical ILO conventions and the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence ('Istanbul Convention'). EE

On the **promotion and enforcement of human rights**, the central institution is the People's Advocate (Ombudsperson) and the People's Advocate for Child's Right, accredited with 'A' status by the Global Alliance of National Human Rights Institutions. Steps were taken during the reporting period to strengthen the institution and clarify competencies by amending the normative framework. A special parliamentary committee selects the People's Advocate and the People's Advocate for Child's Right. Immunity is granted to the People's Advocate, the People's Advocate for Child's Right and their deputies. Except for flagrant crimes, they can only be detained, arrested or searched with Parliament's consent. Officials of the institution acting on behalf of the People's Advocate and the People's Advocate for Child's Right enjoy inviolability when carrying out their tasks. The procedure for removing both advocates involves a prior hearing by the plenary of Parliament. It is financed from the state budget and its representatives have the right to address Parliament if the provided resources are insufficient to fulfil its mandate.

One of the tasks of the People's Advocate and the People's Advocate for Child's Right is investigating allegations of human rights violations. In 2022, they both examined 282 complaints that met admissibility conditions in human rights and children's rights. They solved issues, such as the rights to health, a fair trial, education work and the prohibition of forced labour, the protection of refugees, the rights of persons with disabilities, and the rights of persons from the territories not under control of the Moldovan government. They carried out over 229 monitoring visits to detention institutions, temporary placement centres and other residential institutions.

In June 2023, there were 1 048 applications pending before the European Court for Human Rights (ECtHR). The ECtHR delivered judgments on 31 applications and found breaches of the European Convention on Human Rights in 23 out of 24 cases, relating mainly to the right to respect for private and family life, the right to a fair trial, the right to liberty and security and to the prohibition of torture. In the reporting period, there were 578 new applications assigned to a decision body. Currently, there are 25 cases under enhanced supervision by the

Committee of Ministers.

The **death penalty** has been abolished in Moldova since 2006. There is no public discussion or debate in society or by any political party to reintroduce it.

Prevention of torture and ill treatment has been an issue of great concern for Moldova for many years. Even though the number of complaints of ill treatment fell by 50% in the last decade, from about 1 000 in 2009 to 500 in 2021, there is still quite a lot to be done. Prosecutors rarely decide to initiate criminal proceedings. The People's Advocate notes that in cases of torture/ill treatment, there is a low rate of prosecution initiated against people who tolerate or carry out those acts. In 2021, prosecutors followed up on only 1 out of 11 complaints of abuse, and only 4-5% of complaints turned into cases before the courts. In 2022, the Prosecutor General registered and examined 485 complaints of allegations of ill treatment. Prosecution was ordered only in 69 cases, of which 8 cases concerned acts of ill treatment, admitted on behalf of minors. In the other 404 cases (83.2% of allegations of torture/ill treatment), there was a refusal to prosecute as these acts were not considered to be crimes, so the alleged guilty individuals went unpunished. Compared with the number of complaints registered in 2022, the 15 criminal cases sent to the court for substantive examination only constitutes 3.09% of the total.

The Council for the Prevention of Torture can carry out (unannounced) preventive and monitoring visits to places where detainees are or may be detained. In 2022, the Council prepared and sent the authorities 20 visit reports with 400 recommendations. The Directorate for the Prevention of Torture of the People's Advocate prepared and sent 9 visit reports to the authorities with 170 recommendations.

The Directorate for the Prevention of Torture of the People's Advocate proactively carries out frequent investigations into ill treatment. The Directorate became involved in investigating high-profile cases. These included the case of a young man who died in prison under unclear circumstances and the case of a conscript soldier who alleged that he had suffered violence at the hands of other soldiers in a military facility. It also produces special reports on individual cases, which can be consulted on the public website of the People's Advocate.

Moldova's **prison system** includes 18 prisons. As of 1 January 2023, there were 6 084 inmates in prison, a fall from 6 396 inmates in 2021. Most ECtHR rulings against Moldova relate to inhumane detention conditions. No measures were taken during the reporting period to remedy the situation. All 18 detention facilities were built during the Soviet period. There have been no major upgrades since Moldova's independence, and the prisons currently exceed their intended capacity. Inadequate access to medical treatment, overcrowding and the general bad state of prison facilities as well as the lack of proper reporting and investigation of potential ill treatment and violence remain largely unaddressed. No amendments were made to the legal framework in to tackle these issues.

The government has allowed local and international human rights observers to independently monitor prison conditions. Human rights defenders report on the existence of 'barrack' systems (large-capacity cells) and overcrowding due to the lack of space.

In June 2022, the Ministry of Justice increased the detention capacity in some prisons. This was contrary to international and national recommendations to substantially reduce prison overpopulation. In its visits, the Council for Prevention of Torture noted overcrowding in three prisons, well above the capacity set by the Ministry of Justice. The problem is most urgent in Chişinău prison. Another concern is that not all prisons have accommodation for preventive detention, and suspects are at risk of being placed in disciplinary sections under

inhumane conditions.

No progress has been made on the plans to build new prisons. The Ministry of Justice is currently running a construction project in Chişinău prison with funding from the Development Bank of the Council of Europe. The People's Advocate regularly looks into cases brought by detainees.

The National Probation Inspectorate is responsible for probation in Moldova. Many amendments to codes and government decisions have been adopted on the execution of court decisions and punishments. These amendments were necessary to link probation to European probation rules and include new concepts in the legislation, such as humanisation of criminal punishments, early parole and conviction with partial suspension of the sentence, probation programmes, improving the quality of pre-sentence reports, electronic monitoring, victim protection, partnership development and promotion of probation.

Post-penitentiary probation aims at supervising, helping and counselling people released from detention to help them adapt to society again. Juvenile probation is carried out for the temporary protection of children in difficulty, resocialisation, and reintegration in the biological or adoptive family, family-type children's homes and the community. CSOs carry out different reintegration and resocialisation programmes, but these only target specific groups of former prisoners and are not run across the country and all prisons. The authorities should strengthen national mechanisms to reduce detention populations, including through the effective application of non-custodial measures and/or other types of punishment.

The Law on **personal data protection** is to some extent aligned with the EU General Data Protection Regulation and the Law Enforcement Directive. Moldova is still in the process of harmonising its national laws, which has been pending since 2020. Laws are being revised/redrafted and will then be submitted to Parliament.

Moldova is party to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. In February 2023, Moldova signed the Protocol amending this Convention, but it has not ratified it yet. In November 2022, Moldova signed the Second Additional Protocol to the Convention on Cybercrime on enhanced cooperation and disclosure of electronic evidence.

The National Centre for Personal Data Protection is the supervisory authority for personal data processing in Moldova. It has 39 staff for the 45 authorised positions, the lowest number since 2018. It suffers from high staff turnover and is facing difficulties in attracting and retaining talent due to low salaries and the high level of expertise required.

In 2022, the National Centre for Personal Data Protection examined 9 838 correspondence documents. In 227 of the complaints registered in 2022, checks on compliance with personal data processing rules were initiated. As a result, 230 decisions were issued, and a breach of legal provisions was found in 105 of them. Moldova should continue its efforts to align its legislation further with the EU *acquis*, train public servants across all institutions to the highest international and EU standards and step up awareness campaigns to inform people about their rights.

The right to **freedom of religion or belief** is generally respected in Moldova. Most of the population professes Orthodox Christianity (96.8% according to the 2014 Census). There are also small Jewish, Roman Catholic and Evangelical communities across the country as well as Jehovah's Witnesses and Mormons. No community has reported any issues in relation to its members' freedom of worship. There is no specific organisation dealing with religious communities. For all public associations and political parties, the Agency of Public Services

registers them. Issues related to violations of freedom of religion or belief are dealt with the Equality Council and the People's Advocate.

There is no state religion. The Law on freedom of conscience, thought and religion sets out that the state recognises the 'exceptional importance and fundamental role' of the Moldovan Orthodox Church in the life, history and culture of the country. The Moldovan Orthodox Church continues to use and control historic and religious properties that had been confiscated during the Soviet era. The government has not addressed long-standing efforts of other religions to reclaim properties confiscated during that time.

The law mandates the restoration of rights and compensation for material damages for victims of the totalitarian regimes that controlled Moldovan territory between 1917 and 1991 and for citizens who were subject to reprisals based on political, national, religious or social grounds. The law specifically refers to restitution of private property for victims of the Soviet era. However, it does not mention property confiscated during the Holocaust and does not apply to communal property confiscated from religious groups.

Registration law provisions on the organisation of religious groups remain unaddressed. The law gives people from all registered religious groups the right to burial space in public cemeteries but is not followed systematically.

The situation on **hate speech** remains problematic. Hate speech itself is not criminalised in Moldova, but the incitement to hate is. Amendments to the Criminal Code, which entered into force in July 2023, are generally compatible with European standards on criminal sanctions for the use of hate speech and on imposing tougher penalties for offences that can be characterised as a hate crime. The Audiovisual Code introduced heavier sanctions for the incitement of hate, especially during election campaigns. Hate crimes are underreported in Moldova and are not investigated and prosecuted enough. Police and the prosecution service do not receive adequate training on investigating these cases, which often do not reach the courts. Due to the lack of action taken by the police, such cases are sometimes referred to the Equality Council, which does not have the power to investigate criminal violations.

The legislative framework for the fight against antisemitism is in place. The action plan (2021-2024) on promoting the memory of the Holocaust and the culture of tolerance to combat racism, antisemitism, xenophobia and other forms of intolerance is generally consistent with the EU strategy on combating antisemitism. However, its implementation is often characterised by a lack of coordination at local level. The government does not provide for the proper maintenance of most Jewish cemeteries across the country or protect them from vandalism. Cases and complaints related to a Jewish cemetery and a synagogue in Orhei have not yet been resolved.

Freedom of expression

Moldova has a pluralistic media environment and has **some level of preparation** in freedom of expression. The country made **some progress** during the reporting period, in particular on the issue of ownership concentration. Legislation sets out rules to prevent concentration of media and ensure transparency of media ownership. The Audiovisual Council needs to boost efforts to implement these rules. To ensure compliance with the European Media Freedom Act, the Audiovisual Media Services Code address political bias in state media. The government is taking steps to address disinformation in the media, which remains a challenge, especially disinformation spread in online media. In an attempt to limit Russian disinformation, in December 2022 the Commission for Exceptional Situations ordered the

suspension of six TV stations that rebroadcast content from Russia; the decision was challenged in court. Several attempts of intimidation and harassment of journalists were reported in 2022, primarily in Gagauzia.

In the coming year, Moldova should in particular:

- protect journalists more effectively against intimidation and attacks, including by thorough law enforcement investigations;
- extend ownership transparency requirements to print and online media;
- improve media self-regulation mechanisms.

The Constitution guarantees the freedom of expression, which is generally respected. There is plurality of the media. Moldova's ranking on the 2022-2023 World Press Freedom Index jumped by 12 places (with Reporters without Frontiers (RSF)'s new methodology from 89th in 2021 to 40th in 2022 to 28th in 2023). The media landscape is affected by concentration and a lack of transparency of media ownership and associated problems of access to the advertising market. Financial sustainability is a challenge for independent media outlets. The press and media are generally free to cover court cases.

The Law on printed media prohibits certain action against journalists, such as obstructing their activity or confiscating their notes, and provides for appropriate punishment. Constraining or exerting pressure by threatening or intimidating journalists is against the law and could lead to criminal liability. In public hearings, the Audiovisual Council examines cases of threats, pressure and intimidation that prevent or restrict the free exercise of the profession of journalists or the activity of media service providers. Where appropriate, the Council notifies the competent authorities.

Intimidation of journalists

Journalists can generally report without state interference, but they do face interference in their work in Gagauzia. In Gagauzia's local legislative assembly, journalists must be registered in the region based on unclear criteria. In July 2022, a journalist of the Nokta news portal was forcibly ejected from a People's Assembly meeting. In August 2022, after a protest in Vulcănești in Gagauzia, supporters of a political party threatened and attacked a Nokta news portal cameraman. The police intervened to protect the cameraman.

In July 2022, the founder of the independent media outlet Jurnal TV was charged with slander. At the first instance, he was found guilty, fined MDL 4 500 and barred from working in television and radio for 6 months. Jurnal TV appealed the decision, and the Chișinău Court of Appeal admitted the appeal in February 2023.

Legislative environment

The legislation on audiovisual media services is not aligned with the Audiovisual Media Services Directive and the Council of Europe's normative standards. Amendments to the Audiovisual Services Media Code were adopted in November 2022 and included rules on sanctioning media outlets. In particular, the current law provides that Parliament's rejection of the Council's annual activity report should result in the legal dismissal of the members of the Audiovisual Council (AVC). However, the law does not provide evaluation criteria on which to base the rejection of the Council's annual report. The fact that the AVC members can be easily dismissed has been criticised as a way of politicising its members. In 2021, Parliament was criticised for dismissing AVC members accused of insufficiently fighting disinformation. However, the consensus among stakeholders is that the AVC's current

members have demonstrated greater independence and commitment to the job than the previous ones. The government needs to approve the amendments proposed by the Council of Europe on appointing and dismissing the board.

In 2022, the AVC devised and began a ‘peer support’ mechanism with the Council of Europe to set a benchmark to consolidate financial and operational stability. The Audiovisual Media Services Code should set out criteria for dismissing the management and the supervisory board of the national television broadcaster and the members of the AVC if their performance is sub-standard. The Code need to be amended to clarify the appointment procedures to ensure the best candidates are selected and avoid early termination on performance grounds. Priority should be given to adequately remunerating the AVC’s professional staff and members. Nevertheless, given the financial constraints on public financing, Moldova does not seem to have sufficient funds earmarked for public services. In addition, the AVC has reduced the amount of staff and technical equipment and has called on international donors for immediate support. This situation leaves the Council vulnerable to commercial and other interests, undermining its independence.

A positive development to ensure equal access to media for competitors during electoral periods is that the new Electoral Code (adopted in December 2022) provides that the AVC should issue weekly reports during the pre-electoral campaign period.

The AVC has undergone a thorough reform during the reporting period. It approved its Regulation of organisation and functioning and on 17 June 2022, approved the new organisational structure comprising 58 staff units. The AVC’s budget increased by 30% between 2022 and 2024. The AVC still needs to consolidate its financial stability and its independence.

Overall, the Audiovisual Media Services Code should be further aligned with the EU Audiovisual Media Services Directive to guarantee the independence of the AVC and the public broadcaster.

Implementation of legislation/institutions

The AVC monitors local content, the fulfilment of Romanian language requirements and the accuracy of broadcast information. It imposed several fines worth several thousand euro on channels that retransmitted Russian political and military content. The monitoring of these channels’ news bulletins indicated that some were broadcasting content produced by outlets banned in the EU and were mainly practising ‘disinformation by omission’: their news bulletins focused on refugees or their economic impact on Moldova without presenting the events of the war against Ukraine.

Media institutions have lodged complaints on being subject to strategic lawsuits against public participation (SLAPPs). The Independent Journalism Centre’s data show 21 strategic lawsuits were registered in 2022 and 2023. For example, the investigative website, CU SENS, was the target of six of these lawsuits in 2022 after publishing two journalistic investigations. A doctor from the Institute of Oncology filed 15 lawsuits against different media outlets after they published a National Anticorruption Center press release about the doctor.

Public service broadcaster

The public service media company, Teleradio Moldova, faces significant challenges: it pays substantial amounts for transmission, operates from an old and oversized building and does not have enough suitable equipment. In addition, it cannot offer competitive salaries or suitable working conditions.

The state budget provides funds to the public service broadcaster. The share of state allocations fell from 0.29% (2022) to 0.25% (2023) of the total state budget.

Under the amended Audiovisual Media Services Code, Teleradio Moldova is allowed to sell advertising. Its estimated advertising revenue for 2023 constitutes 1.5% of the state budget allocations. Media outlets continue to diversify their fundraising activities, including through the monetisation of media products, and through efforts funded by public.

Economic factors

Once a broadcasting licence or cable authorisation is granted, the media service provider or distributor pays a fee, as prescribed in the Law on licensing. The Audiovisual Council can impose financial penalties for breaches of the Audiovisual Media Services Code. These can range from EUR 25 to EUR 5 000 depending on the severity and impact of the case and how often they occur in a 12-month period.

During the reporting period, the AVC took several steps to ensure a fairer audiovisual climate. As a result, the number of TV stations classified as ‘national’ increased from 13 (under a 2019 decision) to 41 (under a 2022 decision). The 41 TV stations are now obliged to produce at least 80% of content in Romanian. The AVC monitoring of more than 10 stations revealed that there is media concentration among three main groups affiliated to fugitive oligarchs and related to the RTR Russian-state media group. After an amendment to the Audiovisual Media Services Code in January 2023, which introduced a new format for the annual report for media providers and distributors, the AVC can reject incomplete reports or sanction channels that have not submitted reports. For the first time, these reports are public in order to improve the transparency of media ownership.

Internet

The online space is not regulated through legislation. Nevertheless, in 2022 and 2023, under a decision of the Commission for Emergency Situations, the Security and Intelligence Service blocked more than 20 websites, which were considered to be spreading disinformation, including from organisations banned in the EU.

Professional organisations and working conditions

There are no unions or trade associations of journalists. Media professionals are represented by media NGOs, which are consulted on a permanent basis on draft bills regulating the media sector. There are 20 professional non-commercial registered media organisations. The Press Council is the only independent self-regulatory body. It examines complaints against the media and monitors whether journalists respect the Code of Ethics (signed by 145 media outlets). Its decisions are recommendations and not mandatory.

Most journalists work under employment contracts at editorial offices registered as public associations or limited liability companies. Journalists and media providers tend to combine their contracts with authorship contracts, which are undeclared employment contracts so that employers pay less taxes.

Freedom of artistic expression

Freedom of artistic and scientific creation is guaranteed under the Constitution. Artistic creation is not subject to censorship and there is no restriction on it. The law sets out that the state may not censor works of art produced in theatres, , and concert venues or critical or analytical material about those performances. There are no known cases of artists being intimidated, and no restrictions have been imposed by state or local authorities or other bodies on performances, exhibitions or other forms of artistic expression.

Anti-propaganda provisions

On 16 December 2022, the Commission for Exceptional Situations ordered the suspension of the broadcasting licence of six TV stations, which mostly rebroadcast content from Russia for ‘lack of accuracy in reflecting national events, but also the war against Ukraine’. Three of the TV stations moved their content to other TV stations. All six companies challenged the Commission in court, and a decision is still pending. The decision of the Commission for Exceptional Situations is only applicable during the state of emergency and is not a permanent legal solution.

Freedom of association and assembly is generally upheld, with several demonstrations and rallies taking place peacefully throughout 2022 and 2023. Some of these protests were organised by people subject to EU sanctions who aimed to destabilise the constitutional order. In September and October 2022, large anti-government demonstrations were organised in Chişinău. The Commission for Extraordinary Situations adopted a decision in October 2022 banning all assemblies that blocked traffic lanes, transport arteries and access to evacuation routes on working days. The decision also limits the duration of assemblies to a maximum of 4 hours and gives the police the power to arrest any protesters disrupting public order. A local human rights association criticised the decision that the authorities could potentially implement measures that would restrict the right to freedom of assembly.

In November 2022, the government requested the Constitutional Court to assess the constitutionality of the Şor Party’s activities. The request argued that action taken by the Şor Party over the previous 6 years was incompatible with the fundamental principles of democracy and requested that the party be excluded from the State Register of Political Formations. The request was confirmed by the Constitutional Court in June 2023. In May 2023, a criminal case on the illegal financing of the Şor Party (including the financing of protests) was sent to court.

The emergency legislation on assemblies has allowed the government to overcome the destabilisation attempts. To avoid restricting freedom of assembly, following the lifting of the State of Emergency, the government should revert to legislation on demonstration that is in line with European best practices.

The adoption of the amendments to the Criminal Code criminalising “separatism” could have negative bearing on freedom of expression and association, rights for national minorities and non-discrimination as well as on Transnistrian conflict settlement dynamics.

On 31 May 2023, the EU announced **sanctions** under two distinct frameworks against seven individuals responsible for supporting or implementing actions that undermined or threatened the sovereignty and independence of Moldova, as well as the country’s democracy, the rule of law, stability and security. The individuals had also carried out activities undermining or threatening the territorial integrity, sovereignty and independence of Ukraine.

On **property rights**, Moldova is a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms, including its first protocol which guarantees property and possession rights. Private property rights are also guaranteed under the Constitution. The share of applications at the ECtHR, which refer to direct or indirect infringement of property rights, remained high in 2022. There are no restrictions on exercising property rights and carrying out property transactions, except for purchases of agricultural land by foreign investors. Domestic procedures related to enforcing reinstatement cases remain complicated and lengthy. Restitution of property, provided for in the national

legislation, is not applied widely. Only some groups, such as victims of communist political repression, are entitled to ask for restitution of some types of property or to apply for compensation.

Moldova has an electronic cadastral system maintained by the Public Services Agency, which is also in charge of registration of ownership rights through its wide network of offices and online systems. There are still many towns and villages where residents do not own the houses they live in, and some people cannot sell or donate their property. For the last several years, Moldova has been implementing a state programme to create a real estate cadastre. The government is carrying out massive cadastral works as well as registering property rights in a real estate register. Individuals can also register ownership of real estate by paying a fee.

The national legal framework recognises equal rights to land for everyone, without any restriction based on nationality or gender. Numerous unresolved claims in courts are related to the restitution of property of religious communities. This stems from a dispute between the Moldovan Orthodox Church and the Bessarabian Orthodox Church. The claims concern the control of more than 800 monasteries and churches considered national heritage monuments.

Minorities face no issues in accessing rights to property documentation. There is no evidence that the Roma population has been particularly discriminated in accessing property documentation. According to the 2014 Population and Housing Census, the Roma population live in 227 localities that represent 14% of all Moldovan localities. The allocation of social housing is carried out according to the legislation. Rules on eviction are non-discriminatory and strictly regulated so that rights, liberties and safety of everyone is ensured. Where eviction is necessary due to social housing being damaged or in danger of collapse, the Law on housing provides that the tenants facing eviction from these premises are given another lease. Such a decision comes from the local council and is contingent on the availability of housing.

Moldovan legislation is largely in line with the EU *acquis* in the areas of **non-discrimination** and equality, and there is a state response to hate crime (in the Criminal Code and the Contravention Code). In May 2022, President Sandu signed amendments to the criminal and misdemeanour codes into law on discrimination and incitement to discrimination or hate-based violence. The new amendments provide for harsher sentences for crimes motivated by stereotypes or prejudice based on race, colour, ethnicity, national origin, social background, citizenship, sex, gender, language, religion or religious beliefs, political views, gender identity, sexual orientation, health, age, disability, or civil status. It also defines ‘genocide propaganda and crimes against humanity’ and introduces a new term, ‘incitement to discrimination’.

The Equality Council investigates allegations of discrimination. Amendments to the Law strengthening the Equality Council were adopted in February 2023 and entered into force on 9 February 2023. The Equality Council’s mission is to prevent and combat discrimination, promoting equality and diversity. The Equality Council’s members cannot be prosecuted or held legally responsible for the opinions they express and the powers they exercise according to the law. The Council prepares and presents to Parliament the general report on the situation on preventing and combating discrimination with recommendations to all institutions, which have competences to fight certain aspects of discrimination. Complaints lodged with the Equality Council in 2022 referred mostly to the labour market (24%), access to goods and services available to the public (22%) and the violation of personal dignity (also 22%). Notably, in 2022, the Council decided on an instance of racial profiling and recommended training for employees on racial profiling and combating prejudices against minorities. In another case, the Council found that hate speech constitutes stigmatisation of the targeted

group, perpetuates negative prejudices and incites discrimination and interethnic hatred.

There is no data on hate-motivated violence and hate crime. The police and prosecution services do not have sufficient training to investigate those cases, which often do not reach the courts. Often cases referred to the Equality Council are not investigated or registered by the police. The platforms recording crimes should be modified to include information on hate crimes, which respects international data collection standards, and distinguish between hate crimes, hate speech and discrimination. The database should contain fields related to biased offences and hate speech.

Legislative steps have been taken to fight **gender inequality** and **violence against women**. Procedures have been developed to increase the ease of access to justice for victims of domestic violence and sexual crimes and improve implementation of the Istanbul and Lanzarote Conventions. The amended Law includes a redefinition of the concept of rape and changes penalties for domestic violence crimes to ensure that preventive detention is possible. The State Agency for Prevention of Domestic Violence against women is being set up with special teams of police, doctors and social workers being trained alongside one another to improve sexual violence investigations.

In March 2023, the first specialised service for victims of sexual violence was set up. In April 2023, the government adopted a new regulation allowing third parties to initiate sexual violence investigations.

The legislative progress in countering gender-based violence has been supported by the entry into force of the Istanbul Convention on 1 May 2022 in line with Moldova's Universal Periodic Review commitments. In November 2022, Parliament passed a package of legislative amendments aimed at aligning national legislation with the relevant commitments of the Convention.

There is more awareness that gender-based violence is a crime punishable under the law. However, cases are still likely to be underreported, and more work on a victim-centred approach is required, to put the rights and dignity of victims - including their well-being and safety - at the forefront of all efforts to prevent and respond to sexual exploitation and abuse and sexual harassment.

On **gender equality**, the new national programme on promoting and ensuring gender equality for 2023-2027 and its corresponding action plan were adopted in April 2023. Both were developed with the active participation of civil society, and most of the recommendations have been taken on board by the authorities.

Moldova should however still revise the legal definition of discrimination against women and girls for it to comprehensively cover all violations that according to international law constitute discrimination based on sex and gender. Still of concern are the limited access to justice for women, insufficient financial and human resources to advance women's rights, and the persistence of patriarchal attitudes and discriminatory stereotypes on the roles and responsibilities of women and men in the family and society. There is also a high prevalence of gender-based violence against women, lack of consideration for the new forms of trafficking in persons, lack of diverse educational choices by women and girls, and gender occupational segregation.

The national legal framework for child protection in Moldova is largely aligned with the international framework for the **rights of the child**. During the reporting period, Moldova adopted the national child protection programme for 2022-2026 with 72 planned actions. A memorandum of understanding between the Ministry of Labour and Social Protection and

UNICEF was signed creating a path to cooperation on implementing the national programme and its action plan mentioned above.

Moldova has ratified the United Nations Convention on the Rights of the Child and the optional protocols. The third optional protocol on a communications procedure was ratified during the reporting period. The country has also harmonised its legislation with the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) and responded to the first and second monitoring rounds.

Moldova is shifting to community-based alternatives to institutionalisation for children removed from parental care. Progress has been achieved in strengthening local institutional capacity with the expansion of professional parental care networks as an alternative to large-scale care institutions for children. The deinstitutionalisation of children with disabilities is progressing and has been boosted through the coordination of government agencies and institutions, parental education activities, increasing participation in early childhood education, and strengthening the monitoring and evaluation capacity at central and regional levels. Insufficiently qualified staff, lack of resources and poor infrastructure hinder the specialised care and support for institutionalised children with disabilities.

The number of minors in detention fell during the reporting period compared with the last 6 years. At the end of 2022, the number of minors convicted in the first instance was 226, constituting 40 convictions per 100 000 minors. The number of minors held in preventive detention was 13, with 32 minors serving prison sentences.

Children in Moldova still face many issues. These include insufficient protection from abuse and violence in educational institutions, insufficient access to child-friendly justice, insufficient protection against torture and ill treatment, lack of psychological support to child victims, inadequate protection for street children, and protection against abuse and neglect, including by parents.

Moldova has some limited progress on the rights of **persons with disabilities**. It has ratified the UN Convention on the Rights of Persons with Disabilities in 2010 and the Optional Protocol to the Convention in 2021. The national law on the inclusion of persons with disabilities implements the Convention and protects the rights of persons with disabilities to fully participate in all aspects of the country's economic, social and political life. The legislation generally ensures that persons in vulnerable situations benefit from protection, social assistance and community social services, but a lack of capacity and resources remains a challenge. This includes prioritising support to families with two or more persons with severe disabilities over support to families with only one, which contradicts the Convention.

The national programme for the deinstitutionalisation of persons with intellectual and psychosocial disabilities from residential institutions for 2018-2026 aims to deinstitutionalise 50% of persons with intellectual and psychosocial disabilities, provide social services at community level and transform residential institutions into regional centres to provide alternative services. Currently there are six temporary placement centres for persons with disabilities: four temporary placement centres for adults with disabilities and two temporary placement centres for children with disabilities. Approximately 1 700 persons with disabilities (of which approximately 400 are children) are placed in residential institutions.

Significant progress has been achieved in closing the educational gap for children with disabilities. To achieve inclusive education, further steps are needed to integrate children with disabilities into the mainstream education system, ensuring access to specialised medical care and rehabilitation, and accessing community-level support and services. Children with more complex needs, e.g. with intellectual disabilities, remain segregated. Tailored educational

plans for children with disabilities are implemented, and a methodological guide on curricular adaptation and evaluation of school progress, in the context of inclusive education, is available. Such solutions are not yet streamlined across the whole country. The number of students with special educational needs and disabilities integrated into general education institutions has increased. At the beginning of the 2022/2023 academic year, 10 500 students with special educational requirements and disabilities were enrolled in general primary and secondary education institutions. Most were enrolled in general education institutions or in schools for children with intellectual or physical development disabilities. Compared with the 2018/2019 academic year, the number of students with special educational requirements rose by 3.8%, and the number of students with disabilities rose by 8.3% in general education institutions. The proportion of boys with special educational requirements and disabilities included in general education remained higher compared with that of girls. In the 2022/2023 academic year, this was 66.2%, compared with 33.8% (in the 2021/2022 academic year, the figures were 65.7% and 34.3%, respectively).

On the rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons, implementation of the existing legal framework for protection against discrimination and hate crime remains challenging. Highly negative views on LGBTIQ persons and discrimination based on sexual orientation and gender identity is prevalent in society.

Several politicians and political parties, like pro-Russian political parties and groups, have targeted the LGBTIQ community, accusing them of destroying ‘traditional values’. The Moldovan Orthodox Church, which holds a powerful position in Moldovan society, also regularly spreads inflammatory messages about the LGBTIQ community. Civil society initiatives have also been targeted; for example, an anti-bullying school campaign organised by the NGO Genderdoc in cooperation with the Ministry of Education was recently attacked. Opponents started a petition and threatened to sue those educational institutions that participated in the campaign and urged heads of educational institutions not to take part in such campaigns.

In one case, the Equality Council examined statements made by two deputies during televised broadcasts, which were subsequently widely shared on social media, and found them to be hateful and discriminatory.

In June 2022, Chişinău hosted the Moldova Pride festival for the eighth time.

Civil society groups have drawn the attention of authorities to the need to uphold rights of LGBTIQ persons, especially when mass meetings are organised. No real progress has been made to challenge negative LGBTIQ stereotypes. The authorities should aim to implement standards and international practices on eliminating social segregation and discrimination to ensure that minority communities can feel safe as active participants of society.

Moldova has not harmonised its legislation with EU directives on criminal proceedings. Nevertheless, the Constitution and secondary legislation appear to broadly cover the main **procedural rights**. The Moldovan legal framework is not directly aligned with the Victims’ Rights Directive and the Directive on compensation to crime victims. The rights of victims of crime are ensured, both within and outside the criminal proceedings, through the provisions of the Criminal Procedure Code and the Law on the rehabilitation of victims of crime. In addition to victim’s initial procedural rights, an individual may request to be recognised as an injured party by the prosecuting body. This gives them additional rights related to the criminal side of the proceedings and/or be recognised as a civil party. The victim with the procedural status of an injured party / civil party has the right to request and collect full

compensation for the damage caused by the crime. Another guarantee to support the rights of victims of torture was provided through the criminalisation of torture in Moldovan legislation with the introduction of a specific article in the Criminal Code.

A state-guaranteed legal aid system exists, regulated by law and run by the National Council for State-Guaranteed Legal Aid. The system covers all criminal and non-criminal cases examined in court. The law on legal assistance guaranteed by the state distinguishes between two categories of assistance: primary legal aid and qualified legal aid. The law also states urgent legal aid as a type of qualified legal aid.

Preventive coercive measures are applied in exceptional cases for violent, serious and particularly serious crimes. In hearings involving juvenile defendants, the participation of a defence counsel and a pedagogue or psychologist is mandatory. The quality of overall legal assistance guaranteed by the state is not sufficiently ensured. Complaints have been received on the neglect on procedural deadlines, requests for payments for aid and the poor quality of legal support.

Criminal and procedural legislation has been aligned with the provisions of the Istanbul and Lanzarote Conventions. The most significant changes concern the exclusion of the reconciliation mechanism for parties in sexual violence criminal cases, harsher penalties for domestic violence crimes, the right of victims to give evidence in a friendly environment and the redefinition of the concept of rape. The concept of rape has been aligned according to the Istanbul Convention and will allow essential elements to be included in describing the act of rape, which currently is not covered by the criminal law.

In terms of the application of procedural rights, according to the European Court of Human Rights 2022 activity report, more than half of the violations found regarding Moldova concern the right to a fair trial (a total of 234 in 2022).

Persons belonging to national **minorities** sometimes face language barriers, making it difficult to access public services. This particularly concerns court hearings and communication with the courts. The Agency for Interethnic Relations is in charge of relations with national minorities. In September 2022, a new director was appointed to the previously vacant spot. In March 2023, the government adopted the programme for 2023-2025 on the implementation of the strategy for strengthening interethnic relations for 2017-2027.

Moldova has ratified the Framework Convention for the Protection of National Minorities. There are no restrictions on the right to freedom of expression and media, freedom of assembly and association for persons belonging to ethnic or national minorities. Many programmes aim to encourage minority groups to participate in political life. National authorities have committed themselves to increase the number of Roma women in the decision-making processes, including through the representation of persons belonging to national minorities in Parliament. The Gagauz minority is represented by three parliamentarians, and the Bulgarian minority by one parliamentarian. A major aspect in the rights of persons belonging to ethnic or national minorities is the Gagauz Autonomy. This is an entity created in 1994 to protect the rights of persons belonging to the Gagauz minority. Some progress was achieved in this area. A Governor (Bashkan) of Gagauzia is appointed as a full member of the government by a presidential decree. As the supreme official of Gagauzia, all public administration authorities of Gagauzia answer to the Governor. In December 2022, Parliament adopted two laws allowing for mutual consultations between Parliament and the People's Assembly of Gagauzia on all issues related to the autonomy status and competencies in the law-making process. Similarly, Gagauzia can consult the central authorities on different issues related to proposed laws on autonomy.

The **Roma minority** is still the minority the most affected by discriminatory practices and social stigma, especially when it comes to social integration, employment and access to health services. This includes the sizeable number of Roma fleeing the war against Ukraine and arriving in Moldova. The lack of access to basic services and low attendance rates in schools have led to a further marginalisation of the Roma.

There has been some progress on the inclusion of Roma, including through the adoption of the programme to support the Roma population for 2022-2025. As part of the programme, other mediators have been employed in addition to those employed through the Roma mediator programme in place since 2004. The mediators help the Roma access public services offered by the state, such as obtaining identity papers and ensuring Roma children's access to education. Further success of the mediators' programme is hampered by low institutional know-how on the programme's technical details. The number of Roma in the compulsory healthcare system remains low, leading to limited access to healthcare services. Roma families, including those with persons and/or children with disabilities, receive social assistance (benefits and services). The Roma population tends to be over-represented as beneficiaries of social assistance, especially child allowances, which are therefore a major source of income. However, only a small percentage of the Roma population is entitled to social security benefits due to the low levels of formal employment associated with long-term unemployment. The share of Roma participation in the social security system and their inclusion in social assistance programmes is unknown due to a lack of data. Roma often do not declare their minority identity because of fears of social stigmatisation and discrimination.

To reduce shortcomings in assisting the Roma population in their right to community integration, the public association coalition, Voice of the Roma, has started implementing a project on promoting human rights and equal opportunities. The initiative includes creating local initiative groups made up of Roma community representatives who can get involved in decision-making processes at local level. These local initiative groups focus on identifying problems and solutions in different areas, including access to infrastructure, education, community development and human rights.

EU citizens' rights

In September 2020, Moldova abrogated legal provisions allowing the acquisition of citizenship for special economic interests. Moldova should refrain from developing an investor citizenship scheme ('golden passports') as it would pose risks as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime. It would also be incompatible with the EU *acquis*.

2.2.2. Chapter 24: Justice, freedom and security

The EU has common rules for border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails lifting border controls inside the EU. Member States also cooperate with Moldova in the fight against organised crime, corruption and terrorism, and on judicial, police and custom matters all with the support of the EU Justice and Home Affairs agencies.

Moldova has **some level of preparation** in implementing the EU *acquis* in the area of justice, freedom and security. Legislation is partially aligned with the EU *acquis*. During the reporting period, Moldova adopted and rolled out an integrated home affairs strategy (2022-2030) as well as six sectoral development strategies (2022-2025) to support the overall implementation of the integrated home affairs strategy. Moldova introduced some institutional changes to strengthen its capacity. To further align its legislation with the EU

acquis, Moldova should further boost its institutional capacity and improve interinstitutional cooperation and coordination.

Some progress was made by reorganising and strengthening institutional capacity in some areas, notably the General Inspectorate for Migration. Moldova also upgraded its Bureau for Asylum and Migration into a General Inspectorate with additional staff. On migration, Moldova continued its constructive engagement with EU Member States and EU law enforcement agencies.

Moldova is the European country hosting the highest number per capita of Ukrainian nationals that have fled Russia's war against Ukraine. Since 1 March 2023, Moldova has been implementing a decree granting 1-year temporary protection to these people.

There is scope for a broader use of existing tools and mechanisms for information exchange and operational cooperation.

In the coming year, Moldova should in particular:

- improve interinstitutional cooperation and coordination, strengthen institutional capacity and sharing information in the area of security to ensure effective prevention and response capabilities, including in a crisis;
- strengthen the legal framework and institutional capacity for assessing risks and fighting cybercrime.

Fight against organised crime

The country has **some level of preparation** in implementing the EU *acquis* in this area. **Some progress** was made in addressing the fight against financial crime and the recovery of assets. Assets belonging to three prominent oligarchs have been seized. The national asset recovery programme for 2023-2027 and its action plan were adopted in December 2022 and are being implemented. The good ongoing work on seizure and confiscation of assets linked to organised crime should be sustained.

Cooperation with EU Member States, Frontex, Europol and CEPOL has been expanded. Moldova has made repeated commitments to and progress in the fight against arms trafficking, drugs, trafficking in human beings and migrant smuggling. It adopted a new sectoral development strategy on the prevention and fight against organised crime for 2022-2025 to support the implementation of the integrated home affairs strategy (2022-2030) that was adopted in September 2022, and appointed a national firearms focal point. The country also revised in March 2023 its Law on the regime of arms and ammunition for civilian use, aiming to align it with the EU *acquis*.

Capacity should be strengthened to counter cybercrime and improve the general preparedness and response to cybercrime.

In the coming year, Moldova should in particular:

- continue strengthening the fight against organised crime, including through cooperation with EU Member States and EU institutions and agencies, including Frontex and Europol, CEPOL, EMDDA as well as in the context of the European Multidisciplinary Platform Against Criminal Threats (EMPACT) and the EU-Moldova Support Hub for Internal Security and Border Management⁸;

⁸ To note that the Commission recommended under its sixth report under the Visa Suspension Mechanism recommended Moldova to continue ongoing efforts in the fight against organised crime.

- increase and improve data exchange via SIENA, collection, analysis and sharing across services, supported through the proactive use of information exchange tools;
- develop and approve the new national strategy on trafficking in human beings.

Institutional set-up and legal alignment

There are different law enforcement agencies with police executive powers in Moldova, namely the police, the *carabinieri* (all three falling under the Ministry of Internal Affairs)) as well as the customs service (under the Ministry of Finance). There are 8 686 police officers (police 7 666, carabinieri, 1 020). This is equivalent (both forces combined) to 334 police officers per 100 000 inhabitants and very close to the EU average of 335.3 (Eurostat, 2019-2021). A high turnover rate and a significant number of vacancies affect the operational capacity of local law enforcement.

Key **institutions** in the fight against organised crime include specialised police units within the Ministry of Internal Affairs and other institutions, which deal with different types of organised crime and financial investigations. These include the Prosecutor's Office, the Prosecutor's Office for Combating Organized Crime and Special Cases, the Criminal Assets Recovery Agency, the services for the protection of national interests and anti-corruption under the Ministry of Interior Affairs and the National Anticorruption Center (NAC). Customs are in the lead for all investigations related to goods smuggling in the country. Coordination between services is efficient. The police should continue improving equipment and strengthening initial and vocational training across services. Forensic capacity remains fragmented; there is no operational countrywide DNA database yet, and DNA-profiling capacity is limited. The use of special investigative measures and proper equipment should be increased as well as the number of certified staff.

On **the strategic framework**, during the reporting period, Moldova adopted the Ministry of Internal Affairs' new general home affairs strategy (2022-2030) and six dedicated development sectoral strategies (equivalent to action plans covering a 33-year period for 2022-2025) on organised crime, public order, safety, civil protection, migration and education/ethics/digitalisation. The strategies set out priorities, objectives and the resources needed. As mentioned above, the sectoral strategy on organised crime has been adopted. Moldova should develop and adopt a **national serious and organised crime threat assessment** (SOCTA).

The legislation on **trafficking in human beings** has been further aligned with the EU *acquis*. The recommendations from the national strategy for preventing and fighting trafficking in human beings for 2018-2023 should serve as basis for the development of the next one to be adopted in the last quarter of 2023.

Moldova is party to the Budapest Convention on **cybercrime** and signed the First and Second Additional Protocols on enhanced cooperation and disclosure of electronic evidence in November 2022. The cybercrime unit has a central forensic laboratory, but its capacity needs to be increased.

The country made some progress in **anti-money laundering** and **counter-terrorism financing**; legislation on preventing and combating money laundering and terrorism financing was adopted (see Chapter 4). A draft law amending the Criminal Procedure Code to broaden the powers of more law enforcement agencies to investigate money laundering cases was adopted by Parliament in April 2023.

During the reporting period, the legislation on the **possession of weapons by civilians** was further aligned with the EU *acquis*. The Law on the regime of arms and ammunition for

civilian use was amended with the latest amendment entering into force in March 2023. The legislation is compliant with the EU small arms and light weapons management standards and is aligned with the provisions of the European Convention on the acquisition and possession of weapons by private individuals.

There is a national focal point on firearms in the Police General Inspectorate and a state register of weapons to manage data on firearms and other weapons owned by individuals, businesses and state agencies. Moldova should continue to increase access to relevant databases on arms across relevant departments.

On the trafficking of **small arms and light weapons**, Moldova is implementing the objectives of the EU action plan on firearm trafficking integrating the 2018 Western Balkans Roadmap. The country is also actively engaged with the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons and strengthened its cooperation within EMPACT.

Moldova is a member of the WeProtect Global Alliance against child sexual abuse and exploitation. The inter-ministerial strategy on **online child sexual abuse** has still to be adopted. Capacity for investigating and prosecuting crimes against children committed through the internet has been strengthened but need to be brought in line with the best EU and international standards.

Implementation and enforcement capacity

Moldova has made significant progress in the fight against organised crime and in increasing its international cooperation, including with EU agencies and EU Member States. In 2022, 192 criminal cases against 583 individuals accused of committing crimes qualified as within an organised criminal group or criminal organisation or in their interests. The court of first instance issued 28 sentences in cases concerning organised crime against 43 people, with 18 sentenced, 8 not qualified as organised crime, 1 acquitted and 2 terminated, with 14 final convictions.

On international police cooperation, Moldova has a liaison officer posted at Europol's headquarters in The Hague, and Europol has deployed guest officers and a coordination officer to Chişinău since March 2022. A more intensive use of the tools and skills provided by Europol guest officers should be made. Moldova has also taken further steps to strengthen international police cooperation in conducting joint investigations. Since June 2022, with the support of Europol, it conducted joint investigations in 10 cases on emerging trends in transnational crimes, with 19 individuals arrested. The investigations included trafficking in human beings involving minors' case and a major identity fraud case facilitating irregular migration to the EU of potentially up to 2 000 people.

Moldova also substantially increased its participation in EMPACT. In 2023, it has been participating in 106 operational actions against 20 in 2022. In addition, Moldova participated in several EMPACT joint action days (JAD) and hosted the coordination centre of the EMPACT JAD Finestra 2. This was coordinated by Frontex and focused on cigarette and tobacco smuggling, document fraud, firearms smuggling, and other excise goods. Furthermore, five joint investigation teams were set up during the reporting period with EU Member States, and eight international operations took place.

Exchanges facilitated through the Secure Information Exchange Network Application (SIENA) have started to improve but need to be further stepped up. Moldova has created a new SIENA post (two are now available in the General Police Inspectorate and National Anticorruption Center) and is providing additional training to government staff. The roll-out

of SIENA posts across institutions and the country should be increased as should the number of training courses on using SIENA.

Moldova has a working arrangement with CEPOL since October 2012 and actively participates in its activities (trainings, workshops, study visits).

The EU-Moldova Support Hub for Internal Security and Border Management was launched in July 2022 to address the risks to internal security and transnational criminal activities in the context of the Russian aggression against Ukraine. It strongly steers the cooperation with the European specialised agencies and Member States.

The country has strengthened cooperation with INTERPOL through the exchange of information and conduct of activities in the illicit Arms Records and tracing Management System and in trafficking in human beings. On domestic operational capacity, Moldova should continue setting up robust processes to assess ongoing threats and risks, in particular hybrid threats. It should amend the legislation to ensure the availability of specialist structures, technology, resources, and skilled people to be able to adequately respond to such threats. Data collected manually should be digitised to ensure they can be consulted comprehensively as part of an integrated analytical process.

On financial investigations, between June 2022 and March 2023, the Office for Prevention and Fight against Money Laundering of Moldova carried out 91 financial investigations. An additional 52 financial investigations were conducted between March and June 2023, demonstrating the country's increased commitment and capacity.

Moldova is mainly a country of origin and transit for **trafficking in human beings**. However, many people are victims of exploitation as well. Over the reporting period, the number of adult victims identified significantly declined. There were 107 adult victims (32 women/75 men) reported in 2022 against 312 adult victims reported in 2021. The number of child victims in 2022 was 44 (43 girls/1 boy). Victims trafficked for labour exploitation are mainly men and vulnerable persons, including persons with disabilities. There are potential risks of increase of trafficking in human beings amid the mass displacement caused by Russia's war of aggression against Ukraine. Over the reporting period, 44 criminal cases were initiated: 29 for trafficking in adults and 15 for child trafficking.

The national referral mechanism for victims of trafficking is operational and has been recently upgraded in line with best international practices. Two centres for victims are managed by the national authorities and in 2022 a third one dedicated to male victims was handed over to the national authorities. Cooperation with civil society is good. A hotline is also in place. However, there are concerns about providing sustainable assistance to victims specifically providing both socio-economic opportunities and specialised medical care. There are also concerns about the workload of social protection staff at local level who are the main contact points for not only victims of trafficking and gender-based violence, but also child assistance. Overall, Moldova demonstrates continued efforts but still needs to improve its capacity to prevent all types of trafficking in human beings, identify victims at an early stage and strengthen the response of law enforcement.

On the trafficking of small arms and light weapons, 69 criminal cases were investigated with 27 final convictions. A total of 277 firearms were marked in line with the latest amendment to national legislation in January 2022, which is itself in line with EU small arms and light weapons management standards. Considering the high risk of firearms trafficking in the region, linked to the geopolitical context, Moldova showed more commitment and made some progress. Moldova adopted the concept of the National Firearms Focal Point within the structure of the General Inspectorate of the Moldovan Police by creating a separate

department and making the appointment. The IT system on weapon registry was upgraded in autumn 2022 with the support of the EU. There were more trainings on firearms detection in cooperation with Frontex and the EU Border Assistance Mission.

The exchange of information among different national stakeholders (law enforcement agencies, the prosecution service and the judiciary) needs to be strengthened. Access to INTERPOL databases should be made available to representatives from the National Firearms Focal Point and other relevant law enforcement authorities.

Moldova continued to gradually strengthen its capacity in **cybercrime**. However, it should set up a more effective law enforcement response focusing on the detection, traceability and prosecution of cybercriminals. The country should raise awareness among its population about preventive measures and reporting cases to law enforcement authorities.

In 2022, the General Police Inspectorate placed 28 individuals in **witness protection programmes** and in 2023 until 12 April 2023 placed an additional 16 individuals.

Cooperation in the field of drugs

Institutional set-up and legal alignment

The Ministry of Internal Affairs and the Ministry of Health are the lead bodies in the fight against drug trafficking and illicit drug use. The National Investigation Inspectorate has a specialised directorate in charge of the fight against drugs, while the National Agency for Public Health monitors the drug situation.

At the end of 2022, Moldova adopted a new policy document, the programme for prevention and fight against crime for 2022-2025. Its adoption marked the end of the national anti-drug strategy for 2020-2027. However, the prevention of drug use is not mentioned in the new programme (one of six sectoral programmes under the home affairs development strategy).. This highlights the difficult inter-agency coordination on this policy and the constraints, especially in the field of prevention.

Moldova's National Drug Observatory is not fully operational . The Department of Quality and Management of Healthcare at the National Agency for Public Health of the Ministry of Health carry out some of the work of the National Drug Observatory. They coordinate collecting data on drugs and draft the annual report on illicit drug use and trafficking. No national early warning system on the surveillance, prevention, detection and criminalisation of new psychoactive substances (NPS) exists. NPS are monitored through a list of narcotics, psychotropic substances and plants containing such substances as detected in illicit trafficking. The lists last updated in 2017 is not up to date to ensure effective monitoring. Inter-agency cooperation should be improved between law enforcement bodies (police and customs), local enforcement authorities and health and education bodies.

Moldova is party to the relevant international narcotic drug control conventions. It cooperates with Europol in the fight against drug trafficking and has signed a memorandum of understanding with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) in 2012. The National Drug Observatory is the EMCDDA's contact point.

Implementation and enforcement capacity

Moldova is a transit country for drugs. In 2022, 925 drug-related offences were recorded, an increase of 13.08% compared with the previous year. Between March and June 2023, 165 criminal cases were initiated for drug-related offences. In 2022, 88 criminal cases on drug trafficking were investigated, and 146 individuals prosecuted. The court of first instance decided on the confiscation of goods with a total value of MDL 1 290 953.64 (approx.

EUR 66 000).

On the secure storage and effective destruction of drugs, the technical requirements for the facilities where narcotic, psychotropic and/or precursor substances are stored are aligned with the normative international acts to which Moldova is a party. There are rules on the effective destruction of drugs; the substances are destroyed in the presence of members of the Permanent Commission for the Harmless Destruction of Medicines. The destroyed substances are encapsulated in plastic mass or metal containers, hermetically sealed and buried in landfill.

In 2022, Moldova demonstrated a good level of cooperation on drugs with neighbouring and other countries. There were also more exchanges of information via SIENA.

There are drug addiction treatment centres in eight localities, and access to treatment is available in 13 prisons. In 2022, out of the 3 214 drug-addicted patients enrolled in the national rehabilitation programme, 211 successfully completed their course. In the same year, 153 new drug-addicted patients were registered in the national opiate pharmacotherapy programme, with a total of 2 332 people receiving support.

Fight against terrorism

Institutional set-up and legal alignment

The Security and Intelligence Service's (SIS) Anti-Terrorist Centre coordinates the fight against terrorism. The adoption of a single mechanism on anti-terrorist activity is in line with EU standards. In the police, the National Investigation Inspectorate has the power to investigate crimes of money laundering, terrorist financing and separatism, and the proliferation of weapons of mass destruction and related material.

Moldova's anti-terrorism legislation is generally aligned with the EU *acquis* and applicable international law.

The national security strategy covers the fight against terrorism and terrorist financing. The national programme for the consolidation and realisation of anti-terrorist protection measures for the critical infrastructure objectives for 2022-2026 and the action plan to implement it was adopted in October 2022.

No formal EU-Moldova counter-terrorism dialogue exists but informally, SIS officers participate in workshops, training and practical exercises organised by the EU and Member States. The SIS is part of the EU platform Focal Contact Points Foreign Terrorist Fighters Network. In addition, in 2022, SIS representatives participated in the working meetings of the EU's Committee On Preventing and Combating Terrorism. The Anti-Terrorism Centre also participates in the Committee on the Prevention and Combating of Terrorism at the Council of Europe.

Implementation and enforcement capacity

Moldova has stepped up operational cooperation with Europol, INTERPOL and neighbouring countries, notably through agreements between the SIS and Ukrainian and Romanian special services. The agreement on operational and strategic cooperation between Europol and Moldova covers terrorism. Operational cooperation with Europol could be further improved by making full use of existing mechanisms, such as the possibility for local Europol officers to carry out real-time secondary checks upon request. Moldova has a low level of terrorism alerts, but it is confronted with a wide range of hybrid threats, including bomb alerts.

In 2022, the SIS investigated eight people suspected of supporting radical groups. There were no convictions for terrorist activities.

On preventing incoming or outgoing financial transactions to finance terrorism, the SIS cooperates with the Office for Prevention and Fight against Money Laundering. During this period, the SIS and the Office carried out checks on 25 cases.

Several training measures on preventing terrorism and the radicalisation of the population were implemented during the reporting period for staff of central public authorities, airlines and judicial institutions. More work should be done to prevent and address the risk of foreign fighters' radicalisation, including by improving the exchange of data and using the EU framework for reference, such as the common risk indicators on foreign terrorist fighters.

Judicial cooperation on criminal and civil matters

Moldova's legislative framework for mutual legal assistance in civil and criminal matters is partly aligned with the EU *acquis*.

During the reporting period, Moldova received 396 requests for cooperation on civil matters and all of them were addressed. Moldova received 455 requests for legal assistance in criminal matters and all of them were addressed. The country is still not party to several core conventions, including the 1996 Child Protection Convention, the 2005 Choice of Court Convention, the 2007 Child Support Convention and the 2007 Maintenance Obligations Protocol. Moldova should become a party to these conventions.

Moldova has engaged in a constructive working relationship with Eurojust. Based on the agreement in force since 2016, it signed six joint investigation team training agreements. In 2022, it cooperated with Eurojust on 24 cases in cooperation with the Eurojust point of contact. To strengthen cooperation, the Prosecutor's Office appointed a part-time liaison prosecutor to Eurojust in June 2023. Furthermore, Moldova expressed its readiness to cooperate with the European Public Prosecutor's Office (EPPO) in line with the 1959 European Convention on Mutual Assistance in Criminal Matters and its Protocols. The General Prosecutor's Office of Moldova concluded a working arrangement with the EPPO in July 2022.

Legal and irregular migration

Institutional set-up and legal alignment

The Ministry of Internal Affairs is the main player in the field of migration. The Diaspora Relations Bureau within the State Chancellery of the Prime Minister is the key stakeholder in engaging with the diaspora. The Commission for the Coordination of Migration and Asylum Activities, established in 2018 under the lead of the Ministry of Internal Affairs, is a permanent advisory body without any legal status. It was created to monitor and coordinate activities on migration, asylum, statelessness and the integration of foreigners in Moldova and to help apply relevant government policies consistently. Since 2021, the country has observer status in the European Migration Network.

Moldova initiated in 2022 a sectoral development programme for the management of migration flows, asylum and integration of foreigners for 2022-2025. It includes an action plan to implement the agreed objectives.

A total of 13 agreements on the readmission of persons illegally staying have been concluded⁹, and 14 are currently under negotiation.

⁹ The 13 agreements are with the EU, Switzerland, Denmark, Norway, North Macedonia, Serbia, Bosnia and Herzegovina, Montenegro, Türkiye, Albania, Georgia, Kazakhstan and Ukraine. There are 24 additional protocols with Switzerland, Estonia, Hungary, Romania, Slovakia, Germany, Austria, Lithuania, Latvia,

Implementation and enforcement capacity

Since the outbreak of Russia's war of aggression against Ukraine, Moldova has faced unprecedented inflows of refugees (the highest number per capita in Europe). As of August 2023 and since the beginning of Russia's full scale aggression against Ukraine, roughly 900,000 individuals entered Moldova through the border with Ukraine. From those, 109,315 Ukrainian citizens and 7,877 third-country nationals currently remain on its territory. They were mainly female (59%), and minors (46%). Since 1 March 2023, the government has implemented decision granting temporary protection to displaced persons from Ukraine, enabling its beneficiaries to obtain an identity document issued free of charge for 1 year. Following the unprecedented influx of people fleeing Ukraine, which put Moldova's already limited capacity under pressure, the country's authorities maintained their efforts and mobilised resources to provide immediate humanitarian assistance as prescribed in the state of emergency.

On accommodation for refugees, Moldova set up 135 Refugee Accommodation Centers (RACs). 58 remained active in June 2023. The accommodation capacity of these RACs is for 3 805 people. 12% of them provide services for persons with disabilities and those suffering from mental health disorders. The government of Moldova has launched a consolidation strategy to address disorders in existing RACs, which will lead to their gradual closure in 2023-2024. Between March and June 2023, nine RAC were closed (the equivalent of 424 places). If there is an increase in the number of arriving migrants or refugees, there is the possibility to reopen the closed RACs.

Furthermore, special measures targeting unaccompanied children have been put in place, such as immediate referrals to national social workers (the guardianship authority) and providing them with the same services as Moldovan children. Further effort is needed to ensure the systematic registration of foreigners, centralise data and provide them access to all relevant services in line with EU standards, including the General Data Protection Regulation (GDPR).

In 2022, Moldovan authorities reported 1 332 cases (2 590 individuals) of illegal crossing of the state border (main nationalities: Ukrainian, Turkish and Russian). In 2022, 78 foreign citizens were placed in public custody. In the first quarter of 2023, 54 foreign citizens were placed in public custody, of those 37 were released from custody.

The Ministry of Internal Affairs oversees forced returns. Implementation of the EU-Moldova readmission agreement is generally good. During the reporting period, 623 Moldovan citizens were successfully returned under readmission agreements. Moldova has concluded 13 agreements and 24 additional protocols on readmission.

Moldova contributes to the Europol European Migrant Smuggling Centre's annual reports on migration and asylum.

Asylum

Institutional set-up and legal alignment

The Moldovan legislation governing asylum is broadly in line with the EU *acquis*, and the country is party to the relevant international conventions. The General Inspectorate for Migration (GIM) operating under the Ministry of Internal Affairs decides on applications for international protection. It strengthened its Bureau for Asylum and Migration into a General

Malta, Bulgaria, Czechia, Poland, Belgium, The Netherlands, Luxembourg, Spain, Slovenia, Greece, Italy, Serbia, Albania, Georgia, Kazakhstan and Ukraine.

Inspectorate with additional staff. Moldova conducted several reforms over the reporting period, which focused on further modernising its central structure and reorganising the border police. The Migration and Asylum Directorate, which examines asylum applications, was reorganised and is now part of the GIM. This has strengthened institutional capacity to prevent, monitor and combat the illegal stay of foreigners.

The legal status of asylum seekers and beneficiaries of international protection, temporary protection and political asylum are regulated by the Law on asylum. The Asylum and Integration Directorate of the GIM is responsible for asylum procedures. Unaccompanied minors applying for asylum are subject to child protection measures, including social placement services. Negative decisions on asylum claims may be appealed through administrative litigation without any prior procedure. The verification process includes a request from the country's Security and Intelligence Service.

Moldova maintains a regularly updated contingency plan that takes a multidimensional approach covering areas based on different types of scenarios (e.g. border management and humanitarian needs). Following Russia's war of aggression against Ukraine and the peak of the refugee emergency, a plan was initiated by international players with the support of the EU's civil protection mechanism, and this served as the basis for humanitarian aid preparedness.

Recent efforts focused on alignment with the EU Temporary Protection Directive, including a government decree adopted on 18 January 2023 and implemented from 1 March 2023. The decree allows for the registration of refugees from Ukraine on a voluntary basis.

As of August 2023, 10,747 individuals have been granted temporary protection.

The decree which is largely aligned with the EU Temporary Protection Directive, gives the rights of residence, identity documentation, education and access to the labour market and healthcare. Funding social protection/health costs related to the temporary protection is a major challenge. The current needs of beneficiaries of temporary protection have been mainly covered through continuous external support from humanitarian donors. Against the backdrop of decreasing humanitarian funding, this caseload will need to be fully absorbed by the government-led national social protection assistance. Moldova should develop a clear roadmap as to when and how this will be achieved.

Implementation and enforcement capacity

Compared to 2021, when 75 applications for international protection were lodged, and 43 people were granted protection, as of July 2023, the Migration and Asylum Office has received 14 376 asylum applications, following the arrival of people from Ukraine seeking protection after Russia's aggression against Ukraine. Out of the total number of applications examined, 7 643 decisions on asylum applications were issued: 17 people were granted refugee status, 62 granted humanitarian protection, 28 had their asylum applications rejected, 12 appealed in court, and 7 552 people terminated the asylum procedure. The remaining applications are in the process of examination. There are approximately 3 700 pending cases as many of the registered asylum seekers left the country days after registering.

With the sharp increase of asylum applications lodged, the national authorities are experiencing a significant backlog. In response, the government is carrying out an institutional reorganisation, increasing staff numbers, procuring equipment and renovating infrastructure. The funds allocated in the budget for integration programmes granting asylum were insufficient given the current number of asylum seekers reported and being supplemented by international donors.

To prevent trafficking in human beings and related crimes involving refugees at open facilities and to prevent the infiltration of smugglers, a specialised police unit carried out facility visits jointly with representatives of an NGO (the international centre Laicre Strada Moldova with which the General Police Inspectorate concluded a cooperation agreement in November 2020). Victims of trafficking in human beings in facilities have been provided with information, including telephone numbers of relevant hotlines. This information is available in English and Ukrainian.

Between May 2022 and April 2023, the European Union Agency for Asylum (EUAA) deployed a small contingent of staff to Moldova to help the country manage the arrival of people fleeing the invasion of Ukraine. This was the first-ever deployment of staff by the EUAA (and its predecessor the European Asylum Support Office) to a non-EU country. The relevant authorities in Moldova maintain close contacts with the EUAA's representatives.

Accessing and providing information on asylum procedure for asylum seekers needs to be improved. Moldova should ensure that the necessary resources are available to implement the country's contingency plan to manage human flows.

There is no electronic biometric database with fingerprints and photos, and the border crossing points are not connected. During the reporting period, the development and implementation of a biometric database was set as an objective. Active steps should be taken to plan this database's alignment with the EU's fingerprint database (Eurodacurodac).

Visa policy

The legal framework for visa policy is broadly in line with the EU *acquis*. The list of third countries with which Moldova maintains visa-free regimes is not fully aligned with the list of third countries whose nationals require a visa for short stays in the EU. Moldova maintains visa-free regimes with 12 of these countries: Armenia, Azerbaijan, Belarus, Cuba, Ecuador, Kazakhstan, Kyrgyzstan, Qatar, Russia, Tajikistan, Türkiye and Uzbekistan.

The security features of visas and travel documents are broadly aligned with EU standards. All passports issued by Moldova are biometric and comply with the International Civil Aviation Organization format.

The European Commission's sixth report under the Visa Suspension Mechanism¹⁰, published in October 2023, concluded that Moldova continues to meet the visa liberalisation benchmarks.

Schengen and external borders

Institutional set-up and legal alignment

The General Inspectorate of Border Police manages Moldovan state borders (1 906 km in length excluding the 453.4 km Transnistrian segment). It is a specialised civilian body operating under the Ministry of Internal Affairs. Following a reorganisation in the reporting period, it now has 44 border police sectors and 75 border crossing points. Border responsibilities are shared between customs and the border police.

Border control legislation is partly aligned with EU policy and best practice. A national integrated border management strategy (2018-2023), a programme for integrated border management (2022-2025) and a dedicated action plan (aligned with the 2006 EU concept on integrated border management) are in place. The National Council for Integrated State Border

¹⁰ COM(2023) 730 final

Management is the advisory body in charge of implementing the action plan. There is no Schengen action plan in place yet.

Cooperation with INTERPOL on lost and stolen passports is regular and systematic. Moldova continued its efforts to improve border management and migration systems by investing in infrastructure, software and training.

Implementation and enforcement capacity

Technical equipment and infrastructure need to be modernised. All border crossings are connected to INTERPOL's Stolen and Lost Travel Documents database. They have biometric travel document readers, and some have video surveillance systems for profiling passengers. Moldova does not have a national advanced passenger information (API) system. Inter-agency cooperation is satisfactory between border police and customs at border crossing points. Further improvements are required on information exchange through mutual access to databases and a formalised and secure information exchange system. Joint patrolling by both services should be initiated. Moldova needs additional resources, in particular technical resources, to improve the quality of border checks. Border surveillance resources are limited and require substantial improvements. Border crossing infrastructure also requires significant improvements.

Moldova demonstrated significant efforts in processing passenger flows, especially refugee flows from Ukrainian borders, and increasing border surveillance patrols. Moldova has stepped up ad hoc crisis response mechanisms since February 2022 in response to the high number of border crossings from Ukraine.

In the area of **international cooperation**, Moldova continued to implement the Status Agreement with Frontex signed in March 2022. Frontex launched a joint operation in Moldova in 2022, which was renewed in January 2023 for another year. A Frontex liaison officer with a regional mandate for the Eastern Partnership was deployed and is currently based in Moldova. The EU Border Assistance Mission (EUBAM) to Moldova and Ukraine has supported both countries since 2005, including by improving integrated border management standards.

Joint patrolling is well established and operational with its neighbouring countries – Ukraine (since 2011) and Romania (since 2018). In 2022, there were 460 joint/coordinated patrols with Ukraine and 725 with Romania. **Information exchange** takes place centrally and at joint points of contacts: 4 002 requests were initiated in Galați at the Moldova-Romania border and 3 036 requests in Palanca at the Moldova-Ukraine border. In the reporting period, Moldova and Romania signed two agreements: one on setting up the international border crossing point Leova-Bumbăta and another on coordinated controls at two border crossing points, Leușeni (Moldova) and Albița (Romania). The pilot phase of the joint border controls started on 10 April 2023.

Measures to combat corruption at the border are part of the general national integrity and anti-corruption strategy for 2017-2023 and the Ministry of Internal Affairs' sectoral development strategy on education/ethics and digitalisation (2022-2025), adopted in 2022. In 2022, disciplinary action was taken against 2 border officers for improper influence in service activity, and 8 border guards were discharged for committing acts of corruption. In customs, 115 service investigations were initiated, and 19 criminal cases were initiated.

Counterfeiting the euro

Moldova is not party to the 1929 Geneva Convention for the suppression of **counterfeiting currency**. The Criminal Code provides for criminal liability for counterfeiting and is partly

aligned with the EU *acquis*.

All aspects of customs cooperation are covered in Chapter 29 - Customs Union.

2.3. ECONOMIC CRITERIA

Key economic figures	2014-19 average	2020	2021	2022*
GDP per capita (% of EU27 in PPS)	27.1	29.2	31.7	N/A
Real GDP growth	3.6	-7.4	13.9	-5.0
Economic activity rate of the population aged 15 and above (%); total	44.2	40.3	41.1	41.8
female	40.6	36.1	36.4	37.8
male	48.2	45.1	46.5	46.3
Unemployment rate of the population aged 15 and above (%); total	4.6	3.8	3.2	3.1
female	3.2	3.2	2.5	2.6
male	4.9	4.3	3.8	3.5
Employment of the population aged 20-64 (annual growth %)	-3.9	-4.4	1.1	2.2
Nominal wages (annual growth %)	12.0	9.8	13.1	N/A
Consumer price index (annual growth %)	5.9	3.8	5.1	28.7
Exchange rate against EUR	20.3	19.7	20.9	18.9
Current account balance (% GDP)	-6.9	-7.7	-12.4	-15.7
Net foreign direct investment, FDI (% of GDP)	2.4	1.3	2.8	3.7
General government balance, % GDP	-1.5	-5.1	-1.9	-5.5
General government debt, % GDP	32.9	35.2	32.2	35.7

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

2.3.1. The existence of a functioning market economy

Moldova is in **between an early stage and some level of preparation** in establishing a functioning market economy. Despite the difficult economic and social environment caused by Russia's full-scale invasion of neighbouring Ukraine, the authorities have remained committed to pursuing macroeconomic stability and economic reforms. During the past ten years, Moldova has been able to sustain economic growth of about 3.1% per year on average despite the pandemic and other economic headwinds. Public finances have been stable with a low deficit (at about 1.5% of GDP on average over 2014-2019) and a comparatively low debt level. The National Bank of Moldova has been generally successful in keeping inflation within the target range set at 5% (+/- 1.5 percentage points).

After a strong rebound from the COVID-19-crisis, growth contracted sharply in 2022 due to the fall-out from Russia's war against Ukraine, the energy crisis and a severe drought that caused output in agriculture and related industries to plummet. High inflation, caused by soaring energy and food prices, depressed households' disposable incomes and consumption, while war-related uncertainty contributed to weaker investment. On the external side, the

already high current account deficit widened further, also reflecting the weak export base and low productivity. As a result of the deep recession and the increase in social spending to alleviate the energy price shock, the budget deficit widened in 2022 and is set to widen further in 2023. Public debt remains low and is largely extended on concessional terms.

Despite significant progress, Moldova's business environment is characterised by widespread corruption, a weak rule of law, weak institutional capacity and low quality public services. These factors hamper entrepreneurship and give rise to a large informal economy. The state still has considerable influence in key sectors of the economy, including telecommunications, energy and transport as well as in price setting. The authorities are carrying out a screening of state-owned enterprises, some of which are loss-making, in order to restructure and/ or privatise them. At the same time, they are working to improve corporate governance and accountability in the sector. Despite the recession, the financial sector remains stable, reflecting the impact of previous reforms and prompt regulatory action to curb the rapid increase in household lending. The labour market recovered from the pandemic and was relatively robust in 2022, despite rising unemployment towards the end of the year. However, it continues to be characterised by a very low participation rate, which is linked to the high share of people working or only willing to work abroad.

In order to improve the functioning of the market economy, and taking into account the difficult external environment, Moldova should in particular:

- further improve the management of public finances, and in particular the planning and execution of public investment;
- continue improving the business environment, reduce state interference in price setting and maintain a rapid pace of reforms to restructure and/ or privatise state-owned enterprises;
- address the main weaknesses of the labour market, in particular by increasing incentives for labour force participation, and take measures to tackle informal employment.

Economic governance

The authorities remain committed to pursuing macroeconomic stability and economic reforms despite the difficult external environment. The government continued to introduce reforms to cushion the impact of the energy crisis and supported those fleeing Russia's war of aggression against Ukraine. Structural reform measures focused, in particular, on ensuring energy security, further fighting corruption and increasing the transparency of the justice sector as well as reforms of state-owned enterprises (SOEs). The authorities also adopted a new public finance management strategy, aiming to improve revenue mobilisation and expenditure allocation as well as making budgeting more transparent. Therefore, progress on reforms continues, although weaknesses remain, for example in budget planning and execution, especially capital expenditure.

Moldova continued to progress in implementing macro-financial assistance from the EU, with disbursements in 2022 and 2023. There was also progress on the IMF Extended Fund Facility/Extended Credit Facility, adopted in December 2021 and augmented in May 2022. In April 2023, the IMF concluded its third programme review, assessing overall policy implementation as positive, ensuring a new disbursement. Among others, the programme aims to improve the transparency of and governance framework for anti-corruption institutions, strength the independence of the central bank, improve the fiscal governance framework and implement further SOE reforms. The IMF concluded that although the risks

to the programme are high, the authorities' ownership of the programme and commitment to reforms remain strong.

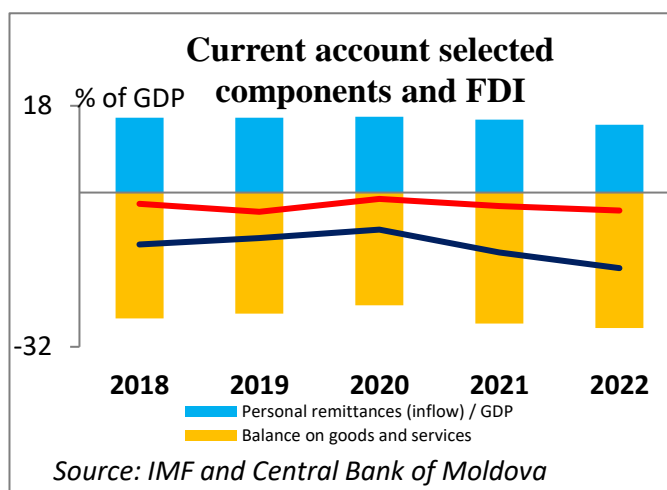
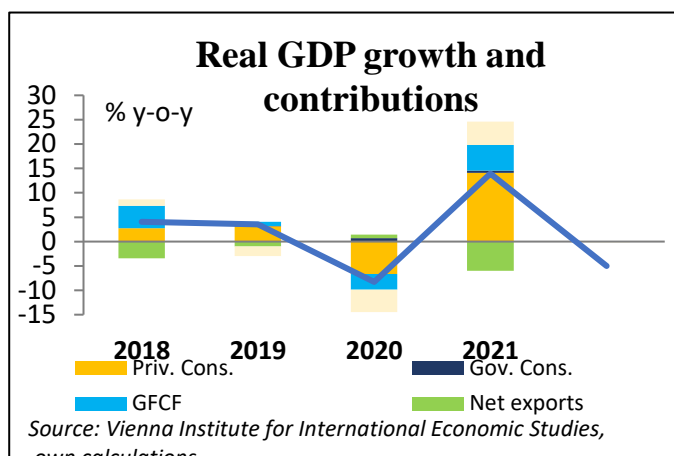
Macroeconomic stability

Russia's war of aggression against Ukraine further aggravated Moldova's vulnerable energy situation and, together with yet another drought depressing the agricultural sector's output, brought a sizeable economic shock and cost-of-living crisis. Following a strong rebound in 2021 of 13.9%, real GDP contracted sharply by 5.0% in 2022.

The 2022 recession was driven by a steep fall in household consumption and investment, down by 6.3% and 6.8% respectively. High inflation (averaging 28.7% in 2022), driven by high energy and food prices, eroded households' disposable incomes, while war-related uncertainty contributed to weaker investment. Weak agricultural performance due to the drought and the decline in construction and manufacturing activity (partly due to war-related supply chain disruptions) further contributed to Moldova's depressed economic performance. Net exports also negatively contributed to growth despite the better-than-expected export performance in 2022, which largely reflected re-exports to and from Ukraine due to the reallocation of regional trade routes. After remaining broadly unchanged for about a decade, the income gap with the EU has slightly narrowed in recent years as per capita GDP in purchasing power standards rose to 31.7% of the EU average in 2021, up from 29.2% in 2020 and 25% in 2013.

The current account deficit further widened in 2022 to 15.7% of GDP compared with 12.4% of GDP in 2021 due to the high trade deficit. Moldova's current account deficit was already large between 2017-2021, averaging 8.9% of GDP. Its recent widening largely reflects Moldova's protracted energy crisis and weak export base. A considerable share of Moldova's imports (about 17%) are mineral products, including oil and gas, and the country's exports are heavily reliant on agricultural products as well

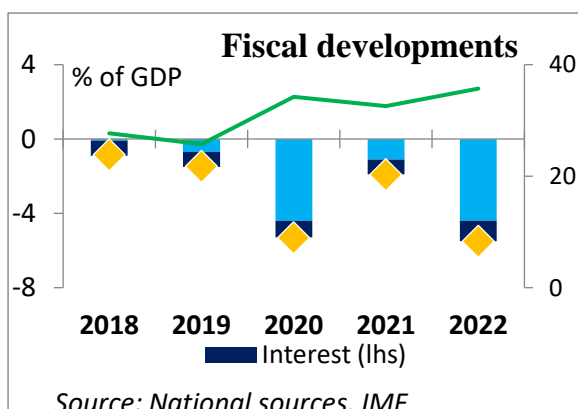
as low value-added manufacturing, such as textiles and food. Moldova's high trade deficit at 29.5% of GDP on average between 2018-2022 is partly balanced by high and stable remittances of about 15% of GDP as well as financial transfers. Its recent deterioration was fuelled by high energy import prices and weaker exports in the second half of 2022, also on the back of the poor agricultural output. In 2022, net foreign direct investment flows recovered strongly at 3.7% of GDP, jumping back to their pre-pandemic levels (which averaged 2.8% between 2018-2022). In 2022, Moldova's external debt increased to 67.7% of GDP from 64.2% in 2021, largely on account of the higher financing needs caused by



Russia's war against Ukraine and the energy crisis. At the same time, external debt metrics point towards a low level of distress. Moldova's debt is largely extended by international donors on concessional terms. The country's foreign currency reserves experienced significant volatility in the first half of the year, prompting central bank interventions to support the local currency. By year end, the reserves were back to a stable and high level of USD 4.5 billion, equivalent to 5 months of imports of goods and services.

Consumer price inflation surged in 2022, peaking at 34.6% in October. This was followed by a gradual deceleration to 30.2% by year end, remaining well above the central bank's target range of 5% +/- 1.5 percentage points. The surge followed a relatively stable inflation of 4.7% on average between 2017-2021. The large increase in prices in 2022 (by 28.7% overall) was driven chiefly by the rise in energy import prices, including gas and electricity as well as food prices. The central bank tightened the monetary policy stance by a cumulative 13 percentage points between January and August 2022, bringing the benchmark interest rate to 21.5%. In December 2022, when inflation began to decelerate, falling below 10% in August 2023, the central bank started easing its monetary stance, bringing the key rate gradually down to 6% as of September 2023. Following the Moldovan leu's depreciation against the US dollar by about 7% (and a more limited depreciation against the euro by 0.8%) in the first half of 2022, the currency recovered, helped by restored confidence and considerable external support.

As result of Russia's war of aggression against Ukraine and increased social spending to alleviate the energy shock, the budget deficit widened to 5.5% of GDP in 2022 (including the recapitalisation of Energocom) up from 1.9% of GDP in 2021. Except for 2020 when the pandemic started, Moldova maintained relatively low deficit levels (below 2% of GDP) between 2016-2019. In 2022, revenues were robust on account of inflationary effects. They grew by 16%, driven by higher VAT outturns, corporate income tax and, to a lesser extent excise duties. Expenditure rose by 28% driven largely by current spending on targeted transfers to households, partial wage indexation and outlays for securing gas supplies. The government successfully introduced and implemented the Energy Vulnerability Reduction Fund, which provided targeted compensation to the most vulnerable households, and recapitalised the state-owned energy company, Energocom (amounting to about 2.2% of GDP) to secure gas reserves. Nonetheless, Moldova continues to struggle with significant budget under-execution, especially on capital investment projects. Ongoing reforms to improve capital investment planning should help improve budget execution. In 2023, the deficit is projected to remain high at 6% of GDP, according to the State Budget Law. It will be further driven by higher outlays for social assistance programmes as well as partial salary and pension indexation. In 2022, Moldova's public debt-to-GDP ratio increased to a still relatively low 35.7% of GDP (having averaged 32.3% of GDP between 2018-2021). This increase was due to the large budget deficit and the marked weakening of the local currency



in the first half of the year. Most of the country's debt has been extended by international creditors on concessional terms.

The macroeconomic policy mix has remained appropriate and sustained macroeconomic stability and the resilience of economic activity despite the multiple domestic and external shocks. Supportive fiscal policy and an appropriate monetary policy stance helped mitigate the impact of

high energy prices, while gradually curbing inflation. The authorities have also made effective use of contingency planning, especially to ensure adequate resources to strengthen the long-term security of the energy supply. Nonetheless, Moldova's economy grapples with the medium-term challenges of low productivity and competitiveness, as well as external imbalances linked to the high current account deficit.

Functioning of product markets

Business environment

Moldova continued to make progress in improving its business environment despite the fallout from Russia's war against Ukraine and a strong decline in economic activity.

Moldova's business environment and capacity to attract foreign direct investment are negatively affected by corruption, an inefficient judiciary and low-quality public services. In 2022, the authorities started implementing an ambitious agenda to strengthen the rule of law and combat corruption which remain key obstacles to investment and productivity growth. In November 2022, the government set up a working group to reduce the regulatory burden on businesses. The body proposed a legislative package to amend the Labour Code, reduce red tape and simplify inspections. The legal framework for e-commerce and digitalisation of government services was upgraded, which should strengthen institutional capacity, the quality of public services and productivity.

Moldovan firms are smaller, less productive and have fewer exporters than in the EU.

In addition to the strong presence of SOEs limiting domestic competition, the private sector has been negatively affected by the dual shock of the COVID-19 pandemic and Russia's war against Ukraine. In response, the government launched the Fund for Entrepreneurship and Economic Growth of Moldova, which offers low-interest loans to small and medium-sized enterprises (SMEs). The government also initiated a series of other programmes supporting SMEs' digital transformation, energy efficiency and technological improvements. Moldova has liberalised foreign trade policy in recent years, but gaps remain in customs procedures, logistics services and infrastructure. In 2022, Moldova approved a new Customs Code and made progress on harmonising sanitary and phytosanitary standards with the EU, which should facilitate export activity. At the same time, only a little progress was made on upgrading the transport and logistics infrastructure which hinders export-oriented businesses.

The share of the informal sector in Moldova's economy remains substantial partly as a result of a heavy regulatory burden, weak law enforcement and a general lack of trust in government institutions.¹¹ the corresponding tax evasion also negatively impacts budget revenues while distorting competition to the detriment of regular firms. Formal market entrance and entrepreneurship are further hampered by a shortage of skilled labour and a high reservation wage for Moldovans searching for work abroad, either permanently or on short-term contracts.

State influence on product markets

State influence remains significant in key sectors of the economy, including in telecommunications, energy and transport, primarily through about 900 state-owned enterprises (SOEs). Moldova's restrictive product market regulation also hampers competition. Overall, SOEs own assets worth about 26% of GDP and employ around 6% of

¹¹ According to World Economics (2022), which uses an average of the latest estimates from economists around the world, the informal economy represents about 40% of GDP in Moldova, versus an EU average of 16.9 %. Such estimations need to be taken with caution given the variety of methodological approaches.

the active labour force. They suffer from a lack of adequate corporate governance practices, inefficiency and poor oversight. This further undermines private sector investment and the economy's competitiveness and poses fiscal risks. The SOE sector still requires State-aid support, as around 40% of SOEs recorded losses in 2021, 5 percentage points more than in 2019. Moldova's product market regulation lags behind most EU countries, hampering competition. The country has some of the most restrictive product market regulations and barriers to entry in services and network industries (for example, electricity and gas, telecommunications, transport and regulated professions). Price controls in a broad number of sectors, including network industries, food, fuels and pharmaceuticals, are also more widespread in Moldova than in EU countries. This hampers competition, innovation and productivity gains.

Privatisation and restructuring

In December 2022, Moldova approved a strategy for 2023-2030 on the administration of state property to reduce the number of SOEs, improve their financial performance and increase market competition. As a next step, the authorities have started a selection process by categorising SOEs at the central government level according to which companies either remain in state ownership or will be liquidated, restructured or privatised. A privatisation strategy for small and large companies is under preparation, including identifying the optimal conditions for launching privatisation efforts. In parallel, the authorities submitted regulations to Parliament to improve selection procedures for supervisory board members, SOE audits and SOE corporate governance codes. The Ministry of Finance is also improving the methodology for SOE fiscal risk reporting. Privatisation was suspended in 2022 due to the fall-out from Russia's war against Ukraine and the adoption of the SOE strategy; however, several SOEs were reorganised or liquidated. The concession agreement for Chisinau International Airport to a private entity was terminated due to alleged breaches of contractual obligations.

Functioning of the financial market

Financial stability

The financial sector remained broadly stable despite significant challenges posed by the pandemic, economic recession and Russia's war of aggression against Ukraine. The stability is also due to the comprehensive corrective measures taken after the 2014 banking crisis. Banks are well-capitalised and have preserved adequate liquidity buffers. The average capital adequacy ratio stood at 29.5% at the end of 2022, about 350 basis points higher than a year before (vs. the 10% regulatory minimum). The liquidity coverage ratio was around 280%, well above the prescribed 100% limit. The Russian war against Ukraine led to liquidity pressures in the financial system and bank deposit withdrawals in both foreign currency and the Moldovan leu accelerated to close to 8% year-on-year by the end of March 2022. As confidence was restored, the total amount of deposits recovered to about 5% above the pre-war level at the end of 2022. Economic headwinds and slowing lending activity triggered a modest increase in the non-performing loans (NPLs) ratio to 6.4% at the end of 2022. Banks have benefited from a relatively high coverage with prudential loan loss provisions. In 2022, the return on equity and return on assets were 15.7% and 2.8%, respectively. Although this shows favourable profitability, it is expected to weaken due to elevated credit risk and falling remuneration on reserves in the 2023 monetary policy easing cycle.

Prompt regulatory action by the Moldovan authorities helped preserve financial stability. In response to a rapid increase in household lending, in May 2022 the National

Bank of Moldova (NBM) introduced responsible lending requirements, loan-to-value and debt service-to-income limits for banks, and the National Commission for Financial Markets (NCFM) issued similar regulations for non-bank lenders. The NBM also set an additional systemic risk buffer of 2% for banks' exposure to the household sector. Since 2019, the NBM has carried out the Supervisory Review and Evaluation Process to check the soundness of banks on an annual basis. In March 2023, a draft law to increase and further align deposit guarantees with EU levels was submitted to Parliament. Moreover, the authorities are strengthening the supervisory framework for insurers, savings banks and non-bank lenders by transferring regulatory and supervisory powers to the NBM. This requires more staff and better technical capacity.

Access to finance

Financial intermediation in Moldova remains underdeveloped and access to finance was further constrained by the COVID-19 pandemic and then the fallout from Russia's war against Ukraine. Banking sector assets declined from about 52% of GDP in 2020 to a modest level of around 48% of GDP at the end of 2022 (vs an average of about 280% of GDP in the EU in 2021). Credit to the private sector represented a relatively low share of 21% of GDP as of December 2022. This decelerated significantly throughout the year following NBM and NCFM measures to tighten lending standards for households, the fallout of Russia's war of aggression against Ukraine and a drop in output, which all affected corporate lending. The government's stimulus for lending to SMEs and micro-enterprises could alleviate credit constraints, while the easing of monetary policy and an improved economic outlook for 2023 may contribute to a more favourable environment. According to the World Bank, more than 80% of firms report financing their working capital from their own financial sources. The need to improve access to finance for the corporate sector, while preserving financial stability, is also underlined by the relatively modest role played by capital markets in Moldova.

Functioning of the labour market

Despite economic headwinds, the labour market recovered from the pandemic, although significant structural challenges persist. The number of employed people increased by 1.8% in the fourth quarter of 2022 from a year before. The country saw job creation in industry, services and construction, whereas employment in agriculture declined. The structurally low employment rate (among the population aged 15 years and over) rose slightly to 40.5% in 2022 from 39.8% in 2021. However, it remains well below the EU average of 54.1% in 2022. This primarily reflects the low participation in the labour force of people working or only willing to work abroad. Informal employment in agriculture, construction and trade is estimated to be more than 22% of the total. At the same time, the creation of well-paid jobs is hampered by insufficient private and foreign investment. This investment in turn is held back by, among other factors, companies' limited access to skilled labour and persistent net emigration. Some rigidity in labour market regulations, in particular regarding the ease of hiring and firing practices, still hamper a smooth allocation of the workforce. Moldova's unemployment rate has been persistently low, which partly reflects the low participation in the labour force and the substantial share of self-employed workers. Due to the economic decline and the increase in the size of the labour force in 2022 (including people fleeing Russia's war of aggression against Ukraine), the unemployment rate rose to 4.6% in the fourth quarter of 2022, up from 2.6% a year before. Depressed by high inflation, real wages contracted by over 10% year-on-year in the last quarter of 2022. However, the government has taken measures to mitigate the erosion of purchasing power of civil servants and pensioners through a partial indexation.

Moldova needs to accelerate structural reforms to increase formal job creation and the availability of skilled labour. Further reforms are needed to reduce gaps in the education system and the large share of young people who are not in education, employment or training (NEETs). This would help break the vicious circle of the shortage of skilled labour and high reservation wages (driven by very large inflows of remittances and labour emigration) and the relatively low investment in higher added-value sectors. The government adopted a national employment programme for 2022-2026. In addition, it took measures to reduce the high level of undeclared work in the labour market by strengthening checks and incentives to bring jobs into the formal economy. In 2022, the National Employment Agency provided labour market information and counselling services to more than 90% of people registered with the agency, 38% were offered job matching services and close to 24% were placed in a job. Yet, employment services and labour market programmes lack adequate funding, and progress to reduce the mismatch between skills and job requirements is slow.

2.3.2. The capacity to cope with competitive pressure and market forces within the Union

Moldova is in **between an early stage and some level of preparation** in terms of its capacity to cope with competitive pressure and market forces in the EU. Despite large investments in education, outcomes remain well below those in the EU. This contributes to the persistent mismatch between the skill level of the workforce and what employers require, which is one of the key business environment obstacles for firms. Investment in research and development remains low and has been falling despite the government's strategy to increase it. Moldova's physical infrastructure remains underdeveloped in part due to the lack of government investment. The stock of foreign direct investment is also low, reflecting weaknesses in the business environment and continuing problems with corruption and the protection of property rights. Digitalisation is lagging behind: just over two thirds of households are connected to the internet and about 40% of government services for businesses are available online. The Moldovan economy remains heavily reliant on the agricultural sector, and there is a large productivity gap compared with the EU. Moldova is a relatively open economy and is closely integrated with that of the EU. Economic links between the two have strengthened since the entry into force of the Deep and Comprehensive Free Trade Area in 2016, and the EU is the country's largest trading partner and source of foreign investment.

In order to improve its competitiveness and support long-term growth, Moldova should, in particular:

- take steps to improve the quality of education and training to ensure outcomes align with labour market needs, including ICT skills and digital literacy;
- increase investment in infrastructure, especially to improve energy security and facilitate international trade and digitalisation;
- implement measures to attract foreign direct investment, including addressing issues related to corruption and the rule of law as well as investment incentives and promotion.

Education and innovation

Moldova consistently invests a substantial amount in education, at levels equal to or higher than in many EU Member States (5.3% of GDP in 2022 compared with an EU average of 4.8% in 2021). The share of education in public spending, at around 21%, is more than double that of the EU average but has been declining in recent years.

The traditionally high level of spending has not led to corresponding educational outcomes, which continue to reflect the country's relatively low level of economic development and point to inefficiencies. Although Moldova's PISA reading scores have improved over time, the country scores below the OECD average, ranking 51st out of 77 countries, and almost all EU Member States in the most recent edition. Moldova had relatively low net enrolment rates, at 90.6% for primary education and 86.9% for secondary education in 2018. Tertiary enrolment levels were relatively low compared with other European countries (with a gross enrolment rate of 62.9%) although they have increased by nearly 10 percentage points since 2015. In 2022, 18% of the working-age population had an advanced (tertiary) level of education, compared with about 30% in the EU.

These outcomes are reflected in a mismatch between the level of skills of the labour force and those required by employers. A poorly educated workforce was cited as the biggest obstacle for businesses in Moldova in the last Enterprise Survey in 2019, with one-third of firms citing this as a major constraint, a much higher proportion than other comparable countries in Europe and Central Asia. These outcomes exacerbate existing challenges related to demographic change, namely an ageing and declining population.

Investment in research and development remains low, amounting to 0.2% of GDP in 2022 compared with an EU average of 2.3%. The country has a 4-year strategy for boosting research and innovation, which runs until the end of 2023, though over the first three years of the strategy the relative size of expenditure on R&D declined, amounting in 2022 to 0.86% of public spending. The lack of technical advisory services in fostering innovation in the agricultural sector is of particular concern.

Physical capital and quality of infrastructure

Investment (gross fixed capital formation) has accounted for an increasing share of GDP in Moldova, but the level of public investment has not been enough to maintain the public capital stock. Overall investment rose from 23% of GDP in 2017 to 27% in 2020 before declining sharply to 22% in 2021. Public investment has failed to keep up with the country's needs due to frequent budget revisions and under-execution, leading the public capital stock to fall from 75% of GDP in 2000 to 58% in 2018. Foreign direct investment has fluctuated around a relatively modest level in recent years, amounting to about 3.7% of GDP in 2022, but the total stock of FDI remains low at about 25% of GDP reflecting weaknesses in the business environment and persistent problems with corruption and property rights. Moldova's physical infrastructure, including roads and rail, is still underdeveloped with the country ranking jointly 132nd in the World Bank's 2023 Logistics Performance Indicator, an index that captures the quality of trade-related infrastructure. Moldova faces climate-related vulnerabilities which new infrastructure investment would need to account for.

Moldova has relied almost exclusively on imports from Russia for its supply of natural gas. However, it has accelerated energy sector reforms and investments to ensure security of supply and energy diversification, and its electricity grid is now synchronised with that of the EU. This underlying continued dependence gives rise to significant vulnerabilities. In May 2023, Moldova signed an agreement allowing the country to apply for EU funding under the Connecting Europe Facility to improve transport, energy and digital links with its European neighbours. As of December 2022, Moldova started importing natural gas from Romania and plans to further expand the interconnection of natural gas and electricity networks.

Moldova is also lagging behind in digitalisation. While nearly the entire population is covered by at least a 4G mobile network, just 67.5% of Moldovan households have internet

access at home compared with 92.5% of households in the EU. Among urban households, 80% have access to internet at home, against only 58% of rural households. In 2021, there were about 88 active mobile-broadband subscriptions per 100 inhabitants. According to the authorities' own estimates, in 2022 only about 21% of the population had used at least one online public service in the previous 12 months compared with 58.5% in the EU, though this represented an increase of nearly one third compared to the year before.

Sectoral and enterprise structure

The Moldovan economy remains heavily reliant on a low-productivity agricultural sector compared with the EU, with agriculture accounting for 12.1% of GDP in 2021 compared with 1.6% in the EU. While this share has been declining in recent years, agriculture still accounts for one fifth of employment. This indicates continued low productivity in this sector: half of output is produced by small farmers (fewer than 10 hectares) most of whom are strongly subsistence-oriented. The effects of Russia's war of aggression against Ukraine such as higher prices for energy and agricultural inputs like fertiliser further threaten the competitiveness of Moldovan agriculture, as does Moldova's vulnerability to climate change and droughts. The share of services in the economy has slowly gained ground over the last 5 years, reaching 63.9% of GDP in 2021, while that of industry has correspondingly declined to 14.2%. Industry is dominated by the production of relatively unsophisticated goods, namely food and beverages followed by textiles and clothing. The share of services (56.4%) and industry (14.4%) in employment has remained largely steady since sharp increases caused by statistical adjustments that took effect in 2019.

Most businesses in Moldova (about 95%) are SMEs. While SMEs account for just under 50% of output, they employ just under 60% of workers, a share which has been gradually declining over the last 5 years. In the latest Enterprise Survey in 2019, access to finance was cited as a major constraint by about 29.4% of businesses. Other indicators from the same survey show that the proportion of surveyed businesses in Moldova in need of loans is much higher compared with the average in EU. The reported loan rejection rates and value of collateral as a percentage of the loan amount are also much higher than in the EU.

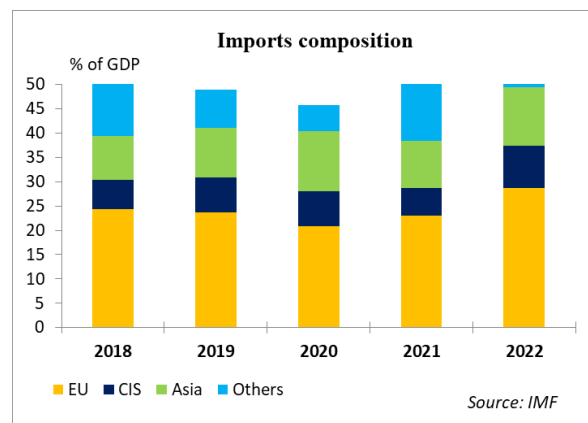
The government recently expanded the definition of a 'small and medium-sized enterprise' so that more businesses to qualify for support programmes including those managed by the Organisation for the Development of Entrepreneurship, a government agency. The Digital Transformation Programme, approved in 2022, sets out measures to support SMEs to invest in digitalising their operations.

Economic integration with the EU and price competitiveness

Moldova is a relatively open economy, closely integrated with that of the EU. Economic links between the two have strengthened since the entry into force of the Deep and Comprehensive Free Trade Area in 2016. The country's trade-to-GDP ratio was 78% in 2022, an increase of 12 percentage points over the previous five years. The stronger export performance in 2022 partly reflects re-exports to and from Ukraine as a result of reallocated trade routes. The EU is Moldova's largest trading partner, accounting for about 58.8% of the country's exports and 43.9% of its imports, which is above its regional peers. The EU's share of imports has remained steady over the last 5 years, though its share of Moldova's exports has declined from 69% in 2018 primarily as a result of the surge in exports to Ukraine in 2022 following Russia's war of aggression in February that year. Trade with other countries in the Central European Free Trade Agreement (CEFTA), of which Moldova has been a member since 2007, has remained steady at about 1% of total trade. The country has been a member of the World Trade Organization since 2001.

In 2021, the EU accounted for 36% of foreign direct investment inflows into Moldova. The EU accounts for 86.7% of the stock of foreign direct investment in Moldova.

In terms of competitiveness, while unit labour costs remain below those of its neighbours and EU Member States, low and stagnant relative productivity, rising nominal wages and currency appreciation have partly eroded this advantage in recent years.



2.4. PUBLIC PROCUREMENT, STATISTICS, FINANCIAL CONTROL

Chapter 5: Public procurement

EU rules ensure that the public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.

Moldova has **some level of preparation** in the area of public procurement. **Some progress** was achieved. The Law on public private partnership and the regulation on small value procurement were adopted. The country needs to further align its legislation with the EU *acquis* in the area of public procurement, especially the laws on concessions and public-private partnerships. It also needs to adopt specific legislation on the award of defence and security procurement contracts and amend secondary public procurement legislation. The efficiency and transparency of the public procurement system needs to be improved, and the e-procurement system needs to be overhauled. Professionalisation in public procurement must be ensured.

In the coming year, Moldova should in particular:

- adopt and implement the new public procurement program including initial benchmarks, annual targets, responsibility for implementation and reporting together with the required human and budgetary resources;
- take effective steps to reduce the volume of public procurement not subject to the Law on public procurement and the Regulation on small value procurement;
- align laws on concessions and public-private partnerships with the EU *acquis*.

Institutional set-up and legal alignment

The legislation on public procurement is largely aligned with the EU *acquis*. Implementing legislation requires revision. The Ministry of Finance is preparing a new public procurement programme for 2023-2026. The new programme is expected to support further alignment of the public procurement legislation and practices with those in the EU.

The government adopted the Regulation on small value procurement in December 2022, with entry into force on 1 July 2023. The share of low-value procurement is very high (close to 50% of total public procurement value), and it lacks transparency. The Regulation imposes the obligation on contracting authorities to carry out all stages of most low-value public procurement through the State Registry of Public Procurement information system.

In April 2023, Parliament approved the draft Law on public-private partnerships in first reading. The Public Procurement Agency suffers from a high turnover of staff, partially due to working conditions. It is at the limits of its capacity to carry out its mandate to monitor public procurement. The e-procurement system's shortcomings further complicate the situation.

Implementation and enforcement capacity

In 2022, the **public procurement market** amounted to 5.02% of the country's GDP, up from 3.49% in 2021. Public procurement experienced unprecedented growth in 2022: the volume of purchases increased by 62% compared with the previous year. Contracting authorities and entities awarded public contracts worth MDL 13.68 billion (approx. EUR 700 million), MDL 5.24 billion more than in 2021. Public procurement remains one of the sectors most vulnerable to fraud and corruption, as evidenced in audits and monitoring carried out by the responsible institutions, as well as investigations by the press and civil society. To curb this trend, the Regulation on small value procurement was adopted but was ultimately limited by the increase of the original thresholds at the request of the Association of the Local Authorities. Nevertheless, the Regulation on small value procurement strengthened reporting requirements for all procurements.

In 2022, 153 public procurement procedures were monitored by the Public Procurement Agency, on a sample basis with a focus on high value procedures and negotiation without prior publication of a contract notice procedure. Detected findings from 53% of the carried-out procurement procedures were completely addressed, corrected or clarified by the contracting authorities.

Centralised government procurement is not very developed, and its practical use (mainly for medical supplies and equipment) is hampered by regulatory problems and the inadequate e-procurement system. The e-procurement system is still not fully developed, and it does not cover all types of procurement procedures nor support all the procurement cycle – from planning to executing contracts.

The country should improve the transparency of the procurement system, such as by allowing wider access to procurement documentation and especially procurement plans. Several civil society organisations have an interest in documenting public procurement and are trying to monitor it but point to the limited access to data and occasional ineffective consultations. Audits are still not focused enough on outcomes and performance, and recommendations need to be better followed up.

The **capacity to manage public procurement processes** needs to be strengthened, notably by certifying public procurement officers and training contracting authorities. Currently, public procurement is not carried out by dedicated professional administrative (sub-) units but by 'working groups' set up for a specific process and made up of officials who have other tasks as part of their main job.

Efficient remedy system

The public procurement law of July 2015 (with amendments) established a National Complaint Settlement Agency that reports to Parliament. In 2022, 1135 appeals were submitted to the Agency.

Chapter 18: Statistics

EU rules require that Member States are able to produce statistics based on professional independence, impartiality, reliability, transparency, and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information.

Moldova has **some level of preparation** in this area. The country made **limited progress** over the reporting period in several statistical areas. Further alignment of sectoral statistics with EU standards is needed, including a better use of administrative sources. Adequacy of resources and relatively small employee numbers are of concern. Data transmissions to Eurostat are limited.

In the coming period, Moldova should in particular:

- conduct the population and housing census in 2024 and the pilot census in 2023;
- ensure the National Bureau of Statistics (NBS) has adequate staffing and financial resources;
- increase production and transmission of timely and high-quality data to Eurostat

The legal framework for **statistical infrastructure**, the Law on official statistics, is built on the European Statistics Code of Practice and is designed to be aligned with the EU Regulation on European Statistics. The government approved the development strategy for the national statistical system for 2023-2030 in December 2022. The strategy provides for gradually implementing the EU *acquis* on statistics, strengthening the capacity of the national statistical system's institutions and modernising the production and dissemination of official statistics.

Further efforts are needed to strengthen the institutional capacity of the National Bureau of Statistics in terms of staffing and financial resources.

The Law on official statistics was amended in December 2022 to improve access of the National Bureau of Statistics to administrative and private data sources. The law also ensures secure access to individual data, including personal data from administrative data sources and private data sources for statistical purposes. Despite these positive developments, the Bureau should make additional efforts to access data from all institutions that are official producers of statistics. The quality of administrative data also needs to be improved.

On **classification and registers**, Moldova has been implementing NACE Rev. 2 (Statistical classification of economic activities in the European Community), CPA (Classification of products by activity), the Combined Nomenclature, PRODCOM, , GEONOM (Country nomenclature of external trade statistics and statistics of trade between Member States), ISCO-08 (International standard classification of occupations) and ISCED 2011 (International standard classification of education) with different degrees of compliance with the EU *acquis*. The country has a statistical business register and a statistical register of agricultural producers. The statistical population register is under development. No regional breakdown on NUTS-equivalent "Statistical Regions" has been agreed for Moldova by Eurostat.

On **macroeconomic statistics**, quarterly GDP is calculated at current prices and at average prices of the previous year. GDP is compiled using production and expenditures approaches.

National accounts are compiled according to the UN standard of National Accounts 2008. Quarterly sector accounts are not compiled. Due to changes to NACE Rev. 2, supply/use tables have not been compiled since 2014. Regional accounts have not been transmitted to Eurostat. Fiscal notifications for the excessive deficit procedure are not produced. In February 2023, balance sheets for financial assets and liabilities (stocks of financial instruments by sectors) were produced for the first time and compiled in line with Standard for National Accounts 2008. Moldova needs to start submitting national accounts data to Eurostat. Very limited European System of National and Regional Accounts (ESA) 2010 data is transmitted to Eurostat. The institutional arrangements for producing Government Finance Statistics need to be carefully reviewed so as to assure statistical independence in the determination of the general government sector and its operations. The National Bureau of Statistics does not calculate the harmonised index of consumer prices or the house price index.

The balance of payments framework follows the International Monetary Fund's Balance of Payments and International Investment Position Manual from 2009.

On **business statistics**, the European Business Statistics Regulation is partially implemented, but no data have been transmitted to Eurostat. PRODCOM statistics are produced in line with the European Business Statistics Regulation. Structural business statistics are implemented in line with EU Regulation.

On **social statistics**, the last housing and population census was conducted in 2014. Under the Law on population and housing census adopted in July 2022, the next census is scheduled for 2024. Demographic statistical data were transmitted to Eurostat, but improvements are needed. Moldova needs to develop statistics in the area of asylum and managed migration. Moldova has developed a roadmap to adapt EU-SILC concepts (survey on income and living conditions) to the national context. The structure of earnings survey has not been implemented yet. The labour cost survey is conducted annually, but quarterly labour cost indices are not estimated. Labour statistics are not transmitted to Eurostat. For the gradual implementation of the ESSPROS (social protection statistics), a list of social protection schemes was developed. The European health interview survey has not been carried out.

In the area of **agricultural statistics**, the last agricultural census was conducted in 2011. The upcoming population and housing census methodology includes collecting data on the use of agricultural land and livestock by households working in agriculture.

Structural and short-term **energy statistics** are produced. The NBS regularly provides Eurostat monthly oil statistics.

Chapter 32: Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the euro against counterfeiting.

Moldova is at an **early stage** of preparation on financial control. **Some progress** was achieved in the reporting period, notably the adoption and the start of implementation of the new strategy for the development of public finance management for 2023-2030. This programme plans further developing the legislative and regulatory basis and creating internal audit units in public bodies. The ongoing work in developing this area is in line with international standards and EU requirements. Resources dedicated to public internal financial control should be strengthened. Attracting and retaining qualified internal auditors

remains a challenge. The supreme audit institution has improved its strategic framework based on international recommendations. The efficiency of parliamentary oversight of public funds management needs to improve.

In the coming year, Moldova should in particular:

- implement the development strategy of the Court of Accounts;
- ratify the 1929 Geneva Convention on suppression of counterfeiting of currency;
- appoint an anti-fraud coordination body and develop an anti-fraud coordination network.

Public internal financial control

The new public finance management development strategy continues to offer the **strategic framework** for public internal financial control reforms and contains specific measures for both **internal control systems and internal audits**.

The Law on internal financial control and the Law on internal audit and supplementary regulations set out the principles for organising internal financial controls and internal audits. The national internal control standards are based on the model of the Committee of Sponsoring Organizations of the Treadway Commission.

Human capacity remains the biggest challenge for **internal control and audit** units as recognised by the Public Finance Management Reform Strategy. There are internal audit units in most central government institutions, and new units have been set up in many public entities, covering around 98% of revenue and 95.1% of expenditure. Only 62% of posts are filled. Over 65% of the internal audit units in public authorities have just one internal auditor. Lower-level public bodies do not have internal audit units. Staffing issues in the internal audit units are linked to the difficulty in attracting qualified personnel and the current level of civil servants' pay. The quality of internal audits is assessed based on an annual plan. Most public bodies have developed a quality assurance and improvement programme but implementation of these programmes is hampered by a lack of supervision.

Related to **managerial accountability**, efficient implementation of managerial accountability remains a challenge for budget users at central and local level. Public bodies report to the central harmonisation unit on implementation of the internal control and audit measures. The unit prepares a consolidated annual report and presents it to the government for approval. Although staff was increased in the reporting period additional resources are required

The capacity of the central harmonisation unit for public internal financial control strengthened during the reporting period, but the unit requires further staff.

The role of Public Internal Financial Control to combat corruption needs to be strengthened, as well as its cooperation with State Audit Institutions. The mechanism for monitoring cases which are investigated because of internal audit should be strengthened. The State Financial Inspectorate, reporting to the Ministry of Finance, has a major financial inspection role. It has more resources and power than internal audit bodies as it has the power to issue penalties.

External audit

In terms of constitutional and **legal framework**, the Court of Accounts is included in the Constitution, and the applicable law is reasonably well developed. However, some provisions of the law are undermining key parts of the Court's organisational, functional, and financial independence. The President's mandate is relatively short, which could affect their independence. The duration of the mandate should be analysed, to increase the independence of the Court.

On **institutional capacity**, the Court has a broad mandate to audit all public bodies and resources. Parliament can ask the Court to carry out other tasks, which limits the Court's control of its own resources and work programme. The Court has a new development strategy, accompanied with annual action plans based on an EU financed peer review assessment, but lacks administrative capacity.

Protection of the EU's financial interests

Legislation is not aligned with EU *acquis*. Cooperation in investigations between the European Anti-Fraud Office and the relevant national authorities takes place on a case-by-case basis. The National Anticorruption Center has been nominated as main focal point and it has provided good assistance to OLAF in the context of investigative cooperation, but it is not yet officially recognised as an anti-fraud coordination service.

Protection of the euro against counterfeiting

Moldova has yet to ratify the 1929 Geneva Convention for the suppression of counterfeiting of currency. Moldova is partially aligned with EU law on the definition of counterfeiting banknotes and coins, and with the procedures for gathering, storing and withdrawing counterfeit currency from circulation. Technical analysis and classification of counterfeit currency (both national and foreign) is currently done by the Forensic and Judicial Expertise Centre of the General Police Inspectorate (GPI). The NBM includes information on detected counterfeiting in its annual report. Reportedly, the volume of detected counterfeit banknotes of national currency in relation to the total volume in circulation remained low in 2021, no cases of detected counterfeit euro banknotes were reported.

3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Moldova maintains good dialogue and actively participates in various regional cooperation platforms. These include the Central European Initiative (CEI), the Black Sea Economic Cooperation Organization (BSEC), the Organization for Democracy and Economic Development (GUAM), the Southeast European Cooperation Process (SEECP) and the Regional Cooperation Council (RCC). The country also contributes to Central European Free Trade Agreement (CEFTA). Moldova chaired the GUAM in 2022 and the BSEC in the second half of 2022 and assumed the Presidency of the CEI in January 2023.

Moldova remains committed to the format of the **Eastern Partnership**.

Moldova remains overall committed to maintaining **good bilateral relations** with other enlargement countries in the region and with neighbouring EU Member States. Following Russia's war of aggression against Ukraine, Moldova stepped up cooperation with Ukraine and Romania in the areas of humanitarian support to displaced persons from Ukraine, energy security, transport and connectivity.

The first informal ministerial meeting of the three countries took place in Odesa in September 2022. The countries signed a trilateral agreement on cooperation in the field of energy. A second meeting was held in Bucharest in April 2023, adopting a joint statement by the foreign and defence ministers in support of Ukraine's peace formula, EU enlargement and improved cooperation with NATO.

Bilateral cooperation with **Romania** intensified during the reporting period. An exceptionally high number of official visits and contacts took place, including at the highest political level. Both countries maintain good sectoral cooperation that focuses on identifying mid- and long-term solutions for energy, infrastructure, trans-border cooperation and continued

implementation of the common goals. Chişinău and Bucharest engaged in various projects to strengthen the interconnection of their energy and transport infrastructure, including through the construction of a new high-voltage electricity connection between Bălţi (Moldova) and Suceava (Romania). The two countries concluded a joint action plan on cross-border traffic at common border crossing points. In February 2023, they signed an agreement on coordinated controls at state border crossing points.

Bilateral cooperation with **Ukraine** continued to improve during the reporting period. Moldova has shown solidarity with Ukraine since the start of Russia's war of aggression, voted in favour of the relevant UN General Assembly resolutions, and aligned itself with a number of political statements in international organisations that condemn the military aggression. The country hosted and supported a large number of refugees (of which about 100 000 are still in the country) and actively supported the export of Ukrainian products under the Solidarity Lanes initiative. The President of Moldova paid several official visits to Ukraine during the reporting period, including attending the anniversary of the Bucha massacre in March 2023. Moldova's Parliament adopted a declaration recognising the Holodomor of 1932-1933 as a genocide in November 2022. In the aftermath of the Kakhovka dam destruction, the Government of Moldova offered bilateral in-kind assistance to Ukraine. The two countries, however, continue facing difficulties in cooperating on the management of the Nistru River's water resources.

Moldova continues to maintain an active political dialogue with **Georgia**, an 'Associated Trio' country. A number of high-level visits have been undertaken by officials from Chisinau and Tbilisi. Relations between the two are based on mutual support for each other's sovereignty and territorial integrity with both promoting similar approaches in regional and international platforms.

Moldova maintains good relations with the **Western Balkan** partners. It is interested in further deepening these relations and using as example the pre-accession experience of the Western Balkans in order to advance on the EU path. During the reporting period, President Sandu met with the Prime Minister of **Montenegro**, Dritan Abazovic, where both agreed to speed up signing the Agreement on Education, Science and Innovation. Bilateral cooperation with **Serbia** is being actively developed. Political dialogue is ongoing between the two countries, including in bilateral and multilateral formats. Amid concerns of alleged Russian attempts of violently overthrowing the government by using third country nationals, in February 2023 Moldova barred football fans from Serbia and Montenegro from entering the country and attending a football match. This created some tensions with both countries, who requested clarifications from Chisinau.

While Moldova does not recognise **Kosovo**^{*}, ahead of the European Political Community Summit on 1 June 2023, Moldovan Parliament amended the law on visitors from third countries who are required/exempted to have a visa when crossing the state border of Moldova. The amended law allows Kosovo representatives to obtain visas for participation in international meetings held in Moldova.

During the reporting period, Moldova marked 30 years of diplomatic relations with **Türkiye**. The two countries maintain regular and friendly high-level exchanges. The Speaker of the

^{*} 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.

Grand National Assembly of Türkiye visited Moldova, while Moldova's Minister of Foreign Affairs and European Integration met his counterpart in Türkiye. At these meetings, issues of common interest were high on the agenda, including trade, energy, security, and cooperation in the Black Sea region. During the reporting period, Türkiye was the fourth largest importer of Moldovan goods, corresponding to 7.5% of all Moldovan exports.

Following the devastating earthquakes in February 2023 and on Türkiye's request, Moldova delivered in-kind assistance and a team of rescuers, emergency vehicles and search dogs. It also participated in the International Donors' Conference 'Together for the people in Türkiye and Syria' where Moldova pledged to donate MDL 8.2 million (approx. EUR 400 000) in humanitarian aid.

4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

CLUSTER 2: INTERNAL MARKET

This cluster covers: free movement of goods (Chapter 1); freedom of movement for workers (Chapter 2); right of establishment and freedom to provide services (Chapter 3); free movement of capital (Chapter 4); company law (Chapter 6); intellectual property law (Chapter 7); competition policy (Chapter 8); financial services (Chapter 9); and consumer and health protection (Chapter 28). This cluster is key for Moldova's preparations for the requirements of the EU's internal market.

Moldova is in the early stages of preparation for freedom of movement for workers where it achieved limited progress. For company law Moldova is in between early stage and some level of preparations and has achieved limited progress. For free movement of capital Moldova is in between some to moderate level of preparation with some progress achieved. In all remaining areas under this cluster, namely, free movement of goods, right of establishment and freedom to provide services, free movement of capital, intellectual property law, competition policy and consumer and health protection, some level of preparation has been noted. Limited to some progress has been achieved during the reporting period in these areas, apart from financial services where good progress has been made.

Chapter 1: Free movement of goods

The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.

Moldova has **some level of preparation** in the area of the free movement of goods. **Limited progress** was made to align with EU standards through the mechanism which provides for the adoption of EU standards within 6 months of their publication in the Official Journal of the EU.

In the coming year, the country should in particular:

- screen legislation and administrative practices in the non-harmonised areas and prepare a strategy to ensure compliance with Articles 34-36 of the Treaty on the Functioning of the European Union (TFEU) and Court of Justice of the European Union case law;
- align legislation for vehicle emissions;
- strengthen administrative capacity to implement and enforce the EU *acquis*, especially in the sectors for which it seeks to sign an Agreement on Conformity Assessment and Acceptance of Industrial Products (ACAA) with the EU.

General principles

Some parts of the general principles of the legislative and institutional framework for the free movement of goods are in place due to the AA/DCFTA. This includes alignment with the EU *acquis* on general product safety, standardisation, accreditation and conformity assessments; however, legislation is still not aligned with the latest EU *acquis* on market surveillance.

In 2022, Moldova initiated the process for an ACAA with the EU in two product sectors: (i) low voltage devices; and (ii) electromagnetic compatibility. Parliament has adopted legislation designed to be aligned with the EU *acquis* in these two sectors, although the relevant national authorities, including conformity assessment authorities, need to increase their administrative capacity.

The Ministry of Economic Development and Digitalisation imposed the obligation to use portable video surveillance systems during controls conducted by the state inspectorate for non-food products surveillance and consumer protection, in order to increase the transparency and efficiency of the institution and reduce corruption.

Non-harmonised area

Moldova has not yet taken any steps to ensure that its legislation and administrative practices are in line with **Articles 34-36 TFEU** and relevant CJEU case law. It should start this work as in several areas it will need to examine the details and decide whether to repeal the relevant laws or practices, amend them, or insert mutual recognition clauses.

Harmonised area: quality infrastructure

The Institute for **Standardisation** of the Republic of Moldova fulfils 95.66% of the requirements in Guide 22 of the European Standardisation Committee/European Electrotechnical Committee for Standardisation CEN/CENELEC. On 24 November 2022, the Institute received affiliation status with CEN/CENELEC, which entered into force on 1 January 2023. 100% of CEN/CENELEC standards and 82.63% of European Telecommunications Standards Institute (ETSI) standards have been adopted as Moldovan standards. A total of 10 264 conflicting national standards were withdrawn in 2015-2022, and work in this area continues.

The National **Metrology** Institute has been an associate member of the European Cooperation in Legal Metrology (WELMEC) since 2017 and a full member of the European Association of National Metrology Institutes (EURAMET) since 2019.

The National **Accreditation** Center of the Republic of Moldova, MOLDAC, is a signatory to the European Cooperation for Accreditation Members Multilateral Agreement (EA-MLA) and is therefore periodically assessed for continued compliance with the criteria set out in the reference standard for accreditation bodies and to maintain EA-MLA signatory status. Between 20 and 24 February 2023, MOLDAC was subject to a periodic re-evaluation which confirmed that MOLDAC operates in line with the requirements laid down in the relevant reference standard and EU *acquis* and the requirements for European accreditation bodies.

In 2022, the Agency for Consumer Protection and **Market Surveillance**, was reorganised and became the State Inspectorate for Non-food Products Surveillance and Consumer Protection (ISSPNPC)

Harmonised area: sectoral legislation

In the area of ‘**new and global approach**’ **product legislation**, while national legislation designed to be aligned with the EU *acquis* is in place on machinery, lifts, cableways, personal protective equipment, electromagnetic compatibility, low voltage, radio and telecom

equipment, gas appliances, explosive atmospheres, pressure equipment, full alignment was not achieved in the reporting period. Further effort is needed to ensure alignment with the remaining ‘new and global approach’ EU *acquis*, including outdoor equipment noise emissions, energy labelling, construction products and recreational craft.

On national legislation under the ‘**old approach**’ **product legislation**, Moldova is not aligned with EU type approval *acquis* on motor vehicles, 2/3 wheeled vehicles, agricultural tractors or non-road machinery emissions. There has been no progress on aligning with and implementing the EU Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), or the legislation on the classification, labelling and packaging of substances and mixtures, good laboratory practice, and fertilisers and detergents.

National legislation and the national list of controlled substances are designed to be fully aligned with the EU *acquis* on **drug precursors**. On **procedural measures**, national legislation is not aligned with the EU *acquis* on firearms, crystal glass, defence procurement, medicinal products pricing and **cultural objects**. It is partly aligned with the EU *acquis* on footwear and textile labelling.

Chapter 2: Freedom of movement for workers

Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

Moldova is at **an early stage of preparation** in the area of freedom of movement of workers. **Limited progress** was made during the reporting period, amending legislation on the regime of foreigners and bilateral agreements on social security systems were signed or entered into force. The country will need to align its legislation with the EU *acquis*, including its interpretation of the Court of Justice of the European Union case law.

In the coming period, the country should in particular:

- work on concluding additional agreements on social security coordination, notably with EU Member States;
- undertake the preparatory work for joining the European Network of Employment Services (EURES) upon accession.

In the reporting period Moldova made limited progress in aligning its national legislation with the EU *acquis*. The law on the regime of foreigners was amended to facilitate the process for EU citizens to obtain the right of temporary residence. Professional sellers, contracted service providers and independent professionals from EU Member States are permitted to carry out activities without a temporary residence permit. In July 2023, the Parliament adopted in first reading a further amendment of the law on the regime of foreigners, that would allow EU citizens (and a number of other countries) to work in Moldova without a work permit. Third-country nationals are required to obtain the right of temporary residence from the competent authority to carry out any activity. EU citizens still have no access to posts in public administration bodies.

A total of 2 918 residence permits for work were issued between 1 June 2022 and 17 March 2023; 435 of these were issued to EU citizens.

Moldova has not completed the preparatory work needed to access the European Network of Employment Services (EURES).

Moldova does not have an occupational pension scheme (voluntary private pension schemes supplement public pensions). **EU rules on supplementary pension rights** of mobile workers are not incorporated into Moldovan law.

No national health insurance card exists due to the absence of an integrated health information system. The implementation of the **European Health Insurance Card** might therefore be challenging.

New agreements for the **bilateral coordination of social security systems** were concluded in 2022. Moldova and Spain signed a social security agreement in July 2022. In January 2023, the Agreement on Social Security between Moldova and Greece, signed in September 2021, entered into force. Signature of agreements with other Member States should be stepped up.

Chapter 3: Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.

Moldova has achieved **some level of preparation** in the area of the right of establishment and freedom to provide services. **Limited progress** was made in this area during the reporting period. The legal framework needs to be brought in line with the requirements of the EU Services Directive and the EU Directive on the recognition of professional qualifications. This needs to be complemented with non-legislative measures and structural reforms, such as setting up electronic platforms and procedures, and building administrative capacity. The legislation on postal services is compliant with relevant directives, and bylaws have been adopted. The regulation on cross-border parcel delivery services still needs to be adopted.

In the coming year Moldova should:

- bring its legal framework in line with the requirements of the Directive on the recognition of professional qualifications, including Directive 2005/36/EC on recognition of professional qualifications and Directive 2018/958 on a proportionality test before adoption of new regulation of professions;
- continue aligning its legislation with the Services Directive;
- update the AA/DCFTA annex on rules applicable to postal and courier services.

Regulatory reforms have helped bring Moldova's legal framework in line with the Directive 2006/123/EC on services in the internal market, however more progress is needed to ensure full compliance. Further alignment of sectoral legislation with the Services Directive is also needed. There are no barriers to the right of establishment by foreign people and companies, and there is a single contact point for companies in operation.

Moldova is currently compliant with the requirements of all three **postal services** directives and fully opened its postal market to competition in 2021. Bylaws supporting market liberalisation have been adopted and an independent national regulatory authority has been established with staff dedicated to postal services. The designated state-owned postal service operator complies with the quality requirements established by the national regulator. There are 15 other postal operators providing services related to parcels, letters and express shipments in the market. Preparations are ongoing in the framework of the EU-Moldova AA/DCFTA process to update the Annex on rules applicable to postal and courier services

with the EU Regulation on cross-border parcel delivery services, which still needs to be implemented.

Moldova has not yet harmonised its legislation with the EU Directive on the **recognition of professional qualifications** (2005/36/EC). Further assessment of the training curricula for professions falling under the automatic recognition system is required to ensure that minimum training requirements are respected.

Chapter 4: Free movement of capital

In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.

Moldova is **in between some and moderate level of preparation** in this area. **Some progress** was made following the adoption of new legislation aiming to align national legislation with the 5th Anti-Money Laundering Directive. There are still outstanding Moneyval recommendations to be implemented. National legislation was also aligned with the EU Payment Services Directive 2. Moldova is also preparing to apply for the Single Euro Payments Area (SEPA).

In the coming year, Moldova should in particular:

- align its rules with the EU Regulation on Interchange Fees for card-based payment transactions, and advance preparations to apply for the Single Euro Payments Area in line with the criteria of the European Payments Council;
- strengthen the institutional capacity of the Office for Prevention and Combating of Money Laundering in the Financial Intelligence Unit;
- implement the outstanding Moneyval recommendations, including on anti-money laundering.

The movement of capital has been gradually liberalised based on the AA/DCFTA, and the country has progressively aligned its rules with the EU *acquis*. On **capital movements and payments**, Moldova is steadily liberalising capital outflows (certain restrictions remain). Some larger capital foreign exchange operations are subject to prior notification or authorisation by the National Bank of Moldova. There are also differences between the rules on payments and transfers for residents and non-residents. Non-residents and residents who live abroad can make direct investments without authorisation. Foreign investors can acquire real estate property rights (except for agricultural and forest land) to carry out entrepreneurial activities. A countrywide system for land registration is in place, and anyone with a legitimate reason can obtain information from the real estate register.

Interchange fees for card-based payments are still exceptionally high. On alignment with the EU *acquis* on **payment systems**, national legislation is expected to be harmonised with the EU Payment Services Directive 2 when the last amendments to the national law on payment services and electronic money enter into force in mid-2024. Moldova is preparing to apply for the Single Euro Payments Area (SEPA). The Central Bank together with other authorities started a dialogue with the European Payments Council on the admission criteria and next steps towards its potential accession, benefiting from technical assistance from the Dutch and Romanian central banks.

Moldova continues to align its legislation and institutional framework on **anti-money laundering** with the EU *acquis*. Moldova adopted a law to align with the 5th Anti-Money Laundering Directive. Anti-money laundering legislation partially addresses the

recommendations of the Financial Action Task Force and relevant international legislation. There are still outstanding Moneyval recommendations to be implemented. A total of 449 suspicious transaction reports and 252 suspicious activity reports were reported in the reporting period. Moldova has adopted a national anti-money laundering/countering the financing of terrorism strategy for 2020-2025, and will update its national risk assessment, develop an accompanying action plan and publish the results. The Office for Prevention and Combating Money Laundering is under the Office of the Prime Minister but is struggling with institutional capacity and resources.

Chapter 6: Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.

Moldova is in **between early stage and some level of preparation** in the area of company law. **Limited progress** was made during the reporting period, by amending national legislation to align with EU legislation on corporate remuneration policy.

In the coming year Moldova should in particular:

- strengthen the administrative capacity of the Public Service Agency;
- advance alignment with the EU *acquis* on financial reporting and audit, takeovers, single-member companies' provisions, shareholder rights, including the encouragement of long-term shareholder engagement, and on disclosure of company information;
- take further steps to improve the capacity and independence of the audit oversight systems.

In the area of **company law and corporate governance**, state registration of legal bodies and individual entrepreneurs is carried out by the Public Services Agency, although it continues to struggle with its limited administrative capacity. Moldova amended its national legislation to align with *acquis* provisions on shareholder rights regarding disclosure of remuneration policy and the remuneration report. Moldova needs to align with the *acquis* on digital tools and processes, and cross-border operations (mergers, divisions, conversions). National legislation requires further harmonisation with the *acquis* on takeovers, single-member companies, provisions related to the disclosure of private limited liability companies, and the more recent *acquis* covering shareholder rights, including the encouragement of long-term shareholder engagement, and the 2022 Directive on gender equality on boards of directors.

On **company reporting**, Moldova has achieved some alignment with the EU *acquis* on annual and consolidated financial statements and related reports, and the application of international accounting standards. Further alignment is needed including the criteria to determine company size-categories and to clearly set out the fine amounts for breaches of financial reporting requirements. There is some harmonisation with the *acquis* on **transparency** requirements for listed companies, including sanctions for non-disclosure of information on the capital market. On **statutory audit**, although national legislation is partly aligned with the EU *acquis* in this area, there are still major gaps in the rules governing the institutional set-up to ensure an independent system of oversight, investigations and penalties, with the appropriate level of administrative and financial resources.

Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents

and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting.

Moldova has **some level of preparation** in the area of intellectual property rights. **Limited progress** was made during the reporting period. The State Agency on Intellectual Property (AGEPI) improved cooperation with the European Union Intellectual Property Office and continued to transpose the EU *acquis*.

In the coming year, Moldova should in particular:

- draft legislation to fight counterfeiting and piracy;
- improve collective rights management to safeguard appropriate royalty payments;
- increase the administrative and institutional capacity of AGEPI and take advantage of the collaboration with the European Union Intellectual Property Office to improve legislative and enforcement alignment.

On 25 April 2023 the State Agency on Intellectual Property signed an action plan with the European Union Intellectual Property Office which envisages cooperation in several sectors. The administrative capacity of the Agency needs to increase.

The law on **copyright and related rights**, broadly aligned with EU law on copyright, was amended to further align it with the EU *acquis* and entered into force on 9 October 2022. This law aligns legislation with several EU directives. The government's 2023 action plan provides for the adoption of further amendments to the law to align with the EU *acquis* on orphan works. Moldova still faces challenges in the implementation of an effective collective rights management system, notably with regards to the transparency, accountability, collection, and distribution of monies.

In terms of **industrial property rights**, the law on the protection of patents was amended, entering into force in June 2023. The Law on the protection of industrial designs is largely aligned with Directive on the legal protection of designs.

The legal framework is largely aligned with the EU Directive on the **enforcement** of intellectual property rights, but there is no policy document dedicated to the fight against counterfeiting and piracy. There are no specialised courts dealing with intellectual property law cases. The number of counterfeit products identified rose sharply from 27 803 units in 2021 to 99 758 units in 2022.

Chapter 8: Competition policy

EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of dominant position, and include rules on concentrations between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.

Moldova has **some level of preparation** in the area of competition policy. **Limited progress** was made during the reporting period. In April 2023, the Law on competition was amended. The Competition Council is understaffed and continues to face constraints in terms of human resources and its capacity to conduct investigations and monitor implementation of legislation.

In the coming year, Moldova should in particular:

- align the legislative framework with the *acquis* on antitrust, mergers and State aid;

- increase the transparency of State aid granted by the government and further align State aid schemes in place with the EU *acquis*, including those applied in free economic zones;
- strengthen the administrative and institutional capacity of the Competition Council.

Antitrust and mergers

On the **legislative framework**, Moldova's legislation is broadly aligned with the EU *acquis* on antitrust and merger control. The new Competition law, adopted in July 2023 largely mirrors the provisions of the Treaty on the Functioning of the European Union (TFEU) on restrictive agreements and on abuse of dominant position. It also provides for *ex-ante* monitoring of the effects on competition of mergers above certain turnover thresholds, largely in line with the principles of the EU Merger Regulation. Implementing legislation provides further rules, which broadly aim to follow the EU *acquis*. However, further alignment is needed with EU competition policy, especially with regards to the dismissal of the members of the Board of the Competition Council and the level of the fines which can be imposed.

As regards the **institutional framework**, the Competition Council is an independent body with exclusive competencies in competition policy. It is accountable to the Parliament and financed by the State budget. It is a collegial body of five members, appointed for a five-year term by the Parliament.

On **enforcement capacity**, the Competition Council's institutional capacity needs to be further strengthened to ensure legislation is enforced.

On **implementation**, the Competition Council increased its activities. The number of investigations which led to a finding of a violation of the provisions of the competition law remained constant (10 investigations).

State aid

Regarding the **legislative framework**, the Law on State aid is broadly aligned with Articles 107 and 108 TFEU. EU State aid guidelines, regulations and communications are partially aligned. However, certain existing State aid schemes still need to be aligned with the EU *acquis*, including those regarding free economic zones. Moreover, aid to repair damage caused by natural disasters or exceptional occurrences is considered compatible without the need for prior notification. This is not in line with EU law, which requires such measures to be notified.

Regarding the **institutional framework**, the Competition Council also ensures consistent implementation of State aid law. The Competition Council is empowered to screen and authorise State aid measures and can order the recovery of State aid that has been unlawfully granted. It publishes reports on aid granted on its website and runs the automated State aid register information system, where measures are reported annually by grantors.

As regards **enforcement capacity**, the Competition Council is understaffed (only 9 of 25 posts are occupied due to low salaries). Its administrative capacity needs to be strengthened with additional staff and relevant training.

On **implementation**, there were two decisions adopted in the reporting period on State aid related to illegal aid given by local authorities to local companies. The AA requires Moldova to align its general State aid schemes with the EU *acquis* by 2022 and those covering free economic zones by 2024. A total of 158 of the 173 State aid schemes covered by the commitments under the Moldova-EU AA were aligned by 31 December 2022. Moldova needs to make progress with respect to the remaining schemes.

Liberalisation

The Competition law and the Law on State aid law apply to public companies and companies with special or exclusive rights. The Law on State aid law provides that companies entrusted with the performance of services of general economic interest will be considered when assessing the compatibility of the State aid granted to perform such services.

Chapter 9: Financial services

EU rules aim to ensure fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.

Moldova **has some level of preparation** in the area of financial services. It made **good progress** by partially aligning legislation with the EU's Solvency II Insurance Directive and the Motor Insurance Directive. The country should make further efforts to align with the financial services acquis, focusing on the priorities identified based on the current state of play.

In the coming year, Moldova should in particular:

- implement the outstanding legislation on financial sector supervision that transfers the supervisory role over the insurance sector, non-bank financial institutions, savings and credit associations and credit history bureaux to the National Bank of Moldova;
- continue efforts in alignment with the EU acquis related to the regulation of banking and insurance sectors (including bank resolution and bank deposits guarantee schemes) and to the regulation of securities markets, investment funds and investment services.

On **banks and financial conglomerates**, the National Bank continues the development of the banking sector prudential regulatory and supervisory framework, which is based on the current EU Capital Requirements Regulation and Directive.

Although Moldova has introduced rules for investment firms governing capital adequacy, the requirements related to risk are not in place. Efforts are under way to close the gaps in the macroprudential framework, including by amending the Law of the National Bank of Moldova to give the Bank an explicit legal mandate for financial stability.

To strengthen financial stability, starting from 1 July 2023, the NBM took over some of the supervisory responsibilities for non-bank financial institutions and insurance companies from the National Committee for Financial Markets. However, the NBM needs to ensure that it is adequately staffed and prepared to carry out these additional responsibilities.

The current Deposit Guarantee Scheme protects depositors from loss on insured deposits in case of a bank failure. It covers up to MDL 50 000 (around EUR 2 500), far below the coverage of up to EUR 100 000 per depositor and bank prescribed by EU law. The Parliament has adopted in April 2023 in first reading legislation aiming to partially align with the EU Directive on deposit guarantee schemes. This will increase the maximum insured deposit value to MDL 200 000.

Moldova has a recovery and resolution framework with similar tools, resolution powers and safeguards to those under the EU's Bank Recovery and Resolution Directive. The framework is based on the 'no creditor worse off' principle. Moldova has established a resolution fund financed with annual contributions from the banks. The target level for the resolution fund has been set at 3% of guaranteed deposits, which needs to be achieved by the end of 2024.

On **insurance and occupational pensions** in the reporting period, supervisory powers over the insurance market, non-bank credit organisations and the activity of credit bureaux and savings and credit associations were transferred from the National Commission for the Financial Market to the National Bank. This transfer occurred as part of the reform of supervisory functions in the financial sector.

Pillar II and Pillar III of the EU Solvency II Directive came into force in 2023. There is a transitional period of 5 years to comply with minimum capital requirements. There are no occupational pension funds. A regulation was adopted in May 2023 on shareholdings in the share capital of insurance or reinsurance companies, requirements applicable to persons with management positions in a third country. Moldovan law is broadly aligned with the EU Directive on distance marketing of financial services, which protects consumers rights. A balance sheet review for all insurers is envisaged to evaluate their readiness for the subsequent implementation of Pillar I. Consumer protection in financial services is lacking and not properly addressed in legislation. In addition, Moldovan law is broadly aligned with the revised Directive on Institutions for Occupational Retirement Provision although a voluntary pension fund should be implemented. The reform of supervisory functions in financial sector envisages the transfer of supervisory powers in the fields of insurance market, the non-bank credit organisation, the activity of the credit bureaux, savings and credit associations to the National Bank.

As regards **financial market infrastructure**, Moldova has adopted some important parts of the *acquis*, along with relevant parts of the European Directives MiFID I and II on Securities Markets and Investment Services. It has a small, regulated capital market and one Multilateral Trading Facility, operated by the Stock Exchange, although no investment firm holds a trading license.

On **securities markets and investment services**, the national legislative framework governing collective investment management is broadly aligned with the EU *acquis*. There are no rules for some products, for example long-term investment funds, venture capital funds and social entrepreneurship funds. At the current stage, no new developments are envisaged.

On **sustainable and digital finance**, a national sustainable finance strategy has yet to be developed. The National Bank has started to raise awareness about environmental risks and sustainable finance by including it in its 2021 Financial Stability Report. Sustainable finance is considered in the strategic plan of the National Bank (NBM 2025) in order to strengthen the NBM supervisory function and promote sustainable development.

There is still no single platform or body to coordinate the digitalisation of the financial system, and the National Bank has yet to develop a digital finance strategy. Virtual assets are not a recognised form of electronic currency under the Law on payment services and electronic money, and any activity to issue or trade them is not subject to regulation and supervision by the National Bank. The national Law on anti-money laundering and countering the financing of terrorism sets out certain restrictions on crypto assets.

Chapter 28: Consumer and health protection

EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats, including communicable diseases.

Moldova **has some level of preparation** in aligning with the EU *acquis* in this area. **Limited progress** was made during the reporting period, particularly on alignment with the *acquis* on tobacco control.

In the coming year, Moldova should in particular:

- implement the national health strategy, including e-health;
- intensify efforts on tobacco control by implementing the provisions of the Protocol to Eliminate Illicit Trade in Tobacco Products effectively;
- align the legal framework with the *acquis* on consumer protection and product safety, and improve cooperation between the public institutions dealing with consumer protection.

Consumer protection

The AA/DCFTA provides for aligning national consumer and health protection legislation and standards with those of the EU. Moldova's Law on **consumer protection** is partially aligned with the EU *acquis*. It provides the general requirements for protecting consumers and the framework for unrestricted access to products and services. It is not aligned with the *acquis* on consumer protection cooperation, with the new rules on digital content, or with the revised rules on the sale of goods and the latest changes to EU consumer legislation introduced by Directive (EU) 2019/2161.

There has been no further progress in aligning with the *acquis* on consumer protection. Moldova is not aligned with the EU *acquis* on out-of-court dispute resolution (ADR). Moldova should align with the ADR *acquis* (Directive 2013/11) in order to establish a competent authority for ADR to ensure that ADR entities comply with the given quality requirements.

On **product safety**, Moldova's legal framework is partly aligned with the EU *acquis*. In 2022, the main body responsible for market surveillance, the Agency for Consumer Protection and Market Surveillance, was reorganised and became the State Inspectorate for Non-food Products Surveillance and Consumer Protection (ISSPNPC), an administrative authority subordinate to the Ministry of Economic Development and Digitalization. It currently has 63 staff. In the reporting period the Inspectorate conducted 2 178 inspections and identified 1 862 cases of non-compliance. The highest number of cases of non-compliance were in the packaging and waste packaging sector. On 27 January 2023, the ISSPNPC and the customs service signed a cooperation action plan to ensure an interoperability mechanism between them which will allow joint inspections.

Public health

As regards **public health**, on 14 June 2023, the Government approved the health 2030 strategy, oriented towards the modernisation and long-term development of the health system. There was some progress in the implementation of its 2016-2025 strategy for the development of human resources in health. In February 2023, Moldova joined the EU4Health programme. Low levels of digitalisation in the sector are a barrier to collecting statistical data. There has been limited progress in developing an **e-health** legal framework, and there is no e-health strategy in place. In December 2022, an IT system for the surveillance of communicable diseases and public health events was introduced to improve the collection and reporting of data on registered cases. The prevalence rate of modern contraceptives among women is 38.1%, and the unmet family planning needs of women of reproductive age (15-49) is 16.9%. Women and girls, especially those in vulnerable situations, face stigma and discrimination, which hamper realising their sexual and reproductive health rights. Not all

facilities that provide sexual and reproductive health services are physically accessible to those women and often lack gynaecological examination rooms and equipment.

The national development strategy ‘Moldova 2030’, aims to ensure universal access to sexual and reproductive health services, including for family planning, information and education and to include comprehensive sexual education in the school curriculum.

On **tobacco control**, Moldova is a party to the relevant WHO framework convention on tobacco control and signed the Protocol to Eliminate Illicit Trade in Tobacco Products. In February 2023, Parliament adopted legislative amendments to ensure implementation of the protocol. National legislation has been amended to partially align it with the *acquis* on tobacco products and on the withdrawal of certain exemptions for heated tobacco products.

There are 40 community **mental health** centres in the country, offering medical assistance and psychosocial rehabilitation, support and mediation services.

In March 2023, the government approved the 2023-2027 national programme for the prevention and control of priority **non-communicable diseases**.

Moldova has a system in place to ensure **patients’ rights in cross-border healthcare** and has a legal basis that is partially aligned with the EU *acquis* on the rights of citizens receiving healthcare abroad. There are no legal provisions on healthcare for EU Member State nationals.

On **communicable diseases**, Moldova is partially aligned with the EU *acquis*. In April 2023, the government approved the 2023-2027 national immunisation programme and the 2023-2027 action plan on the implementation of the international sanitary regulations. The 2022-2025 national programme for prevention and control of HIV and sexually transmitted infections is being implemented.

On **cancer screening**, Moldova has a national cancer control programme (2016-2025) which is currently being implemented, as well as other programmes using population-based screenings. The country does not yet have a national programme on **rare diseases**.

National legislation is partially aligned with the *acquis* on **medicines for human use and medicines for veterinary use**. National procedures for the state registration of veterinary medical products are in place, and 977 items had been registered by March 2023. Moldova is partially aligned with the *acquis* on **medical devices**. Legislation is partially aligned with the *acquis* on **cosmetics**.

The legal framework regulating **blood, tissues, cells and organs** is partially aligned with the EU *acquis*, although legislation on medically assisted reproduction is being redrafted. There are only two tissue banks, and a single private centre working with haematopoietic stem cells and assisted reproduction.

Measures on **drug abuse prevention and harm reduction** are set out in the Law on the circulation of narcotic and psychotropic substances and precursors. It lays down general rules and restrictions on the circulation of drugs and is designed to be aligned with the UN conventions on drugs rather than the EU *acquis*. National legislation on preventing **alcohol abuse** is partially aligned with the EU *acquis*. In addition, legislation to protect workers from adverse health effects from **exposure to electromagnetic fields** in their work environment is designed to be aligned with the EU *acquis*.

On **health inequalities**, the law on mandatory health insurance provides for state-guaranteed insurance for certain categories of unemployed people residing in Moldova and registered with the competent institutions. The 2022-2025 national programme for the prevention and

control of HIV and sexually transmitted infections sets out provisions for universal access to rights-based and people-centred prevention, testing, diagnosis, treatment and support. There are also some health-related provisions on LGBTIQI people in the Law on equality.

In July 2022, the Ministry of Health approved an anticorruption action plan in the health sector, for the period 2022-2023, but health sector corruption remains widespread.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers: digital transformation and media (Chapter 10); taxation (Chapter 16); economic and monetary policy (Chapter 17); social policy and employment (Chapter 19); enterprise and industrial policy (Chapter 20), science and research (Chapter 25); education and culture (Chapter 26); and customs union (Chapter 29).

Moldova has achieved some level of preparation in digital transformation and media, taxation, economic and monetary policy, social policy and employment, enterprise and industrial policy as well as education and culture. It made good progress in digital transformation and media and taxation. In economic and monetary policy, social policy and employment, enterprise and industrial policy and education and culture it made some progress. The country is moderately prepared in science and research where it has achieved some progress during the reporting period. In customs union, Moldova is between some and moderate levels of preparation and has achieved some progress.

Chapter 10: Digital transformation and media

The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.

Moldova has achieved **some level of preparation** in the area of digital transformation and media. **Good progress** was made during the reporting period. The comprehensive digital transformation strategy for 2023-2030 was drafted through public consultation setting out a countrywide action plan. The Law on electronic identification and trust services has entered into force and is broadly aligned with the relevant EU *acquis*. The cybersecurity framework has been strengthened through passing the Law on cybersecurity, adopted during the reporting period, but Moldova needs to start implementing the law. Moldova needs to align its legal framework with the Electronic Communications Code, and EU best practice on media need to be more widespread. Implementing legislation also including the laws on freedom of expression, personal data protection and access to information, need to be amended to align with the EU *acquis*.

In the coming year, Moldova should in particular:

- align with and implement the EU Roaming Regulation and other relevant EU *acquis* in the field of telecoms;
- adopt the Digital Transformation Strategy 2023–2030 and ensure the institutional capacity to implement it;
- adopt and implement market instruments to ensure anti-cartel measures and the de-oligarchisation of the media market.

In the field of electronic communications and information and communication technology, Moldovan law needs to be aligned with the EU Electronic Communications Code.

Connectivity gaps remain, and approximately 39% of people do not use the internet. The national development strategy, 'Moldova 2030', has the specific objective of 'Ensuring universal access to the internet and electronic services'.

On **information society services**, no authority currently has responsibility for open data policies. There is some alignment with GDPR and eID and ePrivacy legislation. There is broad alignment with the Directive on e-commerce. Moldova is not aligned with the EU *acquis* on geo-blocking, platform-to-business relations (P2B), the Digital Services Act and the Digital Markets Act.

In the area of **digital transformation**, implementation of the now expired Digital Moldova 2020 strategy has been only partially successful. Only 6 of the 12 targets set in the strategy have been achieved. There were particularly weak results in the share of public services available online (12% vs the 100% objective) and in the level of acceptance of electronic public services (49% vs the 70% objective). Several reasons have led to these results, including limited financial resources and project management and institutional implementation capacity.

Moldova's comprehensive digital transformation strategy for 2023-2030 was adopted in September 2023. The strategy aims to create a resilient, innovative, and digital economy by targeting technology start-ups with international growth ambitions and businesses in the ICT sector. To support the implementation of the new strategy, Moldova should also set up a governance body (the National Digital Transformation Council) with public and private stakeholders, civil society and experts and a working group to draw up the programme for the further development of the ICT industry and the digital economy.

Progress has been achieved in making electronic public services available through the Public Services Portal. It is a single point of access for individuals and organisations to information on the 252 online public administrative services. The e-Governance Agency is implementing a project, Unified Public Service Centres (CUPS), which offers common access points to a wide range of public services in electronic format.

Progress has been made on ensuring that trust and security services for creating and validating electronic signatures in the country are compatible with the EU's electronic identification, authentication and trust services (eIDAS). The Law on electronic identification and trust services entered into force on 10 December 2022. It sets out the legal framework for electronic signatures, electronic seals, electronic time stamps, electronic documents, registered electronic distribution services and certification services for authenticating web pages. It is partially aligned with EU Regulation on electronic identification and trust services for electronic transactions in the internal market. Moldova should join the "Third Countries' trusted list," which facilitates the validation of electronic signatures or seals created in Third Countries as advanced electronic signatures and seals in EU Member States, as a first step towards pursuing mutual recognition of qualified trust services once the new eIDAS Regulation is adopted.

On **cybersecurity**, the Information Technology and Cybersecurity Service is the government's computer security incident response team. It provides the administration, maintenance and development of public authorities' IT infrastructure and telecommunications systems.

The Law on cybersecurity, adopted on 16 March 2023, sets out a strengthened cybersecurity framework. The law gives the government nine months to set up a competent authority on cybersecurity and national computer incident response teams and will enter into force on 1 January 2025.

On **audiovisual policy**, the Audiovisual Council is the only regulatory body in the media sector and only covers TV and radio and not online media.

Parliament delayed implementing the Council of Europe's recommendations on appointing and dismissing members of the boards of the Audiovisual Council and the public broadcaster (TRM). Currently, by rejecting the annual report of the Audiovisual Council and TRM, the Parliament can dismiss the members of those boards. According to the Council of Europe, this could create a de facto political control over the regulatory council and public broadcaster. This is not in line with the EU Audiovisual Media Services Directive, which sets out that appointment and dismissal procedures must 'guarantee the requisite degree of independence'. Parliament should implement the Council of Europe's recommendations to strengthen the independence of the Audiovisual Council and TRM.

There are no rules on online media ownership. On 2 June 2022, Parliament amended the Law on audiovisual media services to include the concept of 'disinformation'. The prohibitions in the law on broadcast or retransmission of programmes with informative analytical, military and political content are not in line with the EU Audiovisual Media Services Directive.

Media literacy (or media education) is an optional subject in primary and secondary schools. It is mainly promoted by media NGOs, such as the Independent Journalism Centre and the EU's strategic communication and media support project.

Chapter 16: Taxation

EU rules on taxation cover value-added tax, excise duties and aspects of corporate taxation. They also deal with cooperation between tax administrations, including the exchange of information to prevent tax evasion.

Moldova has **some level of preparation** in the area of taxation. **Good progress** was made by harmonising policies to prevent and fight fraud and the smuggling of excisable goods and providing mutual administrative assistance. Moldova also joined the EU Fiscalis programme.

In the coming year, Moldova should in particular:

- harmonise excise duties and VAT regulations with the EU *acquis*, particularly the structure, exemptions and deductions, special schemes and scope of reduced rates;
- prepare to join the inclusive framework on base erosion and profit shifting to limit tax avoidance and increase tax revenue;
- strengthen the administrative and operational capacity of the tax administration, in particular by boosting digitalisation and automation to ensure a proper degree of preparation for interconnection and interoperability with EU systems.

On **indirect taxation**, the legislation on VAT and excise duties is partially aligned with EU *acquis*, thanks to the commitments under the AA/DCFTA. Goods and services subject to reduced VAT rates or exemptions are different from those in the EU VAT Directive. No alignment has been made with the 13th VAT Directive (refunds to non-EC taxable persons). Despite improvements made through amendments to the Tax Code in December 2022, arrears continue to accumulate in the VAT refund process. Moldova did process 3 241 claims by the set deadline, which shows some progress in this area.

On 1 January 2023, excise duty rates on tobacco products increased by 25%, but they are still below the minimum rates the EU has set to be achieved by 2025. The weighted average retail price for excise taxation is not calculated as required under Directive 2011/64/EU. Excise

duties on alcohol products are partially aligned with the EU as there has been a 15% increase in the rate. There has been no progress in harmonising excise duties on energy products, natural gas and electricity are not subject to any excise duty. Moldova has yet to implement fiscal marking of gas oils and kerosene. Some progress was made in counteracting and fighting fraud and the smuggling of excisable products. Moldova started to implement the WHO Protocol to Eliminate Illicit Trade in Tobacco Products, including aligning its tobacco control legislation with the EU Tobacco Products Directive, which included the introduction of licensing and record-keeping requirements for tobacco manufacturing. Moldova has yet to adopt the EU system of tax warehousing for excise duty suspension and the Excise Movement Control System.

On **direct taxation**, from January 2023 banks withhold a 12% tax from income in the form of interest and/or capital growth from state securities obtained by individuals and 7% from income in the form of interest from bank deposits. Moldova does not provide deferral of taxation for status changes, such as those set out in the Merger Directive, and the rules on consolidation of companies for tax purposes differ from those in the EU.

The country has also adopted rules on transfer pricing (according to the arm's length principle), which are expected to enter into force on 1 January 2024. According to the Tax Code, these rules must be applied in line with the OECD Transfer Pricing Guidelines.

On **administrative cooperation and mutual assistance**, Moldova has signed double taxation agreements with 21 EU Member States (except Belgium, Denmark, Hungary, Sweden, France and Germany). It has also ratified the Multilateral Agreement of the Competent Authorities for the Automatic Exchange of Information on Financial Accounts. The country is not yet a member of the inclusive framework on base erosion and profit shifting and has not signed OECD's October 2021 Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy and no formal steps for joining this framework have taken place so far.

On **operational capacity and computerisation**, the tax administration has improved its communication and services to taxpayers (including electronic tax return declarations). However, significant efforts are needed to tackle: (i) outdated IT systems; (ii) the lack of automated risk management and data exchange systems for compliance risk management and tax audits (e.g., no automated risk-based approach in VAT refunds); and (iii) the inadequate taxpayer register, which relies too much on other authorities. There is still no technical capacity or IT strategy to prepare for interconnectivity and interoperability with **EU IT systems** (such as the Excise Movement Control System and the VAT Information Exchange System).

Efforts to combat tax evasion, particularly VAT and excise duties, have led to improved tax collection in recent years. For example, in 2022, tax collection increased by 18.6% year-on-year, also on the back of the high inflation. With the public management strategy for 2023-2030 adopted in February 2023, the country has committed to strengthen the tax administration's capacity. It will do this by simplifying processes and boosting automation and digitalisation of risk management and services for taxpayers. In the reporting period, Moldova joined the EU's 2023-2027 Fiscalis programme.

Chapter 17: Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

The country has **some level of preparation** in the area of economic and monetary policy. **Some progress** was made in the reporting period, namely: (i) the adoption of the new public finance management reform programme; (ii) a new regulation on public investment management; and (iii) a package of legislative amendments to strengthen the institutional autonomy and governance of the central bank. Moldova also strengthened the central bank's capacity as part of the financial sector supervision reform.

In the coming year, Moldova should in particular:

- strengthen the independence of the central bank and align the prohibition of monetising public debt with EU rules;
- improve budget execution, in particular of capital investments, by applying the project pipeline to identify public investment projects eligible for funding;
- improve budgetary transparency and macroeconomic decision-making by aligning with the requirements of the European System of National and Regional Accounts (ESA 2010) and take steps towards creating an independent fiscal council.

On **monetary and exchange rate policy** the National Bank of Moldova (NBM) ensures and maintains price stability in line with the EU monetary policy framework. It is equipped with regulatory powers and instruments, including the ability to implement its monetary policy objectives through direct inflation targeting. Moldova adopted a number of legislative amendments in December 2022 to further safeguard the independence of the NBM. Additional reforms should be introduced in this area, specifically to ensure that the mandates for members of the Supervisory Board are renewed in a staggered manner. The NBM may not monetise public debt by purchasing government securities or providing loans to state bodies. It is nevertheless required to roll over a relatively small amount of legacy loans previously provided to the state, which is not in line with EU rules prohibiting the direct monetisation of public debt.

In the area of **economic policy**, Moldova adopted a new 7-year public finance management development strategy. The medium-term budgetary framework covers a 3-year period, which supports fiscal discipline and accurate macroeconomic, budgetary and public debt projections. In recent years, there have been considerable challenges with budget planning and preparation. Moldova's capital expenditure has persistently shown a significant level of under-execution, which weighs on the credibility of the budget and efficient use of resources. The project pipeline approach was adopted in October 2022 but has yet to be applied.

Moldova has yet to set up an independent fiscal council to improve fiscal policy-making, although its creation was promised by the authorities as a long-term goal during the Public Finance Management Policy Dialogue in May 2023. The country is not yet fully in line with the EU's integrated surveillance framework, in particular regarding the identification and assessment of fiscal risks stemming from the large state-owned enterprises sector. Furthermore, insufficient administrative capacity and public sector transparency weighs on the effective implementation and coordination of economic policy.

Moldova does not report general government sector data in line with ESA 2010, as national accounts are still compiled according to SNA 2008, which hinders macroeconomic policymaking and budgetary transparency. The underlying statistical framework needs to be aligned with ESA 2010 requirements and definitions, and accounting rules and procedures need to be consistently applied across general government subsectors.

Moldova has requested to participate in the 2024-2025 **economic reform programme** process. This will require significant additional resources and coordination efforts.

Chapter 19: Social policy and employment

EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social dialogue at EU level.

The country **has some level of preparation** in the area of social policy and employment and has made **some progress** during the reporting period.

In the coming year, the country should in particular:

- further develop, adopt and implement the measures set out in the concept paper on reforming the National Employment Agency, ensuring adequate capacity and setting up a monitoring and evaluation system;
- reform social assistance, with stronger links to employment;
- take concrete steps to strengthen the mandate and administrative and institutional capacity of the State Labour Inspectorate.

Over the last year Moldova adopted several changes in the area of labour law. In July 2022, Parliament approved amendments to **the Labour Code**. Newly adopted legislation introduced flexible working arrangements offering employees the chance to adapt their work schedule. In July 2022, the government unified the minimum wage for the private and public sectors. On 1 January 2023, the minimum wage increased from MDL 3 500 to MDL 4 000 (EUR 175-200). In June 2023, Moldova also adopted a Declaration on improving social policy and on adhesion to the European Pillar of Social Rights.

To reduce the rate of undeclared work, amendments were introduced to the Law on the status of occasional workers. The amendments shifted the obligation to pay social contributions for occasional workers from the worker to the employer and extended the maximum number of days that day labourers can work in a year, from 90 to 120. They also allow day labourers to simultaneously be registered as unemployed to encourage formal work and lay down that day labourers may not earn less than the legal minimum wage for one day of work (8 hours).

On health and safety at work there have been no legislative developments.

In 2022, the State Labour Inspectorate only detected 82 cases of undeclared work (80 in 2021), the lowest numbers in the last 12 years. As of March 2023, the State Labour Inspectorate has been given additional powers including the right to conduct unannounced visits, although only limited to cases of undeclared work, under-declared work, human trafficking and labour exploitation. As of July 2023, the law also gave the Inspectorate back the right to impose penalties directly (without the need to transfer cases to court) for cases of undeclared work and under-declared work.

In July 2022, the social partners and the government signed a new national tripartite agreement on the development and promotion of **social dialogue**. In the agreement, the government committed to consult social partners on all social and economic legislation and strengthen tripartite consultation. Capacity building of social partners needs to continue.

Despite economic headwinds, the labour market recovered from the pandemic, although significant structural challenges persist. The number of employed people increased by 1.8% in the fourth quarter of 2022 from a year before. The structurally low **employment rate** (among the population aged 15 years and over) rose slightly to 40.5% in 2022 but remains well below the EU average of 54.1% in 2022. Informal employment in agriculture, construction and trade is estimated to be more than 22% of the total. Moldova's **unemployment rate** has been persistently low, which partly reflects the low participation in

the labour force and the substantial share of self-employed workers. Due to the economic decline and the increase in the size of the labour force in 2022 (including people fleeing Russia's war of aggression against Ukraine), the unemployment rate rose to 4.6% in the fourth quarter of 2022, up from 2.6% a year before.

On **employment policy**, the government adopted in November 2022 a national employment programme for 2022-2026. Among others, the programme aims to expand the number of women in employment. There is a need to set up a monitoring and evaluation system for employment services. Implementation began of some parts of the Youth Guarantee.

The National Employment Agency has limited capacity to implement the 2019 employment law and some of the new active labour measures, notably the support to self-employment and support for creation of jobs in rural areas. Comprehensive staff development programmes need to be established and applied as a regular activity of the Agency.

Moderate progress was made in the field of **social inclusion and protection**. In July 2022, the Parliament adopted the Law on the Energy Vulnerability Reduction Fund to tackle the impact of the energy crisis on the population. Around 800 000 households (out of 1.2 million) registered on a platform and received compensation. As part of the winter aid programme, approximately 273 000 people benefited from financial support from November 2022 to March 2023.

In September 2022, the government changed the process for accessing social aid (including minimum income benefit) to stimulate the employment of people available to work, encourage formal employment and target families with children. In 2022, approximately 70 000 families benefited from social aid. Although the absolute poverty rate is 24.5%, only 3.4% of the population get the social benefit and only 12.8% get the cold season benefit. The child allowance and social benefit contribute only 4.1 percentage points to the reduction of poverty among households with children. 24.4% of children are poor, and 8.9% suffer from extreme poverty.

The government approved the national programme for child protection for 2022-2026 and its action plan in June 2022. It aims to strengthen the child protection system to respond promptly and effectively to children's needs. The programme is supported by a commitment to increase the families and child protection budget from 3.3% of the national budget and 1.1% of GDP in 2020 to 6.6% and 2.2%, respectively, in 2026. This aims to reduce the rate of extreme poverty among children from 11.3% in 2019 to 8.5% in 2026.

A social assistance IT system is in place, managed by the Ministry of Labour and Social Protection. In 2022, the IT system was integrated into Moldova's interoperability platform mConnect, which automates the examination of social and winter aid applications. In June 2022, the government approved plans for an information system for the child protection sector. This aims to digitalise the child protection authority's activities and facilitate exchanges between the relevant state institutions.

In March 2023 the Ministry of Labour and Social Protection announced a reform of the social system "RESTART" for 2023-2026 in order to reduce poverty and prepare the system for accession. The reform also includes actions related to increasing the efficiency and performance of the social public institutions and combating corruption. The reform should address the administrative capacity of the social assistance system, the regional inequalities in terms of providing social services, increasing access, and improving cost-efficiency of the system. This reform should have stronger links to employment activation. On **equal treatment and non-discrimination** there are around 168,000 persons with disabilities. The national program for the deinstitutionalisation of people with disabilities continued.

Concerning equality between women and men in employment and social policy. The gender pay gap in Moldova is 14%. The number of female MPs in Parliament fell slightly from 41 in 2021 to 39 in 2023. The 2023-2027 programme for promoting and ensuring equality between women and men was approved in April 2023. It aims to reduce the gender pay gap, increase social protection for people involved in the long-term care of family members by creating new support services, promote women in management positions and in decision-making. In November 2022, the Ministry of Labour and Social Protection approved the Regulation on the procedure for prevention, examination and reporting of sexual harassment cases. In July 2022, Parliament adopted the Law on regulating flexible work arrangements and extending the benefit period of parental leave.

Chapter 20: Enterprise and industrial policy

EU enterprise and industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).

Moldova **has some level of preparation** in the area of enterprise and industrial policy. **Some progress** was made during the reporting period. Moldova has adopted a new national development strategy until 2030 and a national development plan 2023-25 that expresses its industrial strategy. The country needs to better align its legislation with the EU Late Payment Directive and make the business environment more attractive, notably for inward foreign direct investment.

In the coming year, Moldova should in particular:

- start implementing the national programme for the promotion of entrepreneurship and increasing competitiveness for 2023-26, the national industrialisation programme for 2023-2027, and the national strategy for the development of the economy;
- reduce the administrative burden by enacting available proposals to cut red tape, simplify, and digitalise processes;
- accelerate the implementation of the strategy on the management of state property, state enterprises and entities with state capital, and delineate the role of the Ministry of Economic Development and Digitalisation in regulatory and policy-making functions and the role of the Public Property Agency in exercising corporate governance functions with respect to SOEs.

On **enterprise and industrial policy principles**, Moldova bases its development strategy on the twin green and digital transitions and the driving forces of foreign direct investment in industry and on SMEs, notably innovative start-ups in manufacturing. Efforts are now geared towards innovation, where it performs well for its level of development, digital transformation and the green economy.

Moldova has adopted a new national development strategy until 2030 and a national development plan 2023-25. Both express the country's industry strategy. The objectives of these documents include elements of the association agenda and EU industry strategy adapted to the conditions of its industry.

Investment aims mainly at infrastructure and internationalisation, support measures strongly focus on SMEs, which drive industrial development, including towards the twin transition, social entrepreneurship, smart specialisation and improving their innovation capacity. The extent to which the objective of reforming the judiciary includes its commercial part remains to be seen. Further objectives towards improving the business environment seem to be part of the 2030 strategy, notably the reduction of the informal economy. Proposals to reduce the

administrative burden, in consultations notably with enterprises and by exploiting digitalisation, are available.

On **enterprise and industrial policy instruments**, in the reporting period, the government approved several new SME support programmes such as the re-technologisation and energy efficiency, the SMEs digital transformation and the rural tourism programmes. Other programmes were redesigned to better correspond to SMEs' needs, such as the PARE 1+1 programme for bringing remittances into the economy, the START FOR YOUTH: a sustainable business at home, the SME greening and the women in business programmes. Entrepreneurship is one of the key subjects in the educational system, taking the European entrepreneurship competence framework into account. Future measures to support SMEs should focus on internationalisation, access to finance and innovation (including the transition to the green market), fair competition and entrepreneurial learning.

On 22 July 2023, the new Organisation for Entrepreneurship Development (ODA) was officially launched, replacing the previous Organisation for the Development of Small and Medium Enterprises (ODIMM). The aim is to set a modern organisation able to meet new SME support requests. Its budget for 2022 was increased but then substantially reduced for 2023 due to budget constraints. Its staff went through a reappointment procedure based on merits and skills. To further improve SMEs' access to finance, the Guarantee Fund managed by ODA has been recapitalised. Additionally, the new Fund for Entrepreneurship and Economic Growth (FACEM), also managed by ODA, was launched to provide long-term loans in Moldova's currency to SMEs in priority sectors, such as energy efficiency.

There has been progress in harmonising the definition of an SME by amending the Law on SMEs in December 2022. Considerable work remains to promote entrepreneurial learning, including meeting the specific skills requirements of SMEs and improving the data available.

There is no dedicated law on combating late payments in commercial transactions. However, the relevant provisions of the Moldovan Civil Code are fairly aligned with the Late Payment Directive (2011/7/EU) but only as far as payment terms are concerned. Other key provisions still require alignment. Monitoring systems to assess payment performance, especially by public authorities, are needed. The protection of creditors in business-to-business transactions is suboptimal, which can lead to abusive practices.

Internationalisation of SMEs is still limited and remains a long-term challenge despite efforts to support it. Cooperation based on a clustering concept has a legal basis and supports regional development, including through internationalisation. A pilot initiative led to the creation of 30 clusters in the automotive, food, textile and creative industries.

Technical negotiations for Moldova's accession to the single market programme were completed and the agreement was signed on 8 September. The two submitted strands are competitiveness of SMEs, and market surveillance.

To reduce the role of the state in the economy and strengthen the quality of corporate governance in state bodies, the strategy on the management of state property, state enterprises and entities with state capital for 2023-2030 was approved and entered into force in February 2023. The strategy sets out, as a priority action, the development of a sorting mechanism for state and commercial companies with state capital. In April 2023, two government decisions were adopted. They aim to improve the management and corporate governance in state-owned enterprises (SOEs), in line with the strategy on state assets and OECD guidelines, notably by professionalising the boards of directors and audit committees of SOEs. The law on SOE governance includes the fundamental step forward of formulating a rationale for public ownership. Moldova should clearly delineate the competence of the Ministry of

Economic Development and Digitalisation in regulatory and policy-making functions, notably to prevent regulations privileging SOEs, and the role of the Public Property Agency in exercising corporate governance functions with respect to SOEs in line with OECD guidelines and the government's own SOE strategy.

The SOE privatisation process was suspended in 2022 amid overlapping crises and the complicated geopolitical situation in the region caused by the war against Ukraine. In 2022, a number of SOEs were reorganised and liquidated. This included two in the industrial sector, despite there only being a few active SOEs in that sector.

In **sectoral policies**, current investment incentives prioritise manufacturing, whose dominating industries of food/beverages and textiles are part of the cluster initiative.

Chapter 25: Science and research

The EU provides significant support for research and innovation. All Member States can participate in the EU's research and innovation programmes and benefit from them, especially where there is scientific excellence and solid investment in research and innovation.

Moldova is **moderately prepared** in the area of science and research. **Some progress** was made in the reporting period. Moldova has been active in the European Research Area and is finalising a smart specialisation strategy. A more integrated approach to governing innovation would create economic opportunities, investment and start-ups. The absorption capacity for research and innovation is still limited, and infrastructure development is required to implement open science. The gender dimension in research needs to be further integrated, and careers in research need to be made more attractive.

In the coming year, the country should in particular:

- adopt the smart specialisation strategy and develop a multiannual action plan with measures for implementation;
- ensure sufficient financing for research and innovation (R&I) under national programmes and adopt measures to promote innovation in line with the new European innovation agenda.

In summer 2022, the Moldovan authorities adopted a reform to consolidate higher education and research, including merging most research institutes with university departments in a broader effort to improve efficiency and increase the education-research nexus. The reform also provides for better remuneration for researchers, particularly those involved in EU-funded R&I projects. The authorities are drafting the new national R&I programme for 2024-2028.

Moldova is associated to **Horizon Europe**, the EU's R&I **programme**. Its success rate in the programme was 31.68% (of proposals that receive funding) as of May 2023, which is above the EU average of 21.47%. Moldova opened a National Horizon Europe Office in May 2023.

On the **European Research Area**, Moldova committed to 9 of 18 actions of the European Research Area policy agenda for 2022-2024.

Moldovan law provides for open access to publications when research activities are publicly funded, although a comprehensive open science strategy is still in development. Gross domestic expenditure on R&D was only 0.23% of GDP in 2022.

There is no formal national strategy for promoting gender equality in R&I or reducing the brain-drain. The number of scientists is in decline, and the outflow of researchers is higher

than the inflow. There is a need for a strategy to reduce this brain-drain, attract talent to R&I, in particular from the diaspora, and give more support to researchers' careers.

Moldova has advanced in the design of a national **smart specialisation strategy**. The strategy is now in the final phase, and the formal adoption procedure is expected to be launched by the end of 2023.

Moldova should make the most of the opportunities available by the European Institute of Innovation and Technology (EIT).

Chapter 26: Education and culture

The EU supports cooperation in education and culture by funding programmes and the coordination of Member State policy through the 'open method of coordination'. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

Moldova **has some level of preparation** in the area of education and culture. **Some progress** was made in the reporting period. The country's education system is broadly aligned with EU policy and practice, although students' learning outcomes lag behind the European average. The accessibility and inclusiveness of education vary across the country's urban and rural areas, as does the quality of teaching and learning. Further efforts are needed to better match the vocational education and training (VET) skills on offer with labour market needs. Cultural policies generally suffer from a lack of funding.

In the coming year, Moldova should in particular:

- promote reforms to consolidate quality and efficiency of the school network in both general education and VET;
- strengthen the continuous professional development of teachers and school leaders in line with the recently adopted national education strategy for 2030;
- implement the youth strategy and ensure efficient funding for sport and culture.

Moldova's **education and training** system has been undergoing a continuous modernisation since the adoption of the Education Code in 2014, which sets the legal basis for this area. The legislative framework is generally in line with the acquis.

In March 2023, the government adopted the national education strategy for 2030 and its implementation plan after a comprehensive consultation throughout 2021 and 2022. The 2023 allocation for education and training in the state budget has been increased by nearly 25% compared with 2022.

The school network is distributed in a suboptimal manner across the country and affected by demographic trends. More attention needs to be paid to vulnerable groups, such as Roma, where half the children are not in school.

The average pupil/teacher ratio has been consistently between 11 and 13 in the years from 2017 to 2022, with significant differences across levels and urban vs rural schools.

In 2023, the National Program on learning Romanian by national minorities, including the adult population, for 2023-2025 was approved by the Government, which will improve multilingualism and inclusiveness of education in Moldova.

Overall access to education is an issue for Ukrainian children in Moldova, which is hosting large number of Ukrainian refugees. Limited numbers of asylum applications, as well as other constraints such as insufficient number of teachers and school infrastructure, impact the

integration of Ukrainian students. There is a lack of oversight on the part of Moldovan authorities.

In **VET**, Moldova continued to develop a reform of the governance system and the quality of the education provided. Centres of excellence have gradually begun to assume responsibilities as coordinators of the school network in their sectoral domains. **The national qualification framework** services have strengthened cooperation with the European Qualification Framework Advisory Group. The Ministry of Education and Research approved the regulatory framework for dual VET in March 2023 (implementing the Law on dual education). This should facilitate matching skills provision with labour market demands by enhancing interaction between schools and industry, and between pupils and employers. In 2022-2023, the VET centres of excellence have increased their activity as providers of continuing education, and the Ministry of Labour and the Ministry of Education have recently engaged in a dialogue to improve non-formal education. **Validation of non-formal and informal learning** continues at accredited institutions, in national policies and targets.

In **higher education**, in July 2022, the government adopted a higher education reform to consolidate the national network of universities and strengthen integration between education and research. In 2023 five Moldovan universities have been accredited at European level, and Moldova benefits from the European dimension of the Erasmus+ programme.

In **digital teaching and learning**, the national authorities have held several rounds of public consultations to prepare the 2023-2027 strategy for digital transformation of Moldova. Moldova makes use of SELFIE, an EU online tool for digital self-assessment, in all general and VET schools.

In 2022, the government has created the National Agency for the Development of Programs and Activities for **Youth**. Its core mandate is to implement national grant programmes for youth organisations and implement policies targeting youth empowerment and youth dialogue. At present the Agency is understaffed and lacks operational capacity. A comprehensive youth strategy and implementation plan were approved in 2023 to set up 22 youth centres. Youth sector financing remains limited, due to the country's multiple competing priorities. Moldova benefits from youth exchanges and volunteering projects under the Erasmus+ programme and the European solidarity corps.

In what concerns **sport**, in 2022-2023, the number of students in special sports schools increased and grants for high performers were doubled and the national teams sports centre in Chişinău was refurbished in 2022. Public budgetary restrictions weaken the possibility to provide better opportunities for the inclusion of disadvantaged groups in sport activities despite regulatory provisions in place. Moldova is a signatory to the conventions against doping, match-fixing and violence. The national anti-doping law is in final stages of approval by Parliament.

Moldova's **cultural** policies and programmes reflect the general priorities of the new European agenda for culture. Moldova was an associate member of the 2014-2020 Creative Europe programme but has not yet renewed its association to the successor programme that runs until 2027. There is limited public financing for the cultural sector, which undermines the access to opportunities for artists and other cultural practitioners.

Chapter 29: Customs union

All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementing and enforcement capacity and access to the common computerised customs systems.

Moldova is in **between some and moderate level of preparation** in the area of the customs union. The country made **some progress** in the reporting period, notably on harmonising tobacco control regulations and further aligning the new Customs Code with the EU *acquis*. Moldova joined the EU customs programme, which will lead to additional capacity and knowledge for the enlargement process. Moldova and the EU have signed a Mutual Recognition of Authorised Economic Operators programs, facilitating the trade and ensuring security for both sides.

In the coming year, Moldova should in particular:

- complete all the implementing standards, IT systems, staff training and communication activities so that the new Customs Code fully enters into force on 1 January 2024;
- prepare an IT strategy and further develop IT systems to enable a full paperless environment and interconnection and interoperability with EU IT systems;
- finalise the development of the IT system necessary to enter the Common Transit Convention and ensure smooth and secured transit of goods via its territory.

Moldova's **customs legislation** is broadly aligned with the EU customs regulations. Amendments to the new Customs Code were adopted in March 2023 to ensure further alignment with the relevant *acquis*. The government adopted the implementing regulation for the new Customs Code but postponed its entry into force until 1 January 2024.

The new Customs Code integrates certain provisions of EU regulations on intellectual property rights and customs duty reliefs and provisions to implement the New Computerised Transit System. In July 2023, the Parliament adopted the amendments to the free economic zone regime and customs duty relief (cancelling the provisions allowing customs duties circumvention) to align it with the EU *acquis*. Moldova still needs to align its Customs Code with other parts of the EU *acquis*. It should adopt all the implementing standards, IT applications, ensure staff training and communication with businesses. Alignment with the EU system of tax warehousing for excise duty suspension is still outstanding. The country still has to work to introduce the Excise Movement Control System.

Moldova obtained the mutual recognition of Authorised Economic Operators (AEO) programme with the EU in November 2022. Currently, Moldova has already issued AEO authorisations to 119 operators, 28 of them authorised for security and safety, which are recognised in EU Member States. Moldova is party to the Pan-Euro Mediterranean Convention on rules of origin and benefits from the diagonal cumulation of origin between Convention member countries. Rules on customs enforcement of cultural goods remain broadly in line with the EU *acquis*.

On **administrative and operational capacity**, the customs service was reorganised at the end of 2022. This aims to introduce an organisational structure, adjusted to EU customs requirements and ensure a higher degree of integrity. Moldova still needs to automate the customs clearance process, to shift cargo clearance from the border to inland, and to implement post-clearance controls (e.g., audits). The country has not yet fully implemented a paperless environment for customs processing or introduced an automated validation of customs declarations. It would need a new IT strategy and IT systems to enable a full paperless environment and interconnection and interoperability with EU IT systems.

Moldova joined the EU customs programme which will create new opportunities to exchange information, develop capacity and provide technical assistance.

CLUSTER 4: GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

This cluster covers: transport (Chapter 14); energy (Chapter 15); trans-European networks (Chapter 21); and environment and climate change (Chapter 27).

Moldova is at the early stage of preparedness in environment and climate change and has made some progress during the reporting period by passing cross-cutting environmental legislation and implementing regulations on nature protection and industrial emissions. Some level of preparation with limited progress was achieved on transport policy and some progress in trans-European networks, while the country is in between some to moderate level of preparedness for energy. On energy, Moldova made good progress, having the highest progress performance rate among contracting parties in the Energy Community Annual Implementation Report 2022.

Chapter 14: Transport policy

The EU has common rules on technical and safety standards, security, social standards, State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

Moldova has achieved **some level of preparation** in transport policy. **Limited progress** was made in the reporting period. Progress was severely hampered by Russia's continued war of aggression against Ukraine, which had a direct impact on Moldova's ability to progress. Moldova was granted observer status in the Transport Community Treaty that will facilitate closer integration in the EU transport market. The country needs to continue alignment with the EU *acquis* on all modes of transport and implement it effectively.

In the coming year, Moldova should in particular:

- progress to get removed from the blacklist of the Paris Memorandum of Understanding on Port State Control;
- timely implement of the Railway Transport Code;
- adopt the new national mobility strategy 2023-2030, covering all transport modes and prepare an action plan to implement it, and a new road safety strategy.

On **general transport**, Moldova is currently preparing a Mobility Strategy for 2023-2030 to be adopted by the end of 2023 and replace the 2013-2022 Strategy on transport and logistics. On public services Moldova is aligned with the EU *acquis* on rail but not road transport. Moldova has plans to increase the administrative capacity for the rail and maritime sectors while aviation authorities have implemented some measures already. Those include upgraded IT devices for inspectors, new sets of equipment for RAMP and in-flight inspections. During the reporting period, the government approved the creation, organisation and working methods of the Transport Accident and Incident Investigation Bureau and the Railway Agency.

In 2022, Moldova was granted observer status in the Transport Community Treaty as basis for further integration of the country in the EU transport market and is collaborating proactively with the treaty's structures. Closer association with the Transport Community can support Moldova on its European path and facilitate closer alignment with the relevant EU transport *acquis*.

On **road transport**, national legislation is partially aligned with the EU *acquis* on road safety. Moldova's new road safety strategy needs to be aligned with the EU Road safety Policy Framework 2021-2030 and be based on Safe System Approach and Key Performance

Indicators defined by the EU. Road safety is still a concern as the number of casualties is far above the EU average. A National Road Safety Observatory was created as a coordination centre. The use of funds for maintenance and repair of roads has become more efficient and resources allocated for road safety better absorbed.

The legislation on **dangerous goods** is partially aligned with the EU *acquis*. Although the existing regulations do not include rules for transporting hazardous substances, they do include references to applicable provisions of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR).

Legislation on **market access**, the profession of road transport operators, digital tachographs and access to the haulage market is partially aligned. The rights of passengers are regulated by the Road Transport Code, which is partially aligned with EU legislation. The EU *acquis* on maximum weights and dimensions of heavy-duty vehicles is partially harmonised by a government decision. Access to the international market for coach and bus services is regulated by bilateral agreements or multilateral agreements to which Moldova has acceded. No timeline has been produced to align each relevant piece of legislation with the EU social and market legislation, including amendments introduced in Mobility Package 1. The current national regulatory framework does not provide for the implementation of the Intelligent Transport Systems Directive (ITS), and the country also has insufficient capacity and resources to implement it. A concept for developing an integrated system exists, which includes subsystems like e-tickets, e-GPS, and a registry of transport operators. A road transport agreement to liberalise bilateral and transit road transport between the EU and Moldova was signed in June 2022 and has been extended up to 2024.

On **rail transport**, the adopted Railway Transport Code, which will enter into force in 2024, is partially aligned with the EU *acquis*. It includes provisions on: (i) separating train operations from infrastructure management; (ii) the independence of infrastructure managers to make decisions; (iii) railway safety; (iv) the roles of those involved in the rail system; (v) the supervision of safety management systems; (vi) safety certificates and safety authorisations; (vii) train drivers; and (viii) regulation of the railway market. A railway agency reporting to the Ministry of Infrastructure and Regional Development was created as the safety authority and will become operational when the new Code enters into force. Railway safety legislation, including safety management systems, safety responsibilities of railway companies and infrastructure managers, and licensing of train drivers are partially aligned with the EU *acquis* through the Railway Transport Code. Efforts are needed to adopt legislation on railway interoperability. Legislation is also not aligned with EU rules on passengers' rights.

On **maritime transport**, a ship register, that includes merchant vessels operating internationally, has been set up. The Moldovan flag vessel is on the blacklist of the Paris Memorandum of Understanding on Port State Control. Authorities should put in place a roadmap in order to get its vessels removed from this list. Legislation on port services is not aligned with the EU *acquis*.

The country has observer status to the Black Sea Memorandum of Understanding on Port State Control. Moldova does not have a maritime coastline, but it has access to the maritime sector of the Danube River. The country is not a party to the Maritime Labour Convention. Moldova also participates in the Black and Caspian Sea (BCSEA II) technical assistance project implemented by the European Maritime Safety Agency (EMSA).

The country has two **inland waterways** of international importance, the Nistru and Prut Rivers. Moldova also has access to the Danube River and participates in the EU strategy for

the development of the Danube region. Moldova has also signed an agreement on inland waterway navigation with Romania. The inland waterways normative framework is not in line with the EU *acquis*. Currently, a draft government decision for the approval of the rules and standards regarding the technical examination of connected inland navigation vessels and the recognition of Inland navigation classification societies is in the approval process. In the approved 2023-2025 government national plan for development, an increase in the administrative capacity of the Naval Agency is envisaged.

There is no legislation on training navigation personnel and no relevant educational institutions in Moldova. The legislation on the recognition of crew qualifications is not aligned with EU legislation and Moldova should continue working on fulfilling the preconditions for recognition of navigation certificates in the EU.

On **aviation**, the country is partially aligned with the EU *acquis*, having harmonised more than half of the legal acts in the EU-Moldova Common Aviation Area Agreement with its legislation. This covers aviation *acquis* in the areas of personnel licensing, air operators' certification, airworthiness and aerodromes, aviation safety and security, and passenger rights. The *acquis* on air navigation services is at an advanced stage of implementation. The national legal framework has been harmonised with several EU regulations under the single European sky framework.

There are no legal and technical provisions on **intermodal transport** in Moldova.

Moldova needs to apply **EU passenger rights** *acquis* for all forms of transport.

Chapter 15: Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy and nuclear safety, radiation protection and nuclear safeguards.

Moldova is in between some and moderate level of preparation in the area of energy. Moldova has made **good progress** during the reporting period. The diversification of gas and electricity supply routes has reduced Russian energy supplies, replacing them with western supplies.

In the coming year, Moldova should in particular:

- align with and implement the 'Clean energy for all Europeans' package, including with the EU Renewable Energy Directive and the Electricity Integration Package adopted by the Energy Community Ministerial Council in December 2022, and start setting up an electricity market operator;
- adopt the Energy Strategy for 2050 finalise and adopt the National Energy and Climate Plan (NECP), in line with the Energy Community 2030 energy and climate targets;
- set up the national energy efficiency fund with a focus on interventions in the residential sector, considering the best regional practices.

On **security of supply**, Moldova follows an energy strategy (launched in 2013) with a vision to safeguard energy security by strengthening gas and electricity transmission networks and increasing their role for transit, by developing gas storage capacity, modernising the district heating systems available in the country and promoting sustainability through energy efficiency and renewables. In line with EU Regulation on the Governance of the Energy Union and Climate Action, the process of drafting the National Energy and Climate Plan (NECP) is ongoing. The final NECP will have to be aligned with the Energy Community

2030 energy and climate targets and take due account of recommendations issued by the Energy Community Secretariat. There are still delays in aligning legislation with the EU Oil Stocks Directive. Despite the available draft bill, Moldovan authorities are delaying the adoption of national legislation which would align with the EU Oil Stocks Directive. On the security of supply of gas, a state-owned trader, Energocom, purchased and stored more than 300 million m³ of gas in 2022, using a loan from the European Bank for Reconstruction and Development.

On the **internal energy market**, legislation aligning with the third energy package was adopted. Certain parts that still need to be implemented, including: (i) unbundling of the second gas transmission system operator, Moldovatrangaz, which is part of Moldovagaz (controlled by Gazprom); (ii) applying gas network codes; (iii) redesigning the public service obligation scheme, and (iv) allowing all customers to switch their suppliers without having to pay the “equity fee” currently imposed. The electricity transmission system operator Moldelectrica was certified by the National Energy Regulatory Agency (NAER) in July 2023, considering the opinion of the Energy Community Secretariat. Gas and electricity distribution and supply companies were successfully unbundled. Alignment with the ‘Clean energy for all Europeans’ legislative package is pending.

The implementing legislation needed for the gas and electricity markets was issued by the national energy regulator. Only for gas, National Agency for Energy Regulation (ANRE) aligned the REMIT Regulation in July 2022 and started the alignment with the gas balancing network code, in line with the *acquis*. Legislative changes are required to enable alignment for electricity. Market opening in electricity reached almost 10% in 2021, but due to Russia’s war against Ukraine and the energy crisis, the market was reregulated. The market opening, from legal perspective, reached 100% both in electricity and gas and procedures for supply switching are in place, even if in practice, the vast majority of gas customers are still under regulated prices. Electricity balancing mechanisms and imbalance payments were successfully introduced in 2022 but were operated under a transitional mechanism with capped prices. There are no balancing services provided by any parties in Moldova. The day-ahead market and the intra-day market are still to be set up and a nominated electricity market operator (NEMO) is still to be designated. In gas, a real market opening has yet to happen despite there being 25 licensed suppliers. New generation capacity can be built using a simple authorisation procedure in place. The connection to the grid and licensing procedures appears to be operational.

Most retail consumers are at regulated tariffs set by the national energy regulator. Cross-subsidies between customer categories and between voltage levels/pressure levels were eliminated. Moreover, the regulator approves transmission and distribution tariffs using transparent methodologies. All regulated retail prices are adjusted at least once a year.

There is no social tariff for vulnerable energy consumers. Instead, the legal aspects of energy poverty are currently covered by energy and social assistance legislation. Energy sector legislation (Energy Act, Natural Gas Act, Electricity Act) identifies vulnerable consumers as socially disadvantaged categories in line with social assistance legislation. Assistance is then addressed through specific support schemes under the social protection system. For these consumers, a dedicated Energy Vulnerability Fund was created in 2022, and direct support for gas, electricity and heating bills was provided in winter with the level of subsidies initially tailored to five vulnerability categories and extended to six categories in 2023. A new action plan, following on from the NECAP in previous years, to prepare for the winter 2023-2024 is to be developed.

Access to gas and electricity transmission systems is fully open and based on regulated tariffs. The third-party access principle is implemented. Moldovatransgaz has not been unbundled yet, hindering the correct application and implementation of the legislation. Preparatory activities for the unbundling and certification of any of the TSOs are ongoing, with the involvement of the Energy Community Secretariat.

On **hydrocarbons**, the Ministry of Environment has not aligned legislation with the Hydrocarbons Licensing Directive. Moldova does not have any offshore geographical areas.

The last **national renewable energy action plan** covered 2013-2020 and is to be substituted by the upcoming NECP. The 17% target of gross final energy consumption in 2020 to be covered by renewable sources was achieved and surpassed (23.57%). For 2030, the target for the share of renewables is 27%.

The country partially aligned itself with the Renewable Energy Directive through national legislation on the promotion of renewable energy sources. Alignment with the revised Renewable Energy Directive, part of the 'Clean energy for all Europeans package', is under way with support from the Energy Community Secretariat.

The main obstacle to the large-scale development of wind and solar electricity generation is the limited capacity of the transmission system operator to ensure balancing the system. Another obstacle is the postponed organisation of the first round of tenders for renewables, which has been on the government's agenda since 2019. Under government decision in force, the capacity to be installed until 2025, that can benefit from both support schemes – fixed prices and FiT for small-scale projects, is limited to 120 MW in wind, 200 MW in solar, and 90 MW in non-intermittent sources. This is expected to contribute to the country's recent commitment and draft NECP objective to reach a 30% target of renewable electricity by 2030.

Guarantees of origin are currently issued by the Central Electricity Supplier, a single buyer of electricity produced at feed-in tariffs and feed-in prices. Amendments to the Renewables Law, which are currently under development, should make it possible to organise the first auctions for renewable energy projects. For renewable heat, there are currently no specific support mechanisms beyond support for energy efficiency projects. The **national energy efficiency action plan** for 2019-2021 is now incorporated into the upcoming national energy and climate plan. This plan is currently being developed and will have to implement the 2030 energy and climate targets agreed at the Energy Community. The capacity of the Energy Efficiency Agency, reporting to the Ministry of Energy, that oversees promoting energy efficiency and renewable policies and managing energy efficiency projects must be strengthened. To do so, the Ministry of Energy is currently reorganising the Agency to extend its scope and expertise by amending the Agency's institutional setup and related regulation. The only existing national fund that finances energy efficiency projects is the Fund for Local and Regional Development. The Energy Efficiency Agency, once reorganised, should become responsible for financing energy efficiency projects in residential and, at a later stage, public buildings.

Moldova achieved the 2020 target and progressed with the alignment of national legislation with the Energy Efficiency Directive, which was adopted in May 2023.

Implementation of the Buildings Directive is still incomplete. The 2014 Law on the energy performance of buildings is partially aligned with the Directive. A long-term building renovation strategy has been developed and needs to be adopted. Chisinau and Balti have functional municipal heating systems. Head distribution network has been rehabilitated and the generating units are gas fired, producing both electricity and heat.

On **nuclear energy, nuclear safety and radiation protection**, Moldova does not have and does not intend to build any nuclear power plants. Moldova has developed a national strategy on radioactive waste management aligned with the Radioactive Waste Directive. The Law regarding main requirements in radiological safety has been adopted. Moldova still needs to align with and fully implement the Euratom Directives on nuclear safety, management of spent fuels and nuclear waste, basic safety standards and drinking water. Moldova is not yet a member of ECURIE system.

On **nuclear safeguards**, upon accession, the existing systems of accountancy and control of nuclear materials in Moldova would need to be adapted to accommodate for the safeguard provisions (chapter 7) of the Euratom Treaty.

Chapter 21: Trans-European networks

The EU promotes Trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.

Moldova has achieved **some level of preparation** in trans-European networks. **Some progress** was made in the reporting period. On energy, Moldova succeeded in diversifying its electricity and gas supply routes. It did so through the emergency synchronisation with the European Network of Transmission System Operators (ENTSO-E) continental grid. Moldova needs to align its legislative framework with the Trans-European Network for Transport and the Trans-European Network for Energy regulations and develop its infrastructure.

In the coming year, Moldova should in particular:

- make progress in completing the urgent priority infrastructure projects on Solidarity Lanes, in particular rehabilitating the north-south railway corridor and mobilising resources to absorb Connecting Europe Facility funds to support, in particular, the alignment to the EU gauge;
- speed-up the construction of the Vulcănești-Chișinău 400 kV power line; secure project financing for and start building a new 400 kV electricity interconnection between Suceava in Romania and Bălți in Moldova.

On **transport networks**, the current strategic framework for transport infrastructure is set out in the 2030 national strategy for development. A new national mobility strategy for 2023-2030 is being developed. The priority transport corridors are outlined in the EU-Moldova Association Agreement. In addition, the Trans-European Transport Networks (TEN-T) were extended to the Eastern Partnership, including Moldova.

In May 2023, Moldova was the first non-EU country to be associated to the Connecting Europe Facility (CEF) that will support the implementation of the extended TEN-T networks.

The road fund is the main source of funding from the national budget for the maintenance of public roads. Road works, which include TEN-T network, are advancing with some delays on sections where the contracts for works were terminated and new tenders launched.

The administrative capacity of the authorities responsible for implementing major projects needs to be improved. Moldova is a key transit route under the EU-Ukraine Solidarity Lanes initiative. The EU provided a EUR 20 million grant in 2022 for the rehabilitation of part of the north-south railway corridor. This is planned to be finished by the end of 2024, but some effort is needed to ensure the smooth implementation of the project. Following a landslide in August 2022, Moldova must ensure urgent repairs to the Cahul-Giurgiulești railway line,

which is part of the TEN-T network. For the rehabilitation of the railway segment Basarabeasca-Giurgiulesti, works are currently ongoing.

On **energy networks**, gas and electricity transmission infrastructure developments are set out in the Ten-Years Network Development Plans developed by transmission system operators and approved by the energy regulator in line with EU practice.

On **electricity**, the emergency synchronisation with the ENTSO-E continental Europe grid took place during the reporting period. Several projects are under way: the 400 kV overhead-line interconnection between Vulcănești (Moldova) and Isaccea (Romania), the extension of the 400 kV overhead line between Vulcănești and Chișinău. The Romania-Moldova gas interconnector (Iași-Ungheni) and the bidirectional flow on the Trans-Balkan corridor Moldova-Ukraine have been finalised. Backhaul legislation was adopted in January 2023, providing for financial and customs declarations of reverse gas flows.

The Regulation on guidelines for trans-European energy networks is in the final stage of alignment through a dedicated amendment to the national Law on energy.

Chapter 27: Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

Moldova is at an **early stage of preparation** in the area of the environment and climate change. **Some progress** was achieved in cross-cutting environmental legislation, nature protection and industrial emissions regulation. Moldova is encouraged to be more ambitious and strengthen its coordinated action on the green transition, especially by prioritising the mainstreaming of the European Green Deal in all policy areas. Climate-related commitments under the Energy Community in view of moving towards carbon pricing require urgent action.

In the coming year, the country should in particular:

- strengthen implementation and enforcement of legislation with a focus on horizontal legislation, nature protection, water management and waste management;
- allocate the necessary human and financial resources to the Ministry of Environment and to subordinated bodies;
- implement commitments under the Energy Community's Decarbonisation Roadmap.

Environment

On **horizontal legislation**, Parliament adopted amendments to the Law on environmental impact assessment to fully align it with the Environmental Impact Assessment Directive. Parliament also passed amendments to the Law on strategic environmental assessments (SEA). The aim was to improve consistency with the SEA Directive and the UN Economic Commission for Europe Protocol on SEA, particularly on public consultations, quality assurance and monitoring. Further alignment is needed in the areas of environmental liability and environmental crime. In light of the ongoing revising and replacement of Directive on Environmental Crime with a new version an adaptive response to the alignment with this changing body of *acquis* would be welcome. The country needs to strengthen implementation and enforcement in most areas. In addition, more sectoral involvement and responsibility in developing an integrated environmental and climate policy is required. It is also important for

Moldova to build capacity in the Ministry and the bodies reporting to it, mobilise enough resources, and continue to strengthen transparency, public consultations and dialogue with civil society.

On **air quality**, Moldova has aligned its legislation with several EU directives. There is a need to revise the legislation on the sulphur content of certain liquid fuels and harmonise legislation with the EU Directive on the reduction of national emissions of certain air pollutants. The current air quality monitoring system is fragmented, and the country needs to invest heavily in technical equipment, develop air quality plans and build capacity to collect, process and report data.

On **waste management** and the circular economy, Moldova put in place a number of the key parts of legislation relevant to the EU *acquis*. The country still needs to harmonise legislation with several directives, including the directives on ship recycling and managing waste from extractive industries. Moldova is making significant investments in its solid waste management infrastructure. To promote the circular economy, the government adopted a regulation on eco-labelling.

On **water quality** management, Moldova has aligned its legislation with the Water Framework Directive and entered the second cycle of river basin management planning. This included the government approving the river basin management plan of the Danube-Prut and Black Sea hydrographic basin district cycle II (2023-2028). Further alignment is needed with several other parts of the EU *acquis*. Significant parts of the population still lack access to quality water supply and sanitation services. Systemic investments are required, especially in wastewater treatment infrastructure. The sector would benefit from a clear division of responsibilities and improved coordination between the authorities concerned.

On **nature protection**, Moldova amended its Law on ecological networks in October 2022. The amended law includes a chapter on the Emerald Network. In February 2023, the national forest extension and rehabilitation programme for 2023-2032 was adopted. Efforts are needed to align legislation with other parts of EU law on nature protection and sustainable forest management. The country must also build capacity for more efficient management in this sector.

On **industrial pollution control and risk management**, Parliament approved a new legislative framework on industrial emissions in September 2022. This harmonises legislation with EU directives on industrial emissions and on the limitation of atmospheric emissions of certain pollutants from medium combustion plants. During the reporting period, several amendments to the legal framework on risk management came into force, which improve the level of harmonisation in the area. Created in 2016, the Pollutant Release and Transfer Register is not fully operational. Overall, Moldova should strengthen the coordination of interinstitutional actions and build capacity to check and validate data, check companies' reporting, and improve legal liability.

On **chemicals**, Moldova has partially aligned its legislation with EU *acquis* in this area. The country must also strengthen implementation and enforcement of the sustainable management of chemicals. It would benefit from creating a national helpdesk as a first point of contact for questions on the CLP and REACH regulations. It should also permanently strengthen cooperation with the European Chemicals Agency.

No significant progress on **noise** legislation was made during the reporting period.

On **civil protection and disaster risk management**, the country made significant progress. In October 2022, the government submitted an expression of interest and in September 2023

Moldova joined the Union Civil Protection Mechanism (UCPM). Moldova's existing sectoral development Action Plan, adopted in December 2022, sets clear priorities and provides for proactively participating in UCPM exercises and training. Moldova requested and participated in a UCPM Peer review of its civil protection system on a voluntary basis.

Moldova should continue its efforts in strengthening its civil protection and disaster risk management system, particularly on disaster prevention and preparedness. It should develop national disaster risk assessments based on a nationally approved methodology. To increase resilience to natural disasters and crises, Moldova should also boost its operational capacity, infrastructure, early warning system and step-up efforts in strengthening its hydrometeorological service. Moldova should also set up secure trans-European services for telematics between administrations (TESTA) to connect to the Common Emergency Communication and Information System (CECIS). This should be done to facilitate a coordinated communication with the Commission's Emergency Response Coordination Centre (ERCC).

Climate change

On **climate change**, Moldova is a signatory to the Paris Climate Agreement under the United Nations Framework Convention on Climate Change. The low-emission development strategy for 2030, which is currently being revised and will be complemented by the National Energy and Climate Plan, is the main decarbonisation strategy. Moldova updated its nationally determined contribution in 2020 with the unconditional target to reduce its net greenhouse gas emissions by 64-67% in 2030 compared with 1990 levels and the conditional target to reduce emissions by up to 88% if international climate finance is secured. Moldova has not submitted either a long-term low-emission strategy or a national adaptation plan under the Paris Agreement.

Moldova has a national system for monitoring, verifying and reporting greenhouse gas emissions. The national greenhouse gas emissions inventory and reporting is donor-based. Some parts of the ETS Directive are partially aligned as provisions on monitoring, reporting and verification for industrial entities are included in national legislation on industrial emissions. Provisions on monitoring, reporting and verification (MRV) for the aviation sector are not harmonised, and a national greenhouse gas permitting system has yet to be set out.

A law on fluorinated gases was adopted in March 2023. From January 2024, the import and use of fluorinated gases will gradually decrease in favour of greener, energy-efficient options, as per the EU standards. The Ozone Regulation on substances that deplete the ozone layer is incorporated into national law. The Fuel Quality Directive is partially incorporated into national law.

The main obstacles and challenges to implementation include limited administrative capacity, fragmented sectoral policies and absence of a whole-of-government oversight on implementation of climate policies and commitments, and insufficient monitoring and checks of greenhouse gas emissions, including the reliability of data across the country.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

This cluster covers: agriculture and rural development (Chapter 11); food safety, veterinary and phytosanitary policy (Chapter 12); fisheries and aquaculture (Chapter 13); regional policy and coordination of structural instruments (Chapter 22); and financial and budgetary provisions (Chapter 33).

Moldova is at an early stage of preparations for all chapters except for food safety, veterinary and phytosanitary policy where it has some level of preparation. Some progress was

achieved on agriculture and rural development as well as food safety, veterinary and phytosanitary policy. In fisheries and aquaculture, regional policy and coordination of structural instruments and financial and budgetary provisions limited progress was achieved. Further efforts are needed in all these areas.

Chapter 11: Agriculture and rural development

The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of natural resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy, and organic farming.

Moldova is at an **early stage of preparation** in agriculture and rural development. **Some progress** was made during the reporting period, with the adoption of the national strategy for agriculture and rural development, by supporting local action groups (LAGs) in implementing local development strategies through the LEADER programme.

In the coming year, Moldova should in particular:

- draw up an action plan to set up an Integrated Administration and Control System (IACS), progress in creating the farm register;
- take concrete steps to strengthen the administrative capacity of the Ministry of Agriculture and Food Industry, and of the Agency for Interventions and Payments in Agriculture (AIPA).

On **horizontal issues**, the national strategy for agriculture and rural development for 2023-2030 was adopted in February 2023. It is aligned with the general principles of the new common agricultural policy. The authorities must develop a multi-annual financing plan as well as a monitoring and reporting system.

Further efforts are required to set up an integrated administration and control system (IACS). An interinstitutional coordination task force for e-governance in agriculture was created in 2022. A feasibility study to create a farm registry was conducted, and a roadmap for its implementation drawn up. An animal register is in place and is undergoing further developments. No system to identify agricultural parcels exists. There is no Farm Accountancy Data Network (FADN) in place. Strategies for collecting and monitoring data need to be further developed.

Regarding **common market organisation** (CMO), efforts are needed to prepare and set up the regulatory framework in line with the EU *acquis*.

The framework policy document governing **rural development** is the national strategy for agriculture and rural development 2023-2030, and the National Fund for the Development of Agriculture and the Rural Areas provides for the financial support to measures improving the standard of living and working in rural areas. The National Fund for Agriculture and Rural Development supports the implementation of the LEADER.

As regards **quality policy**, Moldova has legislation regulating the protection of geographical indications, protected designation of origin, and traditional specialties guaranteed and maintains a publicly available register of protected products.

Moldova is partially aligned with the EU *acquis* on **organic farming**. A new law further aligned with the EU *acquis* is in adoption process. The competent authority, the Ministry of

Agriculture and Food Industry, has appointed the official control body, while the accreditation and certification systems are in place and operational. The new Law on organic production and labelling, aligned with EU policy was adopted in July 2023.

Chapter 12: Food safety, veterinary and phytosanitary policy

EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with the quality of seeds, plant protection material, protection against harmful organisms and animal nutrition.

Moldova has **some level of preparation** on food safety, veterinary and phytosanitary policy. During the reporting period, **some progress** was made strengthening the institutional and diagnostic capacity of competent authorities (especially reference laboratories). Monitoring and enforcement of the domestic market food quality need to be strengthened.

In the coming year, Moldova should in particular:

- strengthen the diagnostic resources of competent authorities and broaden the scope of the national monitoring and surveillance programme for food safety, animal feed and veterinary drugs to increase the level of assurance for animal origin products;
- draw up a human resource development strategy for the National Food Safety Agency and a specialised training programme for inspectors from territorial subdivisions.

In the area of **general food safety, food safety rules and specific rules for feed**, Moldova's administrative capacity has been strengthened through the reorganisation of the National Food Safety Agency (NFSA).

In 2022, after taking over the laboratory system from the Ministry of Agriculture and Food Industry, the food safety laboratory based in Bălți was incorporated into NFSA thus increasing the network to seven national reference laboratories. More resources and training are needed for the agency's inspectors, particularly at the local level.

On **veterinary policy**, Moldova has further increased its surveillance system and the diagnostic resources of the competent authorities. It continued to successfully implement active surveillance of EU programmes for African swine fever and rabies prevention and control. Throughout 2022, avian bird flu detection, response times and effectiveness have improved by e.g., setting up surveillance and protection zones, laboratory testing and use of confirmatory methods. Measures for the prevention and control of rabies in animals have also been put in place.

The use of veterinary drugs with antimicrobial effects was restricted. Training for inspectors from territorial subdivisions was intensified, covering topics such as hazard analysis critical control points audits in farms and food businesses and risk analysis.

The animal state register was completed by including the registration of non-professional poultry holdings (backyards) and interconnecting it with the laboratory digital information system. The policy for the non-commercial movement of pets is harmonised with the EU *acquis*.

On **food safety rules**, the country's laboratories have sufficient capacity. It was increased during the reference period through the accreditation of new methods at the food product testing laboratories. In March 2023, Moldova was authorised to export processed poultry meat and eggs for consumption (class A), this reflects the effectiveness of official controls.

On the **placing of food, feed and animal by-products on the market**, raw milk was included in the 2022 national monitoring and surveillance programme. The country has yet to expand residue monitoring to new products and increase the number of samples of official controls obtained at farms, processors and distributors. Progress has been made to harmonise national legislation with EU regulations on the obligatory labelling of substances or ingredients that cause allergies or intolerances, country of origin of primary ingredients, and information on the presence of gluten. Regulations on maximum limits for trans-fatty acids (transfats) in food products are aligned with the relevant EU regulations.

State legislation on **phytosanitary policy** is partially aligned with the EU *acquis*. Further progress is needed to implement actions on sustainable use of pesticides. This includes activities on the online training platform launched in February 2023 to strengthen the information flow and increase the knowledge and application of good practice.

Equivalence of field inspection for crops that produce cereal, vegetables, oleaginous plants and fibres seeds, in line with EU *acquis*, was granted by the European Commission for assessments carried out by the authorities.

The Law on **genetically modified organisms**, aligned with the EU *acquis*, was adopted in June 2022 and will enter into force in 2024. Official controls, production and placing are performed according to the 2023 national monitoring and surveillance programme.

Chapter 13: Fisheries

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

Moldova is at **an early stage of preparation** in the area of fisheries. During the reporting period, **limited progress** was made in strengthening the legal framework and institutional capacity, notably by strengthening inspections and controls. However, the multiannual strategy and national legislation on aquaculture have not been adopted or implemented.

In the coming year, Moldova should in particular:

- adopt a national strategy dedicated to aquaculture;
- progress on aligning quality and marking standards with those under the EU common market organisation;
- improve the traceability of fishery and aquaculture products and strengthen import inspections to prevent importation of illegal, unreported and unregulated (IUU) fishing;

Moldova needs to further strengthen the capacity to develop, implement and enforce fisheries policy. It also needs to boost overall coordination of the authorities on biodiversity protection.

The adoption of a multiannual national strategy dedicated to aquaculture and a national legislation on aquaculture aligned with EU *acquis* is pending.

On **resource and fleet management**, Moldova has no vessels engaged in sea fishing. Authorities need to improve the data available on fisheries and aquaculture. Commercial fishing is not authorised in order to protect fish species in natural water basins, and a system for recording and checking the use of fishing opportunities has not been developed.

Inspections and controls were strengthened through provisions on fish farms, the transport of live animals, and fish and fishery product processing facilities. Intensified sanitary and veterinary inspections of live fish consignments by the National Food Safety Agency strengthened compliance with sanitary and veterinary requirements including for imports. A control system to prevent importation of fishery products from illegal, unreported and unregulated (IUU) fishing is needed.

Moldova has no specific **structural actions** for small-scale fisheries. The data collection framework has not been harmonised with the EU acquis.

Concerning **market policy**, there is no legal framework on producer organisations and market requirements specific to fishery and aquaculture products (consumer information, marketing standards, market intelligence). No progress was made during the reporting period on aligning quality and marking standards with those under the EU common market organisation.

No **State aid** support measures are provided for fisheries and aquaculture sectors.

International cooperation activities should be further strengthened, including as part of the common maritime agenda for the Black Sea and the General Fisheries Commission for the Mediterranean. EU-Moldova cooperation dialogue takes place on the fight against illegal, unreported and unregulated (IUU) fishing. No further progress has been made in adopting and integrating in national law the international fisheries agreements, nor finalising legislation covering the definition of fishing vessel in line with international fisheries instruments and rules with regards to the registration and deregistration of vessels engaging in illegal, unreported, and unregulated fishing.

As regards the wider blue economy, Moldova participates in the Common Maritime Agenda, the EU sea-basin strategy for the development of a sustainable blue economy in the Black Sea. It is moderately active in the implementation of its priorities, with a strong commitment at the grassroots level. Moldova is encouraged to continue its positive regional cooperation under the Common Maritime Agenda with the other participating countries, as well as to strengthen its ownership of and commitment to the initiative.

Chapter 22: Regional policy and coordination of structural instruments

Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU acquis elements such as environmental or public procurement legislation.

Moldova is at an **early stage of preparation** in the area of regional policy. **Limited progress** was made in the reporting period. Moldova's legislative framework is partially aligned with the EU *acquis* in areas. Moldova's administrative capacity and experience is insufficient to meet the requirements of EU regional policy in implementing large-scale funds. Regional development and cohesion are hampered by the inefficient administrative-territorial structure.

In the coming year, Moldova should in particular:

- operationalise the IT system through which mature investment projects are submitted for approval;
- ensure sufficient administrative capacity for the whole implementation of the cross border and transnational cooperation (Interreg) programmes;
- set up audit structures specialised in auditing European funds.

On the **legislative framework**, the country still needs to align itself with the core legislative parts of the EU cohesion policy framework.

The current **institutional framework** is outlined in the Law on regional development but is to be aligned to the needs of cohesion policy. The National Coordination Council for Regional and Local Development is responsible for regional development policy at national level. The regional development councils are responsible for regional development policy at local level.

The Ministry of Finance is the national coordinating authority for external assistance with the State Chancellery being responsible for monitoring technical assistance projects. Sectoral coordination takes place at ministry level. A definition of tasks and responsibilities among the bodies involved in managing external assistance is in place. In order to ensure that the needs are most efficiently addressed through external assistance, cooperation between the Ministry of Finance and the State Chancellery should be further strengthened.

The Ministry of Finance has set up the necessary administrative structures for the implementation of the cross border and transnational cooperation (Interreg) programmes. For the effective functioning of national authority structures for Interreg programmes, the Ministry of Finance should ensure sufficient administrative capacity during the whole implementation of these multiannual programmes.

Overall, **administrative capacity** is still low. Specific expertise on planning, implementation and monitoring under shared management (beyond cross-border cooperation) is very limited. The country does not have a comprehensive plan to build and maintain administrative capacity to implement cohesion policy, including capacity-building needs assessments and training measures. The significant disparities in the provision of basic services between urban and rural areas persisted during the reporting period.

Multiannual **programming** takes place via the government-approved medium-term budget framework. This sets the financial resources for three years for the National Fund for Regional and Local Development and for contributions to projects financed by external sources.

A national regional development strategy for 2022-2028 and a separate national programme for the development of cities as growth poles exist. The National Fund for Regional and Local Development is the main source of funding for regional and local development projects.

In February 2023, the government adopted the national development plan for 2023-2025. Implementation of this plan is based on the national development strategy ‘Moldova 2030’, and considers recommendations made in the context of Moldova’s accession to the EU. Instruments to finance local and regional projects by the government are fragmented. The pipeline of mature investment projects is being made operational with the support of an EU-funded project. It will involve a first set of public investment project proposals being appraised in line with the eligibility criteria set out in a newly adopted regulation. New regulation defining the procedure for submission was adopted during the reporting period, but the IT system through which the project proposals are to be submitted is not yet operational. Moldova does not monitor and evaluate public investment programmes as laid down in the Common Provisions Regulation.

There is limited **financial management and control** system for EU funds in place with exception of Moldova’s regulation on the implementation of EU-funded Interreg programmes for which the national structures are being set up for the 2021-2027 programming period. On **audit**, Moldova does not have an audit structure specialised only in auditing European funds, a requirement for alignment with the EU *acquis*, except for the audit of the Interreg programmes. The Court of Accounts monitors the planning, management and use of public financial resources and has been part of the group of auditors performing audit of cross-border and transnational cooperation programmes but lacks sufficient resources or targeted training.

Chapter 33: Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget (‘own resources’). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource; and (iv) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.

Preparations under this chapter are at an **early stage**. **Limited progress** was achieved in the reporting period. Amendments adopted in March 2023 to the customs legislation will increase alignment with the EU *acquis*. The institutional environment required for an efficient own resources system has yet to be set up.

In the coming year Moldova should in particular:

- engage in capacity-building activities on the traditional own resources system in the EU;
- set up a coordinating body to implement the administrative processes for an own resources system.

Basic principles and institutions in the underlying policy areas affecting own resources are linked to progress under other chapters such as 16: Taxation, 18: Statistics, 29: Customs union and 32: Financial control.

Some progress was made on **traditional own resources** with amendments to the customs legislation, which is now largely aligned with the EU *acquis* and will enter into force on 1 January 2024. This will help prepare traditional own resources, namely customs duties. Moldova has electronic systems in place for levying customs duties (and VAT) at the point of import, as well as for accounting and management of debts. It operates a national VAT system. Nevertheless, the IT infrastructure should be upgraded as a basis for creating a traditional own resources system.

On the VAT-based resource, calculation of the VAT base and the weighted average rate is partial. The country does not have adequate measures in place to combat VAT and customs duties fraud, in particular those affected by the non-observed economy (non-VAT taxpayers trading goods, etc.). Legislation on structure, exemptions, deductions, special schemes and the scope of reduced rates is not fully aligned with the EU *acquis*.

On **gross national income**, Moldova compiles national accounts and calculates gross national income, including an estimation of the non-observed economy. It also makes some estimates on plastic waste generation and the quantity of plastic waste recycled at national level, which is based on reports provided by authorised waste management companies. The underlying policy is not aligned with the EU *acquis*, especially the compilation of the national accounts and gross national income currently based on the definitions and accounting rules of the UN System of National Accounts 2008 and not the European ESA 2010 standards. There has been no progress on the changeover to ESA 2010, national data collection or the calculation of non-recyclable plastic.

On **administrative infrastructure**, the Ministry of Finance has overall responsibility for financial and budgetary issues. Moldova has yet to set up the institutions for the own resources system, an own resource coordination body and implementing rules for alignment with EU requirements. No training has been organised on implementing the own resources system.

CLUSTER 6: EXTERNAL RELATIONS

There are two chapters in this cluster: External relations (Chapter 30); Foreign, security and defence policy (Chapter 31).

In this cluster, Moldova is moderately prepared in the chapter of external relations where it made some progress during the reporting period. In the chapter of common, foreign, security and defence policy, the country is in between moderate and good level of preparation and made good progress. Moldova's alignment with declarations by the High Representative on behalf of the EU and Council Decisions was 54% and has increased to 78% in 2023.

Chapter 30: External relations

The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.

Moldova is **moderately prepared** in the area of external relations and made **some progress** during the reporting period. On bilateral trade, free trade agreement negotiations with the European Free Trade Association were concluded. Further action is expected on administrative capacity and alignment with the EU *acquis* on dual-use export controls and export credits.

In the coming year, Moldova should in particular:

- finalise aligning the national legislation on export controls for dual-use items with the EU *acquis*;
- set out legal framework on international cooperation, development and humanitarian aid towards non-EU countries, aligned with EU policies and principles.

On the **common commercial policy**, Moldova coordinated its positions and aligned itself to the initiatives promoted or supported by the EU in the WTO. This includes alignment with all joint statement initiatives, namely the Joint Initiative on Electronic Commerce, the Joint

Initiative on Investment Facilitation for Development, the Joint Initiative on Micro, Small and Medium-Sized Enterprises, and the Joint Initiative on Services Domestic Regulation. Additionally, Moldova aligned itself with the Trade and Environmental Sustainability Structured Discussions and the Informal Working Group on Trade and Gender. Moldova also made progress in meeting its commitments in trade facilitation and intellectual propriety rights.

Under the decision of the Commission for Extraordinary Situations, starting from 1 March 2022, sugar exports were banned to ensure food security amid the multiple crises in the region. Moldova is examining the possibility to remove the ban and resume sugar exports; export restrictions previously imposed on certain agricultural products (wheat and corn) and medical products have been lifted. Amendments to the Law on internal trade, introducing 50% local content requirements and discriminating against foreign manufacturers, were repealed in June 2022.

On export controls of dual-use items, some progress has been noted with Moldova starting to align its legislation with the EU Regulation on the control of exports, brokering, technical assistance, transit and transfer of dual-use items.

On trade defence instruments, Moldova has legislation in place on anti-dumping, countervailing and safeguard measures. During the reporting period, the country did not apply any trade defence instruments. On export credits, Moldova does not grant export subsidies or export credit, and it has no export insurance programmes.

On **bilateral trade agreements** with third countries, in March 2023, Moldova concluded free trade agreement (FTA) negotiations with the European Free Trade Association. This is expected to enter into force on 1 January 2024.

In total Moldova has 43 bilateral investment treaties in force, including with 19 of which are with EU Member States. The legislative framework for screening foreign direct investment to protect investments in areas of importance for state security is in place.

On **development policy** and **humanitarian aid**, Moldova is a recipient of aid rather than a donor. It does not have a development policy or provide structured technical assistance to any partner countries. Although Moldova has legislation on humanitarian aid, there is no dedicated structure or budget to implement it. There is also no legal framework for non-governmental organisations to provide humanitarian assistance. During the state of emergency following Russia's war of aggression against Ukraine, special conditions for providing humanitarian aid to Ukraine were adopted by the Parliament and are supported by the June 2023 adoption of temporary protection measures. Following the February earthquakes and on Türkiye's request, Moldova delivered in-kind assistance and a team of rescuers, emergency vehicles and search dogs.

Chapter 31: Foreign, security and defence policy

Member States must be able to conduct political dialogue under the EU foreign, security and defence policy, align with EU statements, take part in EU actions, and apply agreed sanctions and restrictive measures.

Moldova is in between moderate and good level of preparedness in the area of common foreign, security and defence policy. Good progress was made in the reporting period. Moldova's alignment rate with relevant declarations by the High Representative on behalf of the EU and Council decisions increased. Following Russia's war of aggression against Ukraine, Moldova aligned with EU positions in international fora, including in the UN General Assembly (UNGA). In 2023, Moldova started its gradual alignment with some of the

EU restrictive measures related to Russia/ Russian activities abroad. Moldova continued to participate in EU crisis management missions and operations under the common security and defence policy.

In the coming year, the country should in particular:

- continue to further increase the alignment rate with the EU common foreign and security policy (CFSP) and ensure the implementation of restrictive measures stemming from EU alignment;
- continue its efforts to counter hybrid threats and enhance its resilience, including by following up on the recommendations from the hybrid risk survey and implementing actions in line with a whole-of-government and whole-of-society approach.

The **political dialogue** between the EU and Moldova on foreign and security policy continued, including in the framework of the EU-Moldova Association Council. The annual consultations on security and defence took place in autumn 2022, and the second EU-Moldova high-level political and security dialogue was held in Brussels in March 2023.

On the **common foreign and security policy (CFSP)**, in 2022, Moldova's alignment rate with relevant statements of the High Representative on behalf of the EU and Council decisions on restrictive measures was 54%. As of August 2023, the alignment rate improved to 78% Moldova expelled 22 Russian diplomats and 23 Russian embassy support staff members, limiting the embassy's staff by two thirds.

Moldova's Ministry of Foreign Affairs and European Integration has the appropriate structures in place to participate in the common foreign and security policy. Within the ministry, Moldova has a state secretary for security and horizontal issues, and another state secretary for EU integration.

On **restrictive measures**, following Russia's war of aggression against Ukraine, Moldova did not align with the EU restrictive measures against Russia and Belarus and related statements by the High Representative on behalf of the EU, but the authorities have committed not to allow the EU sanctions to be circumvented. In 2023, Moldova started its gradual alignment with some of the EU restrictive measures targeting Russia/ Russian activities abroad, such as two EU Council decisions targeting the Wagner group under the EU Global Human Rights Sanctions regime, as well as the restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine. More work is needed to align with EU restrictive measures and enhance the robustness of their implementation including by strengthening the national authorities in charge of this action.

Moldova has aligned itself with international and EU initiatives in support of Ukraine, including on Resolutions adopted by the United Nations General Assembly, the Human Rights Council, the Council of Europe.

Moldova cooperates constructively in international fora and is a member of multiple **international organisations** Moldova ratified the Rome Statute of the **International Criminal Court**.

On **disarmament and non-proliferation**, Moldova participates in some, but not all, international export control arrangements and instruments on non-proliferation. It participates in the Proliferation Security Initiative and the Hague Code of Conduct. Moldova is party to the Arms Trade Treaty. Moldova is not a participant to Wassenaar Arrangement, neither to

other multilateral export control nor non-proliferation regimes and is yet to join the Australia Group. Moldova does not have a separate national strategy for small arms and light weapons.

On **security measures**, the EU-Moldova Agreement on security procedures for the exchange and protection of classified information was operationalised prior to the reporting period in January 2021.

Security and defence cooperation has substantially increased over the past year, including in the framework of the European Peace Facility, addressing hybrid threats and cybersecurity, countering disinformation and strengthening strategic communication.

As regards **common security and defence policy (CSDP)**, Moldova has participated in EU crisis management missions and operations under CSDP since 2014, notably in the EU Military Advisory Mission in Central African Republic, and the EU Training Mission in Mali. Moldova has expressed interest to contribute to operation ALTHEA in Bosnia and Herzegovina, and in the EU Training Mission in Somalia and was invited to do so. Moldova actively contributes to UN missions. Moldova continues to contribute to NATO-led and UN mandated KFOR mission in Kosovo.

Regarding hybrid threats, Moldova completed the relaunched the EU **hybrid risk survey** in 2023 with the objective of identifying systemic vulnerabilities and streamlining the assistance provided by the EU in this field. Moldova initiated the implementation of a range of measures to increase its resilience and improve its ability to counter hybrid threats, in line with the recommendations from the hybrid risk survey.

ANNEX I – RELATIONS BETWEEN THE EU AND MOLDOVA

On 3 March 2022, the Republic of Moldova presented its application for membership of the European Union. The European Council granted **European perspective** and candidate status to Moldova in June 2022, on the understanding that nine steps identified in the Commission's opinion on the membership application, are taken.

The EU and Moldova signed an **Association Agreement, including a Deep and Comprehensive Free Trade Area**, in 2014, which fully entered into force in July 2016. The AA/DCFTA is the bilateral legal instrument serving as the basis for political association and economic integration between the EU and Moldova. Overall, Moldova continued to broadly implement its obligations. Regular political and economic dialogue between the EU and Moldova has continued through the AA/DCFTA structures, which also include various sub-committees. The last EU-Moldova Association Committee meeting took place in June 2022 and the latest EU-Moldova Association Council in February 2023. The 9th meeting of the EU-Moldova Association Committee in Trade Configuration took place on 29 November 2022, The EU-Moldova Parliamentary Association Committee held a meeting in March 2023.

Trade relations with the EU improved after the entry into force of the DCFTA and have intensified since the start of Russia's war of aggression against Ukraine, a Moldova has re-oriented many exports towards the EU. With the application of autonomous trade measures since July 2022, the EU unilaterally granted additional tariff rate quotas for a number of all agricultural products for 12 months and in July 2023 this measure was extended to remove all outstanding tariffs under the DCFTA for another year.

In light of Moldova's candidate status, the EU and Moldova agreed on a Priority Action Plan in June 2023 with the objective of accelerating implementation of the DCFTA and improving Moldova's access to the EU internal market, paving the way towards full accession in the future.

In addition to the AA/DCFTA structures, a Human Rights Dialogue with Moldova is in place since 2010 and convenes annually. The High-Level Energy Dialogue continued its biannual meetings during the reporting period, and the High-Level Strategic and Security Dialogue was held in March 2023.

The EU remains fully committed to support a comprehensive, peaceful and sustainable settlement of the Transnistrian conflict, based on the sovereignty and territorial integrity of the Republic of Moldova in its internationally recognised borders, with a special status for the Transnistrian region. The DCFTA applies to the entire territory of Moldova.

Citizens of Moldova enjoy **visa free travel** to the Schengen area as of April 2014. As part of the visa liberalisation monitoring mechanism, the Commission has been regularly assessing the progress made by the country in implementing reforms introduced under the visa roadmap. The Commission's sixth report under the Visa Suspension Mechanism, published in October 2023, concluded that Moldova continues to take action to address the recommendations from the previous year's report. A readmission agreement entered into force in January 2018. The EU has deployed considerable resources under the **common foreign and security policy** by launching an EU Partnership Mission to Moldova (EUPM) in May 2023 and providing assistance to the Moldovan Armed Forces through the European Peace Facility. In addition, the EU has put in place a dedicated sanctions regime targeting individuals who try to destabilise Moldova.

Regarding **bilateral financial assistance**, the indicative bilateral allocation for Moldova for the period 2021-2024 amounts to EUR 260 million under the Neighbourhood, Development

and International Cooperation Instrument – Global Europe 2021-2027 (**NDICI-GE**). As part of the 2022 bilateral envelope, the Action EU4 Resilience and Governance was adopted in December 2022 with an amount of EUR 40 million and focuses on good governance, stability and peace, as well as providing opportunities for all in an inclusive manner. The bilateral annual programmes are complemented by a package of multi-country and regional programmes, supporting the energy sector, strengthening border management and assisting with migration, security more widely, as well as TAIEX and competitiveness programmes together with International Financial Institutions and International Organisations. To facilitate the development of a robust labour market, and of public procurement in the country, Moldova is participating as an observer in two pilot projects under the Technical Support Instrument.

Since its launch in 2009, Moldova has participated in the **Eastern Partnership** (EaP). This overarching framework has further boosted bilateral and regional relations with the EU. Under the Eastern Partnership **Economic and Investment Plan** (EIP), the EU aims to mobilise up to EUR 1.6 billion in public and private investments for flagship projects in Moldova. The EIP accompanies the recovery, resilience and reform priorities as agreed after the 2021 Eastern Partnership Summit. The core of these investments support the five flagships identified in cooperation with the Moldovan government. These include direct support to Moldovan SMEs, supporting the construction of an inland Freight Terminal in Chisinau, refurbishment of district heating systems in residential buildings (in Chisinau and Balti), anchoring Moldova in the Trans-European Network for Transport and modernising school infrastructure. The EU is committed to progressing under these flagships in close cooperation with Moldovan authorities. So far, EUR 600 million have been allocated in key sectors such as supporting SMEs, energy efficiency and investments in Solidarity Lanes.

These aforementioned activities are built on and added to the regional programmes under **European Neighbourhood Instrument 2014-2020**, which was replaced by the NDICI instrument.

Since 2014, Moldova has progressively extended its **participation in EU programmes**. It has joined EU Customs, Fiscalis, LIFE, EU4Health, Horizon Europe and Connecting Europe Facility (CEF). Organisations and individuals from Moldova can also benefit from certain actions of the Erasmus+ and European Solidarity Corps Programmes. Moldova participates in several Interreg programmes and is a member of the EU macro-regional Strategy for the Danube region. Moldova's participation fee for EU programmes has been waived as a result of the impact on Moldova of Russia's war of aggression against Ukraine.

STATISTICAL DATA (as of 31/08/2023)
Moldova

Basic data	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		3 564 s	2 780 s	2 730 s	2 686 s	2 640 s	2 597 ps
Total area of the country (km²)	1) 2) 3)	33 846 w	33 847 w	33 847 w	33 847 w	33 847 w	33 849 w

National accounts	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million national currency)	4)	86 275 w	176 007 w	189 063 w	206 256 w	199 734 w	242 079 w
Gross domestic product (GDP) (million euro)	4)	5 261 w	8 450 w	9 527 w	10 484 w	10 116 w	11 569 w
GDP (euro per capita)	4)	1 477 w	3 067 w	3 519 w	3 935 w	3 839 w	4 424 w
GDP per capita (in purchasing power standards (PPS))	4)	4 981 w	11 410 w	12 375 w	13 361 w	12 977 w	16 069 w
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		:	:	:	:	:	:
Real GDP growth rate: change on previous year of GDP volume (%)		:	4.2 w	4.1 w	3.6 w	- 8.3 w	13.9 w
Employment growth (national accounts data), relative to the previous year (%)	5)	- 3 sw	- 3 sw	3 sw	- 12 sw	- 4 sw	1 sw
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		11 w	8 w	1 w	17 w	- 4 w	13 w
Unit labour cost growth, relative to the previous year (%)	4)	- 9 w	0 w	14 w	- 4 w	15 w	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)	4)	128.8 sw	126.0 sw	130.5 sw	126.7 sw	144.8 sw	110.1 sw
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)	4)	13.0 w	14.1 w	11.8 w	11.7 w	10.8 w	12.3 w
Industry (%)	4)	15.9 w	15.7 w	15.7 w	15.2 w	15.2 w	14.7 w
Construction (%)	4)	7.8 w	8.6 w	10.0 w	10.1 w	11.5 w	9.3 w
Services (%)	4)	63.3 w	61.5 w	62.5 w	63.0 w	62.5 w	63.6 w
Final consumption expenditure, as a share of GDP (%)	4)	108.4 w	101.6 w	99.5 w	100.1 w	99.6 w	100.3 w
Gross fixed capital formation, as a share of GDP (%)	4)	22.5 w	22.4 w	23.3 w	23.4 w	24.9 w	24.1 w
Changes in inventories, as a share of GDP (%)	4)	1.3 w	- 0.5 w	3.2 w	1.7 w	- 1.1 w	2.8 w
Exports of goods and services, relative to GDP (%)	4)	27.8 w	32.5 w	30.7 w	31.2 w	27.9 w	30.6 w
Imports of goods and services, relative to GDP (%)	4)	60.1 w	56.1 w	56.8 w	56.4 w	51.4 w	57.8 w
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)	6)	79.6 w	107.5 w	111.8 w	113.9 w	107.1 w	120.3 w
Number of active enterprises (number)		45 904 w	33 718 w	35 372 w	36 299 w	37 228 w	38 783 w
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		13.0 w	16.3 w	13.7 w	:	:	:

Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		6.5 w	22.2 w	22.1 w	:	:	:
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)	7)	58.7 sw	70.6 sw	70.3 sw	69.4 sw	69.9 sw	71.1 sw
Value added by SMEs (in the non-financial business economy) (EUR million)		:	:	:	:	:	:
Total value added (in the non-financial business economy) (EUR million)		:	:	:	:	:	:

Inflation rate and house prices	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)	8)	7.4 w	6.6 w	3.0 w	4.8 w	3.8 w	5.1 w
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		- 363.1 w	- 493.0 w	- 1 026.2 w	- 987.8 w	- 778.0 w	- 1 435.9 w
Balance of payments current account: trade balance (million euro)		- 1 754.8 w	- 2 271.6 w	- 2 789.2 w	- 2 958.3 w	- 2 714.4 w	- 3 540.6 w
Balance of payments current account: net services (million euro)		54.0 w	270.1 w	301.4 w	326.5 w	349.1 w	399.1 w
Balance of payments current account: net balance for primary income (million euro)		381.3 w	493.4 w	453.7 w	549.4 w	342.3 w	225.0 w
Balance of payments current account: net balance for secondary income (million euro)		956.4 w	1 015.0 w	1 007.9 w	1 094.7 w	1 245.0 w	1 480.7 w
Net balance for primary and secondary income: of which government transfers (million euro)		:	:	:	:	:	:
**3 year backward moving average of the current account balance relative to GDP (%)		:	:	:	:	:	:
**Five year change in share of world exports of goods and services (%)		:	:	:	:	:	:
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)	9)	218.7 w	123.1 w	219.7 w	418.4 w	133.4 w	322.7 w
Foreign direct investment (FDI) abroad (million euro)	9) 10)	5.2 dw	9.6 dw	29.0 dw	34.7 dw	5.0 dw	7.9 dw
of which FDI of the reporting economy in the EU-27 countries (million euro)		:	:	:	:	:	:
Foreign direct investment (FDI) in the reporting economy (million euro)	9) 10)	224.0 dw	132.7 dw	248.8 dw	453.1 dw	138.4 dw	330.6 dw
of which FDI of the EU-27 countries in the reporting economy (million euro)		:	:	:	:	:	:
**Net international investment position, relative to GDP (%)	11) 12)	- 30.7 w	- 30.5 w	- 36.7 w	- 40.7 w	- 40.4 w	- 39.9 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)	13) 14)	14.5 dsw	8.4 dsw	8.0 dsw	8.1 dsw	9.2 dsw	9.0 dsw

Public finance	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)		- 2.1 ew	- 0.6 ew	- 0.8 ew	- 1.4 ew	- 5.1 ew	0.0 ew
General government gross debt relative to GDP (%)		22.0 w	29.1 w	27.2 fw	25.1 w	33.1 w	32.6 w
Total government revenues, as a percentage of GDP (%)		31.9 ew	29.8 ew	30.2 ew	30.0 ew	30.4 ew	32.0 ew
Total government expenditure, as a percentage of GDP (%)		34.0 ew	30.5 ew	31.0 ew	31.4 ew	35.5 ew	33.9 ew

Financial indicators	Note	2010	2017	2018	2019	2020	2021
Gross external debt of the whole economy, relative to GDP (%)	15) 11)	67.7 sw	67.7 sw	66.3 sw	61.6 sw	65.5 sw	66.9 sw

Gross external debt of the whole economy, relative to total exports (%)		241.9 w	206.7 w	216.0 w	197.4 w	234.4 w	218.3 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		976.1 w	1 697.6 w	2 006.5 w	2 213.3 w	2 617.3 w	3 027.9 w
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		1 538.1 w	2 598.9 w	2 989.0 w	3 278.1 w	3 592.2 w	4 135.3 w
Money supply: M3 (M2 plus marketable instruments, million euro)		2 300.7 w	3 778.1 w	4 261.7 w	4 670.2 w	5 094.3 w	5 960.7 w
Total credit by monetary financial institutions to residents (consolidated) (million euro)		:	:	:	:	:	:
**Annual change in financial sector liabilities (%)		:	:	:	:	:	:
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	:	:	:	:	:
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	16)	10.00 w	9.50 w	9.50 w	8.50 w	5.15 w	8.50 w
Deposit interest rate (one year), per annum (%)	16)	4.00 w	3.50 w	3.50 w	2.50 w	0.15 w	4.50 w
Euro exchange rates: average of period (1 euro = ... national currency)		16.400 w	20.828 w	19.844 w	19.674 w	19.744 w	20.926 w
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)	11)	1 296.3 w	2 348.7 w	2 630.2 w	2 733.8 w	3 082.9 w	3 445.8 w

External trade in goods	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		2 916 w	4 266 w	4 886 w	5 222 w	4 732 w	6 085 w
Value of exports: all goods, all partners (million euro)		1 161 w	2 138 w	2 294 w	2 483 w	2 160 w	2 670 w
Trade balance: all goods, all partners (million euro)	17)	- 1 755 sw	- 2 128 sw	- 2 592 sw	- 2 739 sw	- 2 572 sw	- 2 166 sw
Terms of trade (export price index / import price index * 100) (number)		103.0 sw	103.6 sw	99.4 sw	98.8 sw	113.5 sw	110.4 sw
Share of exports to EU-27 countries in value of total exports (%)	17)	41.9 sw	60.1 sw	65.9 sw	64.1 sw	66.4 sw	62.5 sw
Share of imports from EU-27 countries in value of total imports (%)	17)	43.0 sw	48.3 sw	48.4 sw	48.5 sw	45.6 sw	46.6 sw

Demography	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		- 0.9	- 0.1 ep	- 0.9 e	- 1.6 e	- 3.8 ep	:
Infant mortality rate deaths of children under one year of age (per thousand live births)		11.8	:	:	:	8.7	:
Life expectancy at birth: male (years)		64.9	:	:	:	:	:
Life expectancy at birth: female (years)		73.5	:	:	:	:	:

Labour market	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)	18) 19) 5)	51.2 w	53.4 w	54.9 w	52.9 bw	51.1 w	52.8 w
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)	18) 19) 5)	47.5 w	51.3 w	53.3 w	50.2 bw	49.1 w	51.1 w
Male employment rate for persons aged 20–64 (%)	18) 19) 5)	48.8 w	54.4 w	55.9 w	53.9 bw	53.1 w	55.6 w

Female employment rate for persons aged 20–64 (%)	18) 19) 5)	46.2 w	48.4 w	50.9 w	46.8 bw	45.5 w	46.9 w
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)	18) 19) 5)	41.6 w	46.0 w	48.5 w	40.5 bw	40.5 w	42.6 w
Employment by main sectors							
Agriculture, forestry and fisheries (%)	18) 19) 5)	27.5 w	35.5 w	39.3 w	21.0 bw	21.1 w	21.5 w
Industry (%)	19) 5)	12.8 w	11.2 w	11.0 w	14.7 bw	14.6 w	14.4 w
Construction (%)	19) 5)	5.9 w	4.5 w	4.6 w	7.0 bw	7.2 w	7.7 w
Services (%)	19) 5)	53.8 w	48.8 w	45.1 w	57.3 bw	57.1 w	56.4 w
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	19) 5)	28.7 w	25.5 w	23.9 w	29.4 bw	29.6 w	28.6 w
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	19) 20) 5)	71.3 w	74.5 w	76.1 w	70.6 bw	70.4 w	71.4 w
Unemployment rate: proportion of the labour force that is unemployed (%)	19) 5)	7.4 w	3.9 w	2.9 w	5.1 bw	3.8 w	3.2 w
Male unemployment rate (%)	19) 5)	9.1 w	4.6 w	3.5 w	5.8 bw	4.3 w	3.9 w
Female unemployment rate (%)	19) 5)	5.7 w	3.2 w	2.4 w	4.4 bw	3.3 w	2.5 w
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)	19) 5)	17.8 w	11.9 w	7.1 w	10.4 bw	10.9 w	9.2 w
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)	19) 5)	2.3 w	0.9 w	0.8 w	0.9 bw	0.7 w	0.8 w
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)	19) 5)	6.2 w	3.7 w	2.8 w	8.5 bw	5.8 w	4.2 w
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)	19) 5)	5.2 w	3.1 w	2.9 w	2.5 bw	2.0 w	1.7 w

Social cohesion	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)	20) 21)	2 972 w	5 587 w	6 268 w	7 234 w	7 943 w	8 980 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		:	105 w	114 w	126 w	133 w	143 w
GINI coefficient	22) 23)	35 w	35 w	34 w	34 bw	35 w	36 w
Poverty gap	22) 23)	23.5 w	20.0 w	19.7 w	17.4 bw	26.3 w	26.1 w
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)	5)	22.1 w	19.5 w	21.1 w	19.0 bw	16.9 w	19.6 w

Standard of living	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)	24)	113.4 sw	165.6 sw	:	:	:	276.0 psw
Number of mobile phone subscriptions relative to population size (number per thousand population)	25)	888.1 w	1 633.9 w	1 656.4 w	1 678.7 w	1 564.0 w	1 807.4 w
Mobile broadband penetration (per 100 inhabitants)	25)	:	89.0 w	80.8 w	90.1 w	90.3 w	103.3 w

Fixed broadband penetration (per 100 inhabitants)	25)	:	21 w	23 w	25 w	27 w	29 w
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Infrastructure	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km ²)	26) 27)	34.2 sw	34.0 sw	34.0 sw	34.0 sw	34.0 sw	34.0 sw
Length of motorways (kilometres)		:	:	:	:	:	:

Innovation and research	Note	2010	2017	2018	2019	2020	2021
Public expenditure on education relative to GDP (%)	4)	7.7 sw	5.5 sw	5.6 sw	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)	4)	0.37 sw	0.26 sw	0.26 sw	0.24 sw	0.24 sw	0.23 sw
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	:	:
Percentage of households who have internet access at home (%)	22) 23)	16.5 w	54.4 w	54.2 w	60.8 bw	64.6 w	66.8 w

Environment	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)		29.4 ew	29.2 ew	30.7 ew	30.5 ew	30.5 ew	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		:	:	:	:	:	:
Electricity generated from renewable sources relative to gross electricity consumption (%)		1.8	2.1	2.6	3.0	3.1	3.6
Road share of inland freight transport (based on tonne-km) (%)		:	:	:	:	:	:

Energy	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		523	769	798	668	682	762
Primary production of crude oil (thousand TOE)		11	5	5	5	5	5
Primary production of solid fuels (thousand TOE)		0	0	0	0	0	0
Primary production of gas (thousand TOE)		0	0	0	0	0	0
Net imports of all energy products (thousand TOE)		1 967 s	2 086 s	2 219 s	2 174 s	2 103 s	2 306 s
Gross inland energy consumption (thousand TOE)		2 538	2 850	2 988	2 840	2 715	3 009
Gross electricity generation (GWh)		1 064	896	954	941	983	1 131

Agriculture	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		1 940.1 w	:	:	:	:	:
Livestock numbers: live bovine animals (thousand heads, end of period)	28)	216.0 w	167.4 w	144.8 w	123.7 w	108.9 w	104.1 w
Livestock numbers: live swine (thousand heads, end of period)	28)	478.5 w	406.4 w	397.3 w	396.6 w	339.5 w	347.9 w
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	:	:	:	:	:
Raw milk available on farms (thousand tonnes)		:	:	:	:	:	:
Harvested crop production: cereals (including rice) (thousand tonnes)		:	:	:	:	:	:

Harvested crop production: sugar beet (thousand tonnes)	28)	837.6 w	876.3 w	707.2 w	607.0 w	423.2 w	757.8 w
Harvested crop production: vegetables (thousand tonnes)	28)	341.2 w	309.7 w	283.3 w	307.2 w	226.8 w	232.0 w

Source: Eurostat and/or the statistical authorities in Moldova

b = break in series

d = definition differs

e = estimated value

f = forecast

p = provisional

s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) As of the end of the year.
- 2) Including data from the Transnistrian region.
- 3) Including wetlands.
- 4) Based on 2008 SNA.
- 5) From 2019 LFS is carried out on a new sampling plan and according to the revised definition of employment.
- 6) Starting with 2016 the Industrial production volume index are adjusted seasonally by number of working days and seasonality, the time series was corrected
- 7) In accordance with the Law no. 206 of July 7, 2006 'Regarding support of small and medium-sized enterprises', Small and medium-sized enterprises includes enterprises with less than 250 persons employed (annual average) and annual turnover of not more than 50 million Lei and with total assets (fixed assets and current assets) of not more than 50 million lei.
- 8) Consumer price inflation
- 9) Converted from USD to EUR using annual average exchange rates, according to the National Bank of Moldova.
- 10) The definition of direct investment corresponds to the definition provided by Eurostat, but these flows shouldn't be called "inward" and "outward", because the definition actually describes assets and liabilities.
- 11) Converted from USD to EUR using end-of-year exchange rates, according to the National Bank of Moldova.
- 12) GDP according to SNA 2008
- 13) Personal transfers.
Based on 2008 SNA.
- 14) Personal transfers.
- 15) Converted from USD to EUR using end-of-year exchange rates, according to the National Bank of Moldova.
Based on 2008 SNA.
- 16) The rate is established by the National Bank of Moldova (NBM) starting from 2001. The NBM applies the interest "corridor" method: the highest rate is applied on overnight credits, the lowest one on overnight deposits. End-of year values.
- 17) January to August.
- 18) Including persons producing goods for own consumption.
- 19) From 2014 data estimated using the usually resident population
- 20) Includes economic units in the real sector with 20 or more employees and all institutions in the budgetary sector regardless of the number of employees.
- 21) Includes units with 1 and more employee.
- 22) Data was recalculated for number of population with usual residence
- 23) Based on the estimation of the indicators was used the number of population with usual residence. Starting with 2019, the data are not comparable to the previous period, as the HBS methodology was modified.

- 24) Including other sources (liquefied gas, compressed natural gas, others).
- 25) The data presented for the years 2014-2020 have been revised, especially following the adjustment of some data from administrative sources used to produce statistics.
- 26) Including the Transnistrian region.
As of the end of the year.
- 27) Including the Transnistrian region.
As of the end of the year.
Including wetlands.
- 28) Without the data from the Transnistrian region



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Ukraine 2023 Report

Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions**

2023 Communication on EU Enlargement policy

{COM(2023) 690 final} - {SWD(2023) 690 final} - {SWD(2023) 691 final} -
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1. INTRODUCTION

1.1. CONTEXT

On 28 February 2022, five days after Russia launched its unprovoked and unjustified aggression, Ukraine submitted its application for EU membership. On 17 June 2022, the Commission issued its opinion¹ and recommended to the Council that Ukraine should be given the perspective to become a member of the EU and that the country be granted candidate status on the understanding that seven steps, mainly in the rule of law area, are taken. On 23 June 2022, the European Council recognised the country's European perspective and decided to grant Ukraine the status of candidate country. The European Council invited the Commission to report to the Council on the fulfilment of the seven steps as part of its regular enlargement package. This report is the Commission's first annual enlargement report on Ukraine replacing the previous annual Association Implementation Reports. To complement its opinion on the membership application, the Commission published the analytical report² on the *acquis* alignment of Ukraine in February 2023.

Russia's war of aggression is still ongoing, causing the loss of tens of thousands of lives, livelihoods, millions of refugees and internally displaced persons, deportation and transfer of Ukrainian citizens, including children, to Russia and Belarus, massive destruction of physical infrastructure and further occupation of Ukrainian territory by Russia. Faced with this aggression, the Ukrainian government has shown a remarkable level of institutional strength, determination and ability to function. Since the beginning of the full-scale invasion and war of aggression, the EU has been supporting Ukraine diplomatically, financially, economically and militarily and through humanitarian aid on an unprecedented scale, amounting to EUR 82.6 billion. It has also issued 11 packages of sanctions against Russia. EU Member States host a large number of Ukrainians, of which close to 4 million are registered for temporary protection under the Temporary Protection Directive. The EU and its Member States have also supported efforts to ensure full accountability for war crimes and the other violations of international law committed in connection with Russia's war of aggression. To support Ukraine's repair, recovery and reconstruction process, the Commission, together with Ukraine and G7 partners, has set up the Multi-agency Donor Coordination Platform. The repair, recovery and reconstruction process is firmly embedded in Ukraine's EU accession path, ensuring investments go hand in hand with accession-related reforms. In June 2023, the European Commission proposed a dedicated medium-term financing instrument that will provide Ukraine with coherent, predictable and flexible support for the period 2024-2027. The new Ukraine Facility will support efforts to sustain macro-financial stability and promote recovery. The plan is for the Facility to be endowed with EUR 50 billion in grants and loans. The EU will continue to support Ukraine as long as it takes.

Despite the war and its impact on all levels of Ukrainian society and the martial law in place, the Ukrainian government and Parliament showed determination to carry out the necessary reforms required by the EU accession process, in particular the seven steps mentioned in the opinion. Support for future EU accession is higher than ever before. According to various recent opinion polls around 90% of Ukrainians support EU membership.

1.2. SUMMARY OF THE REPORT³

Despite Russia's full-scale invasion in February 2022 and its brutal war of aggression, Ukraine

¹ COM(2022) 407 final

² SWD(2023) 30 final

³ This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of Ukraine, the EU Member States, European Parliament reports

has continued to progress on democratic and rule of law reforms. The granting of candidate status for EU accession to Ukraine in June 2022 has further accelerated reform efforts.

During the reporting period, **no elections** took place. Overall, the legal framework remains conducive to the organisation of democratic elections. Reform of the electoral legal framework should be continued to address outstanding recommendations by the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

The work of the **Parliament** (Verkhovna Rada) continues to be marked by extraordinary circumstances related to the Russian military aggression. However, legislative tasks are carried out systematically, laying the ground for an uninterrupted democratic decision-making process. Key decisions, especially on defence/security questions, were adopted by clear cross-party majorities. Considerable attention was paid to legislation related to EU integration. The Rada performed important symbolic functions, while concerns were raised about limited transparency on security grounds and weakened oversight of the executive.

Ukraine has some level of preparation in the area of **public administration reform**, with limited progress made during the reporting period. While the Ukrainian public administration has proved its resilience during the full-scale invasion, reform has slowed or stopped in a number of sectors, in particular in merit-based recruitment and selection, job classification and salary reform, as well as the roll-out of the human resources management information system. The digitalisation of service delivery has reached a high level.

On **multi-level governance**, the achievements of decentralisation reform continued, with municipalities acting as a pillar of Ukrainian resilience. Overall, following the successful finalisation of the territorial part of decentralisation, other elements of the reform still need to be completed. Local self-government in the liberated territories and those near the frontlines should be gradually restored where the security situation allows it. The newly established Ministry of Restoration should synergise infrastructure and the regional development portfolio to stimulate locally driven recovery and reconstruction based on the systematic involvement of local authorities and associations. The local fiscal base needs to be strengthened.

On the **functioning of the judiciary**, Ukraine has some level of preparation and must continue its efforts. Despite the Russian war of aggression, Ukraine continued to deliver justice services and made good progress on the implementation of the 2021 reform of the judicial governance bodies focused on integrity and professionalism. The High Council of Justice and the High Qualification Commission of Judges were re-established following a transparent process with the meaningful involvement of independent experts. It will allow the government to start filling more than 2 000 judicial vacancies again and evaluating (vetting) the qualification of some 1 900 sitting judges, which was suspended in 2019. Despite significant challenges, the Ukrainian institutions showed remarkable resilience and introduced the necessary legislative and organisational measures that allow it to continue to provide justice services to citizens and companies during the war. In 2022, most courts maintained a clearance rate (ratio of the number of resolved cases over the number of incoming cases in a given year) of 100% or even higher.

and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law.

The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

In August 2023, Ukraine enacted legislation enabling a transparent and merit-based preselection of judges of the Constitutional Court in line with the Council of Europe's Venice Commission recommendations, and started the implementation process by establishing the Advisory Group of Experts and announcing the competitions to the Constitutional Court. Legislation on the selection of judges should still be improved, and a more transparent procedure needs to be introduced for the selection of management-level prosecutors. In August and September 2023, Ukraine adopted two laws for resuming disciplinary proceedings against judges and for establishing an independent service of disciplinary inspectors on the basis of a transparent and meritocratic selection procedure with a meaningful involvement of internationally-nominated experts. A new administrative court to handle cases involving the central government bodies and staffed by properly-vetted judges needs to be established, following the abolition of the Kyiv District Administrative Court. Legislative and institutional changes are needed to ensure stronger disciplinary system for prosecutors. To increase transparency, efficiency and access to justice, Ukraine should also continue its efforts on digitalisation of the judiciary. Systemic measures still need to be taken to advance the reform of enforcement of court decisions, including the enforcement of decisions of the European Court of Human Rights. To ensure the sustainability of rule of law consolidation efforts, Ukraine should continue legal education reform.

Since the start of the full-scale invasion, Ukraine has been confronted with an unprecedented number of **atrocities** committed by the Russian military. The Ukrainian institutions made considerable efforts to address this and bring the perpetrators of international crimes to justice. Multiple law enforcement agencies, following the guidance of the Office of the Prosecutor General, started investigating these complex crimes. Specialised investigation and prosecuting departments were established for this purpose. As a result, 107 951 incidents related to various atrocity crimes have been officially registered. 267 people have been indicted and 63 people convicted for war crimes by Ukrainian courts. There has been close international cooperation, including with the International Criminal Court and its Office of the Prosecutor, Eurojust, Europol and numerous EU Member States. To improve the effectiveness of investigation of international crimes and cooperation with the International Criminal Court, Ukraine should further harmonise its legal framework with the applicable international standards.

On the **fight against corruption**, Ukraine has some level of preparation. Some progress was made during the reporting period, in particular with the establishment and consolidation of a comprehensive anti-corruption institutional framework and the gradual building of a track record in investigating, prosecuting and adjudicating high-level corruption cases. Ukraine stepped up reforms in this area after receiving EU candidate status. New legislative, strategic and institutional improvements were pursued, including the adoption of the national anti-corruption strategy, accompanied by a comprehensive state programme for its implementation. The new Heads of the Specialised Anti-Corruption Prosecutor's Office (SAPO) and the National Anti-Corruption Bureau of Ukraine (NABU) were appointed in July 2022 and March 2023 respectively, following transparent and meritocratic selection procedures with the involvement of independent experts. Since their appointment, NABU and SAPO have increased their cooperation and stepped up investigations into high-level corruption cases. The e-asset declaration system, suspended after the introduction of martial law, was restored and opened to the public, albeit with some potential weaknesses related to the verification powers of the National Agency on Corruption Prevention (NACP) and the data to be verified. The Parliament has also adopted a law that would weaken administrative liability related to e-asset declarations, but the President has not signed this law into effect. To ensure the impact and sustainability of anti-corruption efforts, Ukraine should continue building a credible track record of investigations, prosecutions and final court decisions in high-level corruption cases,

including the seizure and confiscation of criminal assets. Timely and steady implementation of the 2023-2025 state anti-corruption programme should also be pursued. Efforts are also needed to further streamline and improve substantive and procedural criminal law. To cope with increasing workloads, the number of NABU staff, SAPO prosecutors and High Anti-Corruption Court judges should be increased. Furthermore, SAPO should be further protected from possible undue interference by improving the selection procedures for the Head of SAPO and its key officials, increasing its organisational and procedural autonomy, and improving its accountability framework.

Ukraine has some level of preparation in the area of the fight against **organised crime**. Some progress was made. Ukraine has a dedicated strategic and institutional framework to fight organised crime and a good level of international cooperation. There is an increasing number of joint operations with EU Member States. Measures are being taken to tackle the illicit flow of firearms, human trafficking and cybercrime. The development of the e-case management system in the criminal justice chain was launched. The national asset recovery strategy was adopted. Russia's war of aggression had a profound impact on the institutional capacity to fight organised crime, but relevant institutions demonstrated resilience and continued their work. However, the legal framework and operational capacity to fight organised crime remain weak. Procedural gaps, jurisdictional overlaps, widespread corruption and underdeveloped IT infrastructure are also hampering the effective fight against organised crime. Inter-agency coordination needs to be strengthened further. Ukraine should also launch the national serious organised crime threat assessment in line with EU standards and build the capacity to implement it. The legal framework and institutional capacity still need to be improved as regards financial investigations, asset recovery and management. Transparent and merit-based selection of management and staff, along with a strong accountability system should be introduced in the Bureau of Economic Security, a key agency tasked to fight economic crime.

On **fundamental rights**, Ukraine complies overall with international human rights instruments and has ratified most international conventions on the protection of fundamental rights. Citizens suffered severely from the large-scale violations of fundamental rights by Russia, which Ukrainian authorities and civil society have sought to remedy since February 2022. At the start of the full-scale invasion, Ukraine introduced martial law, which led to some restrictions of rights and freedoms, but these have so far remained largely in proportion to the actual needs and have been applied with caution. The number of registered discrimination against minorities, including against LGBTIQ persons and national minorities as well as antisemitic acts, has strongly decreased. On the rights of persons belonging to national minorities, Ukraine needs to address the remaining recommendations of the Venice Commission Opinion of June 2023 and the follow-up Opinion of October 2023. Further efforts are also needed to ensure that persons with disabilities can enjoy their rights as per the UN Convention on the rights of persons with disabilities.

At the same time, important reforms have been introduced and adopted, such as the new media law. Ukraine also ratified the Istanbul Convention on preventing and combating violence against women and domestic violence in July 2022 and adopted the 2030 state strategy on ensuring equal rights between men and women, which should now be implemented. Only limited progress was made in the field of prevention of torture and ill treatment in prisons and other forms of detention, where a cultural change within state authorities needs to materialize and further measures are required to prevent and ensure accountability for such acts. A law on personal data protection, aligned with the EU *acquis*, should be adopted. The situation of children (but also of older persons) in care institutions as well as persons with disabilities remains difficult, but commitments on the deinstitutionalisation of childcare and to rebuilding

Ukraine in a barrier-free manner are promising and need to be implemented as a priority. Similarly, support for the Roma⁴ community needs to be stepped up with a concrete and targeted action plan.

Given the breadth of issues concerning fundamental rights, in particular the numerous violations by Russia, the Ukrainian Parliament Commissioner for Human Rights faces serious challenges with its existing capacity to address the entire range of its responsibilities in a meaningful manner.

Despite the context of a full-scale war, Ukraine is in between some and moderate level of preparation in the area of **freedom of expression**. Good progress was made in the reporting period with the adoption of the media law in December 2022 and despite the war-time restrictions in access for media and journalists introduced. Ukrainian citizens enjoy freedom of expression, with critical media reporting available. However, media concentration has been observed due the collapse of the media and advertising market, particularly in the television segment. This has reduced people's access to pluralistic media in Ukraine. The situation of journalists remains precarious, both economically and – since the start of the full-scale invasion – physically. Ukraine needs to envisage new ways to ensure a post-war structure for pluralistic and independent non-online media (in particular television), including the long-term outlook of the public broadcaster and independence of the national regulator.

Due to the impacts of Russia's ongoing full-scale invasion as well as the pre-existing structural economic challenges, the Ukrainian economy is between an early stage and some level of preparation towards **establishing a functioning market economy**. Since the full-scale invasion by Russia, the conduct of monetary policy, overall economic governance and the institutional and regulatory environment have faced considerable difficulties. Despite these challenges, the Ukrainian authorities have responded swiftly and with overall stability in mind, although the circumstances have also brought about some temporary setbacks on several important elements of a functioning market economy. In 2022, the economy contracted by 29.1%, showing more resilience than first expected. To contribute to financial stability and strengthen confidence in the domestic currency, the National Bank of Ukraine suspended the hitherto successfully managed inflation-targeting framework, fixed and devalued the exchange rate and raised its main refinancing rate. The banking sector remained fully operational and stable with ample liquidity, also thanks to previous reforms and supervisory forbearance measures. The state of public finances has deteriorated markedly due to the duration and cost of the war and its impact on the economic activity. This has undone the considerable fiscal consolidation and corresponding reduction in the debt stock that had been achieved in previous years before the pandemic. The significant internal and external population displacements, together with significant capital destruction, profoundly affected the labour market.

Due to the impacts of Russia's ongoing full-scale invasion as well as the pre-existing structural economic challenges, Ukraine is at an early stage of preparation in terms of its **capacity to cope with the competitive pressure and market forces within the EU**. The war has severely damaged Ukraine's capital infrastructure and triggered a massive human exodus that has deeply affected the economy. Investment in research and innovation has been low, and educational outcomes have not met the needs of the labour market, despite rather high spending and relatively high formal levels of educational achievement. The structure of the Ukrainian economy remained concentrated in sectors with low added value. While trade integration with the EU has been advancing recently, including thanks to the implementation of the Deep and

⁴ In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

Comprehensive Free Trade Area, it remains rather low. At the same time, the international response in support of Ukraine has been massive over the last year, and future reconstruction could also help support modernisation, in which Ukraine specialises in higher value-added chains, and help strengthen its competitiveness.

On **good neighbourly relations and regional cooperation**, Ukraine maintains good bilateral relations with other enlargement countries and with neighbouring EU Member States. These have been strengthened amidst Russia's war of aggression leading to further deepening cooperation with many of those countries, marked by a number of high-level visits and considerable humanitarian, military and financial support.

On Ukraine's **ability to assume the obligation of EU membership**, the country continued to work on alignment with the *acquis* in many areas.

The **internal market** cluster is key to Ukraine's preparations for the requirements of the EU internal market and is of high relevance for the implementation of the Deep and Comprehensive Free Trade Area. Some/good progress was made in the area of free movement of capital and intellectual property law. Some progress was achieved in several areas, particularly in financial services, free movement of goods, right of establishment and freedom to provide services, and company law. Progress was limited in the area of competition policy as well as consumer and health protection, with no progress in the area of freedom of movement for workers due to Russia's full-scale invasion of Ukraine.

The **competitiveness and inclusive growth** cluster and the related reforms are closely linked to the ability and capacity for recovery and reconstruction. This requires increasing competitiveness and building a sustainable and inclusive economy. Good progress was achieved in digital transformation and media and in the customs union. Some progress was made on taxation and education and culture. Limited progress was made in social policy and employment, enterprise and industrial policy, and science and research. No progress could be made – due to Russia's full scale invasion which demanded extraordinary economic policy measures – on economic and monetary policy.

The **Green Agenda and sustainable connectivity** cluster and the related reforms are also intricately linked to Ukraine's reconstruction during and after the war. Russia's war of aggression against Ukraine has been highly detrimental to the transport infrastructure, environment and climate. Progress was achieved in several areas within the cluster, with good progress on environment, some progress on energy and Trans-European networks, while progress was limited in the area of climate change and transport policy.

In the areas covered by the cluster on **resources, agriculture and cohesion**, progress was achieved in particular in three areas, namely some progress in agriculture and rural development, food safety and veterinary (SPS) and phytosanitary policy as well as in the area of fisheries and aquaculture. Progress was limited in regional policy and the coordination of structural instruments and financial and budgetary provisions.

In the **external relations** cluster, Ukraine has good level of preparation. As regards the foreign, security and defence policy, Ukraine has made good progress, as it has increased the alignment rate with relevant EU decisions and declarations of the EU's common foreign and security policy to 93% (2022). Progress was limited in alignment with the EU's trade policy.

1.3. ASSESSMENT OF THE IMPLEMENTATION OF THE SEVEN STEPS OF THE COMMISSION'S OPINION

***Step 1** - enact and implement legislation on a selection procedure for judges of the Constitutional Court of Ukraine, including a pre-selection process based on evaluation of their integrity and professional skills, in line with Venice Commission recommendations.*

In December and July, Ukraine adopted the necessary legislation that introduced a pre-selection process for the Constitutional Court judges on the basis of integrity and professionalism criteria, in line with the Venice Commission recommendations. Internationally-nominated members of the pre-selection body – the Advisory Group of Experts – obtained a temporary but decisive role in this body. Ukraine launched the implementation process. The Parliament and the Council of Judges announced competitions to fill the available vacancies in the Constitutional Court. The President and the Council of Judges appointed their members and substitutes to the Advisory Group of Experts, while the Parliament is continuing the appointment procedure. In September, the Venice Commission and the international donors, including the EU, submitted their nominations of members and substitutes of the Advisory Group of Experts. In October, the Cabinet of Ministers formally appointed them. With five appointed members and five substitutes, the Advisory Group of Experts became operational. **This step is completed.**

***Step 2** - finalise the integrity vetting of the candidates for the High Council of Justice members by the Ethics Council and the selection of candidate to establish the High Qualification Commission of Judges of Ukraine.*

The Ethics Council completed the integrity vetting of the candidates for open positions in the High Council of Justice (HCJ). The HCJ became fully operational in January 2023 when it reached its quorum of 15 members. In June 2023, the renewed HCJ appointed 16 new members of the High Qualification Commission of Judges (HQCJ) out of a shortlist of 32 candidates proposed by the HQCJ Selection Commission, following a transparent and merit-based process, including an integrity and professionalism check. **This step is completed.**

***Step 3** - further strengthen the fight against corruption, in particular at high level, through proactive and efficient investigations, and a credible track record of prosecutions and convictions; complete the appointment of a new head of the Specialised Anti-Corruption Prosecutor's Office through certifying the identified winner of the competition and launch and complete the selection process and appointment for a new Director of the National Anti-Corruption Bureau of Ukraine.*

Ukraine has further developed its track record in fighting corruption. Until the end of September 2023, 82 indictments against 203 persons were sent to court; should this trend continue, the number of indictments would double in 2023 compared to previous years. The High Anti-Corruption Court (HACC), until the end of September 2023, has significantly increased its overall performance and delivered 48 verdicts against 64 defendants in first instance, and 26 verdicts against 32 defendants in second instance. The cases investigated and adjudicated concerned prominent high-level public officials including former deputy ministers, former parliamentarians and high-level judges, e.g. the serving President of the Supreme Court. Ukraine appointed the heads of the Specialised Anti-Corruption Prosecutor's Office (SAPO) and the National Anti-Corruption Bureau of Ukraine (NABU). Ukraine adopted a comprehensive State Anti-Corruption Programme in March 2023 and launched the IT system for monitoring its implementation, as well as the Unified Portal for Whistle-blower Reports.

The e-asset declaration system, suspended after the introduction of martial law, was restored

and opened to the public, albeit with some potential weaknesses related to the verification powers of the National Agency on Corruption Prevention (NACP) and the data to be verified. The Parliament has also adopted a law that would weaken administrative liability related to e-asset declarations, but the President has not signed this law into effect.

Draft legislation was developed and registered in the Parliament that enhances the independence of SAPO and the effectiveness of the Criminal and Criminal Procedure Codes in the fight against high-level corruption. Also, a draft law increasing the staffing cap for NABU was registered in the Parliament.

Ukraine should still enact a law raising the legislative staffing cap for the NABU and remove from the law on corruption prevention the provisions restricting the NACP's powers to continued verification of assets that have already undergone the verification process and limiting NACP's powers to verify property acquired by declarants before joining the public service, without prejudice to the rules applying to national security during wartime.

Step 4 - ensure that anti-money laundering legislation is in compliance with the standards of the Financial Action Task Force (FATF); adopt an overarching strategic plan for the reform of the entire law enforcement sector as part of Ukraine's security environment.

In September 2022, the Parliament adopted a new law on ultimate beneficial ownership, while the Government subsequently adopted the necessary implementing legislation on the registration and verification of beneficial ownership information, identification of the ultimate beneficial owners and liability for violations. The Government has adopted a bylaw regulating the supervision of non-financial businesses and professions. Ukraine has also developed and registered a new draft law on targeted financial sanctions and adopted a bylaw on the evidentiary standards for listing of individuals and entities on the terrorist sanctions lists. The Office of the Prosecutor General issued instructions and methodological guidance to all regional prosecution offices on the investigation of money laundering offences and the application of financial investigations in proceeds-generating crimes, thus clarifying the regulatory framework on financial investigations. Furthermore, a new draft law on virtual assets has been prepared and is undergoing an approval procedure within the Government.

In May 2023, the President approved the comprehensive strategic plan for the reform of the law enforcement sector.

Ukraine further advanced the alignment of its anti-money laundering legislation with the FATF standards. In October 2023, the Parliament adopted a law removing a three-year time limitation and reverting to a risk-based approach for former holders of prominent public functions to be qualified as politically exposed persons to restore a FATF-compliant definition of politically exposed persons. The Commission can accept the definition of PEP's however the Commission encourages the Ukrainian supervisor (the NBU) to issue guidance making clear to obliged entities that the national list of PEPs is indicative and not exhaustive.

This step is completed. However, the Commission assessment cannot prejudice in any way the future assessment of Moneyval.

Step 5 - implement the Anti-Oligarch law to limit the excessive influence of oligarchs in economic, political, and public life; this should be done in a legally sound manner, taking into account the forthcoming opinion of the Venice Commission on the relevant legislation.

Ukraine has prioritised systemic measures against oligarchs, in line with the Venice Commission recommendations issued in June 2023. Ukraine updated and continued to implement its Action Plan to reduce the influence of oligarchs, which includes systemic

reforms in key areas affected by the vested interests. Beside the reform of the judicial governance bodies and the Constitutional Court, adoption of a new media law, implementation of the state anti-corruption programme and the finalisation of the legal framework on the ultimate beneficial ownership, Ukraine has adopted and signed into effect legislation strengthening the Anti-Monopoly Committee of Ukraine and restoring the financial reporting of political parties and the verification functions of the relevant institutions.

Ukraine is also developing a comprehensive law on lobbying in consultation with international experts; public consultations have been planned. The Government also decided to postpone the implementation of the law on oligarchs that was criticised by the Venice Commission by amending the Government's Anti-Oligarch Action Plan and to prepare amendments to it within three months after the end of the martial law, taking into account the recommendations of the Venice Commission.

Furthermore, Ukraine should still enact a law regulating lobbying in line with European standards, as part of the anti-oligarch action plan.

Step 6 - tackle the influence of vested interests by adopting a media law that aligns Ukraine's legislation with the EU audio-visual media services directive and empowers the independent media regulator.

Ukraine adopted the new media law in December 2022. In May 2023, it adopted further amendments to the advertising law to align its law with EU audio-visual media services directive and to address outstanding issues in its media law related to blacklisting and hate speech. **The step is completed.**

Step 7 - finalise the reform of the legal framework for national minorities currently under preparation as recommended by the Venice Commission, and adopt immediate and effective implementation mechanisms.

The law on national minorities (communities) was adopted in December 2022 and amended in September 2023, following the Venice Commission Opinion recommendations of June 2023 on that law. The follow-up Venice Commission Opinion adopted on 6 October 2023 acknowledges progress made, but also identifies a number of remaining issues where previous recommendations were not or only partially addressed.

Certain implementation mechanisms were adopted, among them the State Programme "Unity in Diversity", which are to be complemented by additional implementation measures, in particular a resolution on the methodology for language use in traditional settlements of persons belonging to national minorities or where they make up a significant part of the population.

In addition to that, in June 2023, Ukraine adopted a law extending the transition period for education in minority languages by one year for pupils who started their education before 1 September 2018 and, in October, registered a draft law in the Parliament to permanently exempt these pupils from the obligations of the Education Law. The Cabinet of Ministers is obliged, according to the final provisions of the revised Law on national minorities (communities), to prepare and submit to Parliament, within six months after the entry into force of the law, a draft law to revise the education law, the State language law and the media law.

Ukraine should still enact a law addressing the remaining Venice Commission recommendations from June 2023 and October 2023 linked to the Law on national minorities, also addressing the Venice Commission recommendations linked to the laws on State language, media and education.

2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

Due to the Russian war of aggression, Ukraine temporarily invoked **martial law** on 24 February 2022, by Presidential decree and approved by Parliament. It has been extended eight times, with the current extension in place until 15 November 2023. Martial law authorises the military command and military administrations either independently or with the Ministry of Internal Affairs of Ukraine, other executive bodies and local self-government authorities, to introduce various restrictions on rights and freedoms of individuals as well as rights and legal interests of legal entities. The application of martial law has overall been proportionate.

While martial law is in place, elections are prohibited, as is amending the Constitution of Ukraine. Regular parliamentary elections due in October 2023 had therefore to be postponed.

2.1.1. Democracy

Despite Russia's full-scale invasion in February 2022 and ongoing war of aggression, Ukraine has continued to make progress on democratic and rule of law reforms. The granting of EU candidate status to Ukraine in June 2022 has led to a further acceleration of reform efforts. Currently, a martial law is in place.

Elections

During the reporting period, no elections took place. Overall, the legal framework remains conducive to the organisation of democratic elections. The reform of the electoral legal framework should be continued to address outstanding OSCE/ODIHR recommendations.

Key recommendations in the latest OSCE/ODIHR election observation mission reports were addressed. The electoral code adopted in 2019 harmonised all electoral procedures. It introduced, among other things, an open-list proportional representation system and enfranchised internally displaced persons.

Following the 2020 local elections, work on a comprehensive revision of the electoral code has been ongoing, and the process has been transparent and inclusive.

Parliament

The work of the Parliament (Verkhovna Rada) continues to be marked by extraordinary circumstances related to the Russia's war of aggression. However, legislative tasks are carried out systematically, laying the ground for an uninterrupted democratic decision-making process. Key decisions, especially on defence/security questions, were adopted by clear cross-party majorities. Considerable attention was paid to legislation related to EU integration. The Rada performed important symbolic functions, while concerns were raised about limited transparency on security grounds and weakened oversight of the executive. Use of the urgent procedure to pass legislation is relatively limited. Comprehensive impact assessments of proposed legislation and legislative oversight of the executive, including monitoring the implementation of legislation, need to be strengthened.

On 23 February 2022, the Parliament endorsed the President's decision to introduce martial law due to the full-scale Russian military aggression. Despite the circumstances during the reporting period, the Verkhovna Rada conducts systematic legislative activity (including plenary sessions and committee meetings), taking an active part in the overall reform process.

The Parliament's rules of procedure are in place and are being amended successively in line with its roadmap for internal reform and capacity building. The code of conduct for members of parliament has not been adopted yet. The majority of rules related to integrity and prevention of corruption are regulated by anti-corruption legislation. In this regard, the obligation for members of Parliament to submit an electronic asset declaration each year has been suspended in connection with martial law.

There are currently 23 committees in the Parliament. All committees are responsible for both legislative and **oversight/control** functions. Ministerial reports, the consideration of interpellations as well as the assessment of candidates for public offices were carried out during online meetings. At the same time, overall parliamentary scrutiny, including the monitoring and implementation of legislation, should be strengthened.

The Parliament's rules of procedure do not regulate the issue of **gender balance**. At the same time, according to the government's rules of procedure, gender legal expertise is mandatory for all draft laws drafted by government. The percentage of female members of Parliament is currently at a historic high of 21%.

The Russian invasion and subsequent introduction of martial law had an impact on the **transparency** of parliamentary activities. At present, the sessions are not livestreamed on the TV channel Rada. Journalists are not authorised to attend the plenary meetings, while parliamentary requests, as well as requests for public information and by-name voting, are not available on the parliamentary website. Furthermore, due to security reasons there is no schedule of plenary meetings – they are to be called by the Chairman of the Parliament based on needs. Reinstating public consultations and scrutiny is crucial after martial law has been lifted.

As of January 2022, there were 370 registered **political parties** in Ukraine. In May 2022, the law prohibiting the activity of pro-Russian parties entered into force. Since then, 16 parties have been prohibited by court.

In 2020, an amended version of the law on political parties was prepared in a broad consultation and on the basis of a joint OSCE/ODIHR and Venice Commission Opinion. Work on the draft law was suspended after February 2022 and resumed in September 2022. OSCE/ODIHR provided legal expertise in the process.

The Law on restoration of financial reporting of political parties was adopted by the Parliament on 23 August and signed by President on 26 September. **Governance**

On **multi-level governance**, the achievements of decentralisation reform continue to be evidenced, with municipalities acting as a pillar of state resilience in mobilising bottom-up support, resetting basic social services, helping organise voluntary territorial defence and receiving large numbers of internally displaced persons.

At the same time, martial law gave rise to the creation of a large number of military administrations at local level. Ukraine should clarify, by law, the criteria for establishing them and for restoring local self-government in the liberated territories and those near the frontlines, where the security situation allows democratically elected bodies to perform their tasks.

Overall, following the successful finalisation of the territorial part of decentralisation, other elements of the reform still need to be completed. Draft constitutional amendments in particular, aimed at ensuring that decentralisation reform is sustainable and irreversible, have not yet been taken forward due to the ban on constitutional revisions during martial law. There was also limited progress in key legislative files aimed at clarifying the role of the tiers of local administration (regional, district, municipal) to delineate powers between central and local

levels and to put in place appropriate internal structures for municipal administrations. The rules of supervision of local authorities' activities, in line with the European Charter of Local Self-Government, have not yet been set up. Work should also continue on granting legal personality to municipalities under public law, based on European practice. The recently adopted Law on service in local self-government is likely to bring fairer and more transparent rules on the employment of officials at local level.

In institutional terms, the Ministry of Restoration was set up to merge previous infrastructure and regional development ministries. As a way forward, the new office should synergise both portfolios and organise resources accordingly, including via the Agency of Restoration, with a view to stimulate locally driven recovery and reconstruction. This will also require more systematic involvement of local authorities and associations in policy design and implementation, based on a formally embedded coordination mechanism. The Congress of Local and Regional Authorities, with its permanent office, is an advisory body under the President of Ukraine that has no such mandate established by law. Ukraine should refrain from enacting the law on urban planning in its current form as it creates integrity risks resulting from delegating excessive control powers in urban planning control from public to private entities, and leads to the disempowerment of local authorities in this sphere.

Fiscal decentralisation was maintained, with 64% of personal income tax (PIT), and PIT from the military staff allocated to municipalities in 2023. In parallel, certain local subsidies for delegated tasks decreased, and centrally established exemptions in local taxes were not compensated. The solid local fiscal base therefore needs to be ensured to avoid a disproportionate financial vulnerability of municipalities. This can be done through a fair distribution of PIT to municipalities where the taxpayers actually reside and a necessary extension of sources of local taxation.

Civil society

Ukraine's vibrant civil society remains engaged in reform processes and in the response to the impact of Russia's aggression. Volunteer movements and informal civil society groups often act as the backbone of humanitarian action across the country, including in the liberated and in temporarily occupied territories of Ukraine. In many respects they are key to the country's resilience.

The legal framework continues to guarantee the rights of freedoms of association, expression and peaceful assembly. An ambitious multi-year civil society development strategy is in place, providing for more meaningful engagement with civil society. However, the impact of its full implementation is yet to be assessed, while the government should consider adapting it with respect to the ongoing war and an envisaged post-war recovery. The government should further expand its public funding programmes for civil society organisations and work on improving the dialogue and consultations with them. A draft law on public consultation that has passed first reading in the Verkhovna Rada already in 2021, should be adopted. Additional efforts are also needed to address and investigate the cases of pressure and threats against civic activists. Measures were taken to support the registration of civil society organisations and simplify rules on reporting and taxation, for instance the amendments to the Law on volunteering.

An empowered civil society is a crucial component of any democratic system and is recognised and treated as such by state institutions. Civil society remains a key element of Ukrainian democracy, maintaining social bonds and fabrics, and contributing to the resilience of society at large. Volunteer movements and informal civil society groups often act as the backbone of humanitarian action across the country, including in temporarily occupied territories or newly liberated regions, while many of its members now also serve in Ukraine's armed forces.

The expertise of Ukrainian civil society organisations on key sector reforms has made them an important partner for the government as well as for Ukraine's international partners. Since the start of Russia's war of aggression, Ukraine's civil society has not only maintained its critical watchdog function but has also stepped up its efforts in terms of service provision, volunteering, humanitarian and human rights action, complementing the work of public administration and government. COVID-19 restrictions introduced since 2020 and martial law since 2022 have not significantly restricted the activities of civil society organisations, but have limited their possibilities to monitor the work of public administration.

Ukraine has several strategic documents to foster civil society engagement, including the 2021-2026 national strategy for promoting civil society development of September 2021, the national barrier-free strategy, and the national human rights strategy. These documents have continued to be implemented despite the impact of Russia's war of aggression and martial law. The action plan for the implementation of the national civil society strategy until 2024 was approved in February 2023 and contains 43 tasks across all four specific objectives of the strategy, which aim at improving the system for public participation in government policy making, creating an enabling environment for civil society development and promote participation of CSOs in the social and economic development of Ukraine and strengthen intersectoral cooperation. As part of human rights strategy implementation, work is ongoing to improve the anti-bullying legislation.

The existing legal framework guarantees the rights to the freedoms of expression, peaceful assembly and association. Measures have been put in place to ensure a three-day registration for non-governmental organisations and one-day registration for charities. The non-profit status exempts civil society organisations from the obligation to pay 18% corporate income tax. Charitable and volunteer donations are also tax-exempt.

Public funding for civil society organisations in Ukraine is mandated by a respective governmental decree. This provides a mechanism to allocate public funding at both national and local level, and a number of calls for proposals have been launched by several ministries and state funds, especially since the launch of online contest-based public funding for projects via the e-governance platform VzaemoDiia in 2021, which facilitated CSO access to public funding while increasing the transparency of the procedure. However, since the start of Russia's war of aggression, levels of public funding for CSOs have been reduced and no new CSO institutional support mechanism has been established. The allocation of public funding via VzaemoDiia was suspended on 24 February 2022 and was only partially resumed in September 2022. Since then, 8 online contests have been held. Both the Ukrainian Cultural Fund and the Ukrainian Institute reported funding cuts for their activities.

As a result of Russia's full-scale invasion, a high number of people fleeing the war beyond Ukraine's borders, act as volunteers from abroad, extending range of volunteer movements by civil society. The law on volunteering, amended in 2022, improved for instance the legal standing of volunteers in relation to their hosting organisations. Continued improvements are needed to implement Ukraine's civil society development strategy for 2021-2026, which includes points to further develop the legal framework and expand the state programme of volunteering, also to cover social needs.

CSOs have been expanding their cooperation with public institutions, including on humanitarian response, assistance to internally displaced persons as well as mental health and psychosocial support services. The recently adopted anti-corruption strategy for 2021-2025 is a good example of interactions and consultation with CSOs and proper consideration of their inputs. The legal framework for public consultations requires further standardisation and consolidation to ensure equal and fair access to public policy making for all stakeholders. The

final adoption of the draft law on public consultation, which passed first reading in Parliament in March 2021, is still pending.

While there is an open and active civic space largely respected by Ukrainian authorities, there are still examples of pressure and threats against local civic activists in particular, in some cases leading to violence. The authorities should continue to condemn such attacks, and effective investigations should ensure that there is no impunity for such crimes. and that such practices will not become widespread as in the past. Incidents of past pressure and attacks against civil society representatives, before the full-scale invasion of February 2022, still need to be fully investigated and prosecuted. In the territories temporarily occupied by Russia, only volunteers and informal civil society groups and activists are able to operate due to restricted access. In order to maintain crucial links with the Ukrainian state and people of Ukraine for mutual support, these volunteers and informal civil society groups often face high risks to their safety.

2.1.2. Public administration reform

Ukraine has **some level of preparation** in the area of public administration reform (PAR), with **limited progress** made during the reporting period. While Ukrainian public administration has proved to be resilient during Russia's war of aggression against Ukraine, reform has slowed or stopped in a number of sectors, in particular in merit-based recruitment and selection, job classification and salary reform, as well as the roll-out of the Human Resources Management Information System. The digitalisation of service delivery has reached a high level.

In the coming year, Ukraine should in particular:

- ensure timely alignment of existing legislation with the Law on administrative procedures in all sectors covered by its scope;
- restore merit-based recruitment and the selection process, as well as implement job classification as a precondition for comprehensive salary reform;
- make progress in the country-wide roll-out of the Human Resources Management Information System.

Strategic framework for public administration reform

The 2022-2025 PAR **strategy** and its action plan were amended in December 2022 to take into account Ukraine's EU candidate status and requirements under martial law. Both the strategy and the action plan continued to be monitored via a PAR Coordination Council (advisory body that includes representatives of the government, Parliament, civil society and PAR experts' network), albeit less often (one meeting in 2022). Under martial law, PAR financial sustainability has been deprioritised, and public financing largely relies on donor support.

Political support for PAR remains uneven. While it has been demonstrated in digitalisation and service delivery, in other areas, in particular the civil service and salary reform, the practical measures fall short of the declared objectives.

Policy development and coordination

The **policy-making system** is well established. The Secretariat of the Cabinet of Ministers conducts quality assurance and coordination of draft documents at the final stages of the process. However, the actual capacity of the government in terms of **evidence-based policy-making** remains insufficient. The explanatory notes that accompany legislative proposals do not often meet required standards. Line ministries rarely estimate the cost of draft policy documents and legal acts (in 2022, only two out of 28 policy documents approved by the Cabinet of Ministers included information on the implementation costs). The creation of policy

directorates in ministries and recruitment to fill reform support posts intended to address these gaps and provide technical support in implementing priority reforms - is incomplete. By the end of 2022, less than 750 reform support posts had been filled out of 3 000 planned posts, with a declining trend in 2023.

Parliament shares the right of legislative initiative with the government. In practice, over 80% of legislation originates from Parliament. The drafts submitted by parliamentarians often lack proper explanatory notes and/or impact assessments, which affects the quality of laws.

There are no formal requirements or systematic practices for **monitoring** the implementation of policies and legislation. Monitoring of the mid-term action plan and of the annual action plan by the Secretariat of the Cabinet of Ministers is mostly conducted on an *ad hoc* basis, with no outcome or impact indicators. It is necessary to ensure proper standards for both *ex ante* and *ex post* regulatory impact assessments, in particular to prepare a framework for tackling the challenges related to recovery.

Planning and coordination mechanisms for Ukraine's European integration process are in place. However, the Government Office for Coordination on European and Euro-Atlantic Integration lacks resources to manage the process effectively from within the Cabinet of Ministers, while the capacities of line ministries vary. A functional framework to ensure that the European integration framework is incorporated into an improved national decision-making process is yet to be established.

Public financial management (PFM)

The current PFM reform strategy and action plan for 2022-2025 is broadly aligned with other strategic documents, including the 2022-2025 PAR strategy, and is subject to regular monitoring.

The legal basis and institutional architecture within the Ministry of Finance to support fiscal risk monitoring and management has been established. However, capacity tools need to be developed further and practically implemented. The legislative basis for implementation of a medium-term budgetary framework is in place. The medium-term budget declaration (2022-2024) was put on hold due to the war. The government remains committed to a medium-term budgetary framework; it has made an agreement with the IMF to present the 2025 budget with a comprehensive framework for 2026-2028, which must be preceded by a risk analysis in the next year. A public investment management diagnostic assessment was finalised in late 2022. It flagged a number of issues to be addressed, including strengthening the role for the Ministry of Finance as a gatekeeper of public investments.

Budget transparency and openness in budgeting are limited in Ukraine, as reported by the Open Budget Index, and worsened under martial law. It should be gradually restored where possible. The capacity of Parliament and the Accounting Chamber to oversee the budget process should be improved as a matter of priority.

On digitalisation, efforts are being made to digitalise public internal financial control procedures as well as the budgetary planning process. Good progress has been made on the digitalisation of tax and customs administration (e.g. New Computerised Transit System Phase 4 was introduced in customs in autumn 2022; call centre, e-cash register and Single Tax Account in tax), and security of data has been improved.

Public services and human resources management

Overall, the Law on civil service provides a sound regulation framework, although martial law has affected it significantly. The **merit-based recruitment and selection procedure** was

suspended (which was also the case under COVID-19 measures from March 2020 to April 2021). Long periods with a lack of procedures to safeguard a professional and depoliticised civil service, in combination with the widespread use of non-transparent direct appointments, has undermined the civil service' competitiveness and independence.

Gender representation in the civil service continues to be unbalanced. By the end of 2022, senior management comprised 70% men and 30% women, middle management 33% men and 67% women, and at the executive level 22% men and 78% women.

Digitalisation of the human resources framework remains insufficient. Development and use of the **Human Resource Management Information System** (HRMIS) – aiming to provide a digital platform for all HR transactions across government institutions for the purpose of policymaking, transparency and accountability – has progressed very unevenly since 2017. HRMIS, including its payroll module, has been launched as the main HRM IT system by only a limited number of institutions and currently provides information on around 15% of posts.

The current **job classification** model only covers responsibility based on the civil servant's place in the administrative and institutional hierarchy. A professional job classification model piloted by the National Agency on Civil Service (NACS) had no systematic follow-up. The **remuneration system** remains non-transparent and unequal. As a result, the ability to offer a competitive position varies across institutions. Overall, senior management turnover is considerable, which results in a lack of staff stability. Systematic efforts are needed to attract, recruit and develop highly professional and non-partisan senior management.

Regarding **professional development**, civil servants are obliged to undergo training each year. NACS adjusted the training programme under martial law. The Higher School of Public Administration was established in October 2022 as a state in-service training institution reporting to NACS, based on the Ukrainian school of governance. It is tasked with training civil servants, heads of local state administrations, their first deputies and deputies, local self-government officials and deputies of local councils.

Accountability of the administration

Parliament scrutinises the Cabinet of Ministers in line with the models operating in EU Member States (approval process of the government's political programme, annual reporting, regular Q&A sessions, member of parliament requests, etc.). Public administration is also scrutinised by the Ombudsman and the Accounting Chamber. However, the Accounting Chamber has not fulfilled its oversight functions according to international standards, given the lack of a registry of recommendations and in turn the lack of a monitoring framework.

A key development in the service delivery area was the enactment of the Law on administrative procedure in May 2022, which is essential for developing the **right to good administration**. The law unifies currently fragmented administrative procedures across various sectors. The government is also preparing amendments to sectoral laws and implementing legislation, internal rules and procedures, and working processes. Certain institutions have recently asked to be exempted from the application of the law. Ukraine should refrain from introducing new exemptions from application of the law (e.g. Tax Service) as it would drastically reduce its overall impact.

The constitutional **right to fair trial** has been maintained under martial law. Administrative courts have been operating on a regular basis, with some adjustments due to security considerations. However, following the abolition of the Kyiv district administrative court, access to justice in cases involving central government bodies is undermined, since the new court is not yet established while the temporary court is overwhelmed. The Ministry of Justice

suspended the operation of state-run registers and databases. Access to **public information** has also been restricted for security reasons and granted on a case-by-case basis. A number of measures have been taken to make public registers secure, for example storing certain data on servers outside the country. The right to compensation is provided for in the legislation and applied.

Service delivery to citizens and businesses

The institutional and legal frameworks for public service delivery are in place to ensure a **user-oriented public administration**. A broad network of offline administrative service centres established locally have continued to perform well, despite war damage, thanks to their offices, remote workplaces and mobile centres.

Transforming **digital service delivery** ('State in a smartphone'), followed by the creation of the Ministry of Digital Transformation, continued to produce positive effects. The online portal for digital services (Diia portal) and the mobile application, currently provide more mature digital services. They are based on a remote qualified electronic signature and the full validity of digital documents and credentials. Both the Diia portal and Diia mobile application (17.3 million users) have played a crucial role in continuing to provide the public with access to extended number of digital services, including to internally displaced persons and Ukrainian refugees.

2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS

2.2.1. Chapter 23: Judiciary and fundamental rights

The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is the respect for fundamental rights in law and in practice.

Ukraine has **some level of preparation** in implementing the EU *acquis* and European standards in the area of the judiciary, fight against corruption and fundamental rights. Despite Russia's war of aggression, **good progress** was made in this area and the relevant institutions continued operations, the delivery of vital services to citizens and reform efforts, demonstrating remarkable resilience. The efforts in the area of the judiciary, anti-corruption and fundamental rights need to continue and be further consolidated.

Functioning of the judiciary

Ukraine has **some level of preparation** in the functioning of the judiciary. Despite the Russian war of aggression, **good progress** was made with the implementation of the 2021 reform of the judicial governance bodies during the reporting period. The High Council of Justice (HCJ) and the High Qualification Commission of Judges (HQCJ) were re-established following a transparent and meritocratic process with the meaningful involvement of independent experts. It enables the government to start filling more than 2 000 judicial vacancies and to resume the qualification evaluation (vetting) of sitting judges. Ukraine also adopted the law on a transparent and merit-based preselection of judges of the Constitutional Court, in line with the Venice Commission recommendations, and started implementing it. Legislation was adopted to establish a strong service of disciplinary inspectors and to resume disciplinary proceedings against judges. The new administrative court to handle cases involving the central government bodies and staffed by properly-vetted judges needs to be established following the abolition of the Kyiv District Administrative Court.

In the coming year, Ukraine should in particular:

- fill the open vacancies in the Constitutional Court of Ukraine in line with the adopted legislation; relaunch the selection of ordinary judges on the basis of the improved legal framework, including clear integrity and professionalism criteria and the strong role of the Public Integrity Council; resume the evaluation of the qualification of judges (vetting), which was suspended in 2019; introduce a transparent and merit-based selection of management-level prosecutors by amending the legal framework and taking the necessary institutional measures;
- establish the service of disciplinary inspectors following a transparent and meritocratic selection process and resume the handling of disciplinary proceedings against judges prioritising high-profile cases and cases nearing the statute of limitation; take effective measures to address corruption risks in the Supreme Court; strengthen the disciplinary system for prosecutors by improving the existing legal and institutional framework;
- complete a comprehensive IT audit, including the existing IT systems, business processes and organisational structure, and based on the audit results, adopt and start implementing a roadmap to modernise IT in the judiciary, including the development of the new case management system.

Russia's military aggression against Ukraine has posed major challenges to Ukraine's judicial system. By the end of April 2023, 12 members of its judicial staff were killed, 114 court buildings (15% of the total) were either destroyed or damaged by the hostilities, and a large number of case files were lost. The material losses suffered by the courts are estimated at EUR 47 million. The Prosecution Service has also suffered severe damage. 6 staff members were killed, 64 buildings of the prosecutor's offices were either fully or partially destroyed, while 173 buildings remain in the temporarily occupied territories of Ukraine. The material damage exceeds EUR 22 million. The administration of justice has been affected by air strikes, air raid alerts and frequent power outages. Parties to court proceedings were displaced internally or abroad, which disrupted the handling of cases. More than 80 000 cases related to war crimes, crimes against humanity and other war-related offences were opened, thereby shifting the work priorities and placing an additional burden on the criminal justice system. Administering justice in areas of active hostilities and temporarily occupied territories has become impossible. Despite these significant challenges, the Ukrainian judicial, prosecution and other justice institutions showed remarkable resilience by continuing to provide justice services to citizens and companies, while also implementing reforms. The necessary legislative, organisational and technical measures were taken to allow courts to swiftly adapt their work to the new martial law realities and protect court users, while providing continuous access to justice. In particular, legislation was adopted that allowed the territorial jurisdiction of courts to be changed and court cases to be relocated to other parts of the country if it became impossible to administer justice in a certain territory, along with the secondment of judges to other courts.

The **reform of the two key judicial governance bodies** – the HCJ and the HQCJ – was completed. This reform was triggered by insufficient independence of the judiciary from the executive and legislative branches, low public trust in the judiciary, high levels of corruption and the strong influence of vested interests in the work of courts. The reform started in July 2021 with the adoption of ambitious legislation that introduced robust integrity vetting for the HCJ sitting and candidate members, as well as integrity and professionalism checks of HQCJ candidates. The legislation envisaged a temporary yet decisive role for independent experts nominated by international donors, including the EU, in the respective selection and vetting bodies. The reform was fully aligned with the relevant Venice Commission recommendations,

focusing on strengthening integrity and public trust in the judiciary. By law, the HCJ is composed of 21 members. At the start of the reform, the HCJ had 15 members and 10 of them stepped down, leaving the HCJ with only five members, including the Head of the Supreme Court as the ex officio member. The Ethics Council, composed of three national and three international experts, completed the integrity check of four appointed HCJ members in May 2022, declaring one HCJ member as non-compliant. It then proceeded with the integrity check of the HCJ candidates. By January 2023, 11 new HCJ members – duly vetted by the Ethics Council – were appointed by the relevant appointing bodies. With these appointments, the renewed HCJ reached 15 members and became operational again. By June 2023, two more duly vetted HCJ members were appointed, increasing the HCJ's composition to 17 members.

The integrity and professionalism check of 301 HQCJ candidates by the Selection Commission, composed of three national and three international experts, was completed in March 2023. The competition included a thorough background check of candidates and an interview with the 64 best candidates. Based on the results of this second stage of the competition, the Selection Commission formed a shortlist of 32 candidates for further consideration by the HCJ. In June 2023, the HCJ appointed 16 new HQCJ members proposed by the Selection Commission, following a transparent interview and individual voting procedure, making the HQCJ fully operational.

The reform of the judicial governance bodies was finalised against the backdrop of a high-level corruption case involving the Head of the Supreme Court. This case became public in mid-May, when the National Anti-Corruption Bureau claimed to have uncovered an organised crime group that allegedly received a bribe equivalent to EUR 2 500 000 to influence Supreme Court decisions favouring a particular oligarch. The Head of the Supreme Court was dismissed and put into custody while the investigation was ongoing.

This corruption case highlighted on the one hand the robustness of the specialised anti-corruption institutions established with strong EU support after the 2014 Revolution of Dignity, and on the other the need to pursue reforms in the justice, law enforcement and wider public sector to address the existing corruption challenges and irreversibly consolidate integrity, efficiency and professionalism, while striking the right balance between independence and accountability. Effective integrity tools should be used to address corruption in the Supreme Court and other courts, including through the verification of integrity and asset declarations of judges, disciplinary framework and improved selection procedures with a strong focus on integrity and professional ethics. These measures should help in building public trust in the judiciary, which remains very low. Based on opinion surveys, public trust has been growing in recent years (in 2021, 15.5% of respondents trusted the judiciary, while in 2023 it was 24.8%). Foreign business associations continue to cite problems with the judiciary and the prevalence of corruption as some of the main obstacles to doing business in Ukraine.

Good progress was achieved with the reform of the **Constitutional Court** of Ukraine (CCU). In December 2022, Ukraine adopted a law to reform the selection procedure for future CCU judges. It was not fully compliant with the Venice Commission recommendations issued in December 2022. The internationally nominated members of the CCU pre-selection body – the Advisory Group of Experts – were not provided a temporary yet decisive role in the pre-selection procedure. This was recommended by the Venice Commission to restore trust in the CCU, whose reputation was damaged by corruption allegations against its judges and several controversial CCU decisions. In July 2023, Ukraine adopted amendments to the CCU Law, which implemented the outstanding Venice Commission recommendations contained in its Opinions on CCU reform from December 2022 and June 2023. Following the adoption of these amendments, the CCU selection reform has started to be implemented. The Parliament and the

Council of Judges announced competitions to fill the available vacancies in the Constitutional Court. The President and the Council of Judges appointed their members and substitutes to the Advisory Group of Experts, while the Parliament is continuing the appointment procedure. In September, upon the formal request of the Government, the Venice Commission and the international donors, including the EU, submitted their nominations of members and substitutes of the Advisory Group of Experts. In October, the Cabinet of Ministers formally appointed them. With five appointed members and five substitutes, the Advisory Group of Experts became operational and can proceed with the pre-selection of candidates to the position of the Constitutional Court. The reform of the CCU should continue with the adoption of a law on the constitutional procedure, in line with Venice Commission recommendations, to improve transparency and accountability in the work of the CCU and make the constitutional procedure more efficient.

In December 2022, the Parliament adopted a law abolishing the Kyiv district administrative court (KDAC), which handled disputes involving the central government bodies. Some KDAC judges were subject to numerous controversies and corruption investigations. Under the adopted law, KDAC was abolished and obliged to transfer its cases to the Kyiv region administrative court until a new Kyiv city administrative court is established. Delays in the transfer of cases and in the establishment of the new court, along with limited capacities of the Kyiv region administrative court to assume new obligations, undermined access to justice. The law did not regulate the status of former KDAC judges. Under the general rules, KDAC judges may be transferred to a court of the same level without the need for a competition. Before any such transfer, KDAC judges should complete the qualification evaluation procedure, including integrity vetting. The renewed HQCJ and HCJ must launch the establishment of a new administrative court to handle cases involving the central government bodies ensuring that this court is staffed with duly vetted judges. This will enable an efficient and fair handling of administrative disputes involving central government.

Strategic documents

The 2021-2023 strategy for the development of the justice system and constitutional judiciary identified the main reform areas in the justice sector, including the reorganisation of local courts, reform of the key judicial governance bodies, consolidation of the Supreme Court key function to guarantee uniformity of jurisprudence, development of alternative dispute resolution, selection of new judges, prosecutorial reform, as well as the reform of the Constitutional Court. Part of the reform measures contained in the strategy were duly implemented, in particular the reform of judicial governance bodies and the selection of CCU judges. No formal assessment of the implementation of the strategy was carried out. A new strategy for the reform of the justice system to respond to the challenges of wartime still needs to be developed, in a transparent and inclusive manner, and adopted.

In May 2023, the President of Ukraine approved a comprehensive strategic plan for the reform of law enforcement bodies for 2023-2027. Among other measures, it provides broad reform guidance for the prosecution service, including the strengthening of its coordination role over the law enforcement agencies and raising legal certainty and uniformity of practice in criminal procedures. An action plan, that will define the expected results, tasks and performance indicators for the strategic plan, is being finalised by the inter-agency working group and with the involvement of the EU experts. Its speedy adoption and steady and consequent implementation should lead to concluding the reform process in the area.

Management bodies

Several governance and self-governance bodies with different functions are responsible for managing the judicial system and prosecution service. In the judiciary, the HCJ is the key judicial governance body that appoints and dismisses judges, handles disciplinary cases against them and oversees the work of the State Judicial Administration, a body in charge of the daily administration of court resources. The HCJ had no quorum between February 2022 and January 2023, following the resignation *en masse* of 10 out of 15 of its members ahead of their vetting by the Ethics Council. The HQCJ, another important judicial governance body, deals with the selection and qualification evaluation (vetting) of judges. The HQCJ had not been operational since autumn 2019, when a judicial reform law dismissing all its members entered into force. It resumed its functions only in June 2023 when the HCJ approved its new composition. The Congress of Judges and the Council of Judges are the self-governance bodies that are composed of judges and that represent their interests. The Council of Judges is in charge of organising the Congress of Judges sessions and implementing its decisions. They take part in the formation of the HCJ and the HQCJ, while the Congress of Judges is also an appointing authority for Constitutional Court judges (together with the President and the Parliament). Considering the institutional complexity, functional overlaps, severe shortage of funding, the large number of vacancies and the challenges stemming from the war, the judicial governance system should be improved and optimised on the basis of an independent and professional functional audit.

In the **prosecution service**, the National Conference of Prosecutors is the highest self-governance body. It appoints some of the members of the prosecutorial governance bodies – the Council of Prosecutors and the Qualification and Disciplinary Commission of Prosecutors (QDCP) and approves their regulations. The Council of Prosecutors operates on a part-time, unpaid basis and deals with the appointment of prosecutors to administrative (managerial) positions and with the protection of prosecutorial independence, whereas the QDCP is responsible for selecting, promoting and dismissing prosecutors as well as conducting disciplinary proceedings. Given the scope of its competences and in view of the European standards and good practices, the Council of Prosecutors should become a full-time body with autonomous resources. The renewed Training Centre of Prosecutors deals with initiation and in-service training of prosecutors. The HCJ reviews complaints against the disciplinary decisions of the QDCP, a competence that could in the future be transferred to the Council of Prosecutors. The activities of the National Conference of Prosecutors and the Council of Prosecutors are financed by the Office of the Prosecutor General.

Independence and impartiality

The **constitutional and legal framework** guarantees the **independence of the judiciary** from the legislative and executive branches. The Parliament and the President retain the prerogative to make limited appointments to judicial and prosecuting bodies, such as the Constitutional Court and the HCJ. Judges are appointed by the President upon submission of the HCJ according to the procedure prescribed by law. The allocation of cases to judges within a court is based on a random (automatic) system based on objective criteria established by procedural law which, in theory, cannot be influenced by a court president or other judges. However, due to the structural deficiencies of the judicial system, including limited resources, and the impact of the war of aggression, the automatic allocation of cases is not functioning properly.

The possibility that a judge, addressed by a request for their **recusal**, can still contribute to the review of such a request, remains an issue of concern. To ensure objectivity and impartiality in the decision-making process, decisions on the removal of a judge from a court proceeding should be taken without their participation and be subject to appeal.

The legislation provides **prosecutors** with a sufficient degree of independence and autonomy. However, the self-governance and governance bodies are still largely dependent on the Office

of the Prosecutor General, in particular for financing and organisational support, which should be addressed in line with the European standards. A random allocation of cases to individual prosecutors based on strict and objective criteria, including specialisation, and appropriate controls and safeguards against manipulation still needs to be introduced, along with an effective appeal mechanism for decisions on the disqualification of a prosecutor.

Despite the legal and institutional guarantees, the risks of undue internal and external interference in the work of the judiciary and the prosecution service persist, and further efforts by the competent institutions are needed to effectively reduce them.

Accountability and ethics

Codes of professional ethics and conduct exist for both judges and prosecutors. In November 2022, the Council of Prosecutors approved and published its commentary on the code of professional ethics of prosecutors. Both judges and prosecutors are obliged to submit an electronic **asset declaration** each year for the previous year and provide updates when necessary.

Following the 2014 Revolution of Dignity, Ukraine launched an extraordinary and generalised **qualification evaluation (vetting) of judges** based on professional competence, professional ethics and integrity requirements. Failure to pass the vetting represents grounds for dismissal. Some 2 500 sitting judges underwent this procedure, before it was suspended in the autumn of 2019, when the HCJ was dissolved by law. Some 2 000 judges must still complete the vetting based on a transparent procedure, clear assessment criteria and with the proper involvement of the Public Integrity Council.

The key function of the HCJ – the handling of disciplinary cases against judges – was suspended in August 2021 with the entry into force of new legislation. The function previously held by HCJ inspectors has been transferred to a new service of disciplinary inspectors. The service was not established within the legislative deadline. There is also legal uncertainty as to the statutory limitation deadlines in relation to disciplinary complaints received by the previous HCJ composition. Some 11 500 disciplinary cases are currently pending with the HCJ. In August and September 2023, Ukraine adopted two laws for resuming disciplinary proceedings against judges and for establishing an independent service of disciplinary inspectors on the basis of a transparent and meritocratic selection procedure with a meaningful involvement of internationally-nominated experts. The disciplinary offences relating to judges' conduct should still be clarified and developed. The service of disciplinary inspectors should be urgently established to enable an effective and impartial handling of disciplinary cases.

In recent years, Ukraine has implemented prosecutorial reform. It includes the **attestation of prosecutors** – where all prosecutors in office are vetted by the HR commissions on the basis of integrity and professionalism criteria. Since 2019, out of 11 278 prosecutors who expressed their intention to pass the attestation, 8 351 prosecutors passed, while more than 2 700 failed and were dismissed. By August 2023, 2 754 lawsuits were brought to courts by prosecutors challenging various aspects of the attestation reform. The courts considered 2 082 lawsuits; 1 426 lawsuits were refused (including 713 by the Supreme Court) and 523 lawsuits were satisfied (including 218 by the Supreme Court). Even if a court satisfies a lawsuit, it cannot reinstate a prosecutor to their position – based on the legislative changes adopted at the end of 2021, such a prosecutor still has to complete the attestation. The system of **disciplinary responsibility of prosecutors** should be further improved, as aimed for by the state anti-corruption programme for 2023-2025. In particular, it is necessary to clarify the disciplinary offences to extend the range of disciplinary sanctions and the statute of limitation, as well as ensure that disciplinary proceedings can be launched *ex officio* by the Council of

Prosecutors and the heads of prosecution offices. The QDCP's capacities, as well as its human and financial resources, should also be strengthened.

Professionalism and competence

Following the Revolution of Dignity, Ukraine has reformed its rules on the **selection of judges**, introducing more transparency and meritocratic elements. However, the relevant legal framework requires further refinement, in particular in view of the length and complexity of the selection process. The stages of selection and mandatory training should be optimised. At present, more than 2 000 judicial vacancies still need to be filled urgently. The renewed HQCJ should refine the judicial selection and qualification evaluation rules, including by developing and publishing clear integrity assessment criteria and a scoring methodology. Given the low level of public trust in the judiciary and recurrent judicial corruption cases, the sustained involvement of the Public Integrity Council (PIC) in both qualification evaluation and judicial selection procedures remains of critical importance. The PIC is tasked to provide reasoned opinions to the HQCJ on the integrity of sitting judges undergoing the qualification evaluation, as well as judicial candidates to higher-level courts. The new PIC, composed of 20 lawyers, journalists and civil society representatives specialised in anti-corruption and justice sector reforms, was formed in August 2023. It should help the renewed HQCJ to complete the qualification evaluation of sitting judges and to select new judges of high integrity. The new law improving the selection of judges was prepared in the Parliament's Legal Policy Committee and registered. Following the legislative changes, the HQCJ will have to adjust its own rules and procedures.

Since the introduction of new transparent and meritocratic rules on the **selection and career advancement of prosecutors** during the interim two-year prosecutorial reform period in 2019-2021, several rounds of external recruitments of junior prosecutors took place following the improved rules, which included multiple tests of legal and practical knowledge, general skills as well as integrity checks. As a result, 114 new prosecutors were appointed in the Office of the Prosecutor General, and 492 in district prosecution offices.

Moreover, during the interim reform period, a transparent selection procedure, including integrity, professionalism and leadership checks, was successfully piloted for management-level prosecutors. However, since the re-establishment of the Council of Prosecutors in autumn 2021, these positive practices have not been continued. The procedures for the selection of management-level prosecutors remain inadequate as they lack transparency and credible integrity, professionalism and leadership checks. The resources and capacities of the Council of Prosecutors to carry out its mandate in this area remain limited. These shortcomings should be addressed.

The rules governing the appointment and dismissal of the Prosecutor General make the position vulnerable to political and other undue interferences, creating risks linked to independence, integrity and ultimately public trust. In line with European standards and good practices, the selection procedure for the Prosecutor General should be made more transparent, objective and meritocratic, and the dismissal procedure should be depoliticised. In particular, the grounds for dismissal of the Prosecutor General should be exhaustive and clearly defined by law, while the dismissal procedure should be more transparent and credible.

The periodic performance evaluation of judges and prosecutors on the basis of clear rules and assessment criteria still needs to be established by the relevant judicial and prosecuting bodies. The use of performance evaluations would improve human resources management in courts and public prosecution offices.

The **National School of Judges** continued to provide training to judges of all instances. Despite war-related challenges and a drop in funding, it provided training to 10 158 people in 2022, in areas ranging from EU law to court management and IT skills. The school should strengthen its managerial and operational capacities, introduce comprehensive training needs assessment and training evaluation, modernise the training curricula and teaching methods, including trainings on judgecraft, ethics and integrity and improve international cooperation and connections with judicial training networks. The collaboration of the National School of Judges and the Prosecutorial Training Centre with the EU judicial training providers to address war-related training needs help to enhance institutional capacity and should continue.

High-quality and corruption-free **legal education** and training of justice and law enforcement professionals are key to consolidating the rule of law and fulfilling EU membership obligations. In recent years, Ukraine has taken a number of measures to improve legal education. Legal education standards were adopted and upgraded, standardised exams for entering law schools and master's degree programmes were introduced, and an institutional system for quality assurance was developed. However, progress has been uneven and further reform efforts are still needed, in particular for creating a clear institutional delineation of legal education and law enforcement training, strengthening the law school admission and licencing standards, ensuring a transparent and merit-based allocation of public funds for training future legal professionals, modernising curricula with a focus on ethics, practical training, EU law and international exchanges, implementing a unified state qualifications exam, and fighting against corruption and plagiarism.

Quality of justice

The judiciary is suffering from severe underfunding, which is further exacerbated by the war of aggression and its impact on public finances. The financial resources allocated to the judiciary met 63.4% of overall funding needs in 2022 and only 51.4% in 2023. In particular, non-judge staff in courts are heavily underfunded, which causes their outflow and disrupts the operation of courts. During the 2022 mid-year review, there were considerable revisions to the budget allocation for the judiciary. Costs for all local and appellate courts were cut by more than 10%, while cuts to other judicial institutions amounted to 15-20% compared with the initial allocations for 2022. The 2022 budgetary allocation for the judiciary, including the Supreme Court, local, appeal and specialised courts, was about EUR 491 million, compared with around EUR 656 million in 2021 (based on the exchange rate at the end of 2022). Once the public finance situation stabilises, the government should restore funding to the judiciary, while pursuing a carefully planned optimisation of the expenditures and the court network.

At the end of 2022, there were 4 643 judges in Ukraine, averaging 11 judges per 100 000 inhabitants, compared to the European average of 22.2 judges per 100 000 inhabitants that same year. In the last few years, a number of courts of first instance stopped hearing cases due to the severe shortage of judges and the absence of the HCJ. More than 100 courts in Ukraine operated at a 50% staffing level or even lower. Significant differences in workload remain between the courts across the country. In some cases, the workload of judges within the same instance and jurisdiction can differ multiple times. The government plans to address this problem by optimising the court network. However, amendments to the Law on the judiciary from December 2022 postponed optimisation to 1 year after the end of martial law. The judicial governance bodies should continue applying other measures, including the recruitment of new judges and secondments, to balance workloads.

There were some 9 500 prosecutors or 23 prosecutors per 100 000 inhabitants in Ukraine at the end of 2022, compared with the European average of 11.8 prosecutors per 100 000 inhabitants in 2020.

The Ukrainian courts use a unified judicial information telecommunications system. It includes case management, case allocation, electronic delivery and video conferencing functionality. Over the last few years, the State Judicial Administration has made efforts to interconnect the e-judiciary subsystems with the government electronic services portal Diia, the unified register of convicts, the social information system and others. An IT service for automatic notifications of court summons was also introduced, saving on postal costs. However, the system is largely outdated and underfunded. Its hardware, software and network infrastructure, along with the ICT management system, are in need of a thorough overhaul. To guide the development of a new e-judiciary system, an independent IT audit was launched in spring 2023. Based on the results of the audit, the e-judiciary system is expected to be upgraded to make the judiciary more efficient and transparent, as well as save costs and improve access to justice services for citizens and businesses.

After thorough preparation, including business process analysis, the prosecution service, with the support of the EU, has launched the development of a modern **e-case management system** named SMEREKA. Over the course of several years, it will digitalise the analysis and processing of criminal cases, starting with cases related to international crimes. This will boost efficiency, transparency and integrity in the criminal justice system.

In November 2021, the Parliament adopted a modern law on **mediation**. It lays the groundwork for mainstreaming mediation in civil, commercial and administrative disputes and in criminal procedures. Despite the war, implementation of the law continued and good progress was achieved. The government adopted legislation to ensure the provision of mediation services by free legal aid centres, while the Ministry of Justice approved an order for a register of mediators engaged in secondary legal aid and launched the first competitions for such mediators. Various mediation organisations and justice sector institutions continued to promote mediation services via training, online resources and awareness raising activities. The implementation of the law on mediation through adoption of additional sub-legislation, institutional capacity building and awareness raising among relevant target groups should continue.

An independent, professional and accountable Bar is a key prerequisite for access to justice and a functioning market economy. The Bar in Ukraine is in need of reform. The Law on the Bar should be aligned with the Constitution, applicable European standards and good practices. In particular, the self-governance system and resource management of the Bar should be improved and made more transparent and accountable. The qualification and disciplinary procedures for lawyers require significant improvements in law and in practice. The process for admission to the profession remains weak and prone to corruption risks, which undermines the credibility and independence of the profession.

In recent years, the Ukrainian judiciary has made major efforts to ensure the uniformity of court practice, which is a key element of the rule of law and legal certainty. Several procedural filters were introduced in the Supreme Court, and the Grand Chamber of the Supreme Court became operational. In addition to the existing register of judicial decisions, an electronic database of legal positions of the Supreme Court was created, to facilitate the identification of relevant guidance from the Supreme Court on the interpretation and application of specific legal norms. However, more efforts are needed in this area as divergent court practice, including within the same court, persists. Access to the Grand Chamber still requires the approval of the relevant Cassation Court, which undermines unification efforts. Further legal and institutional reform measures should be carefully calibrated and be based on a thorough assessment and inclusive consultations involving judges and subject matter experts.

Efficiency

Despite the war-related funding and staffing challenges, most courts in Ukraine maintained 100% or even higher clearance rates in 2022. At first instance, the clearance rate was 105.5% in civil cases, 97.6% in commercial cases, 111.7% in administrative cases and 99.5% in criminal cases. At the appeal level, similar clearance rates are reported: 101% in civil cases, 103% in commercial cases, 99% in administrative cases, 98.9% in criminal cases. The general clearance rate of the Supreme Court was 107.9% in 2022. The clearance rate at the Constitutional Court was 68% in 2022. As for the number of pending cases at first instance courts, there were 231 177 civil cases pending at the end of 2022, including 59 856 unresolved for over a year, 34 168 commercial cases pending, including 10 417 unresolved for over a year, 119 471 administrative cases pending, including 25 544 unresolved for over a year, and 110 637 criminal cases pending, including 47 544 unresolved for over a year. At the appeal courts, there were 23 218 civil cases pending, including 3 716 unresolved for over a year, 6 446 commercial cases pending, including 379 unresolved for over a year, 32 487 administrative cases pending, including 1 305 unresolved for over a year, and 12 377 criminal cases pending, including 3 223 unresolved for over a year. At the Supreme Court, the total backlog of cases in 2022 was 19 252.

As for the disposition time (time needed for a case to be resolved in days), according to the latest CEPEJ statistics including 2021 data, it took 165 days to resolve a civil and commercial case (129 days in 2018, 122 days in 2020) and 52 days for a criminal case (271 days in 2018, 298 days in 2020).

Given the war-related challenges, including displacement of the population and businesses, deterioration of the economic situation and travel safety concerns, Ukraine should adopt legislation that formally introduces remote hearings and regulates the procedural aspects of such hearings, in full respect of the procedural rights of the parties. This would boost the efficiency of court proceedings and facilitate access to justice, including in times of war.

Ukraine has a high number of judgments of the European Court of Human Rights (ECtHR) pending execution among the parties to the European Convention of Human Rights. In particular, execution is pending for a significant period of time and structural reform measures are still required for the ECtHR judgments related to non-enforcement of domestic court decisions against state entities, judicial independence, unreasonable length of court proceedings, poor prison conditions and inefficiency of ill treatment investigations. These cases are subject to the supervision procedure before the Committee of Ministers of the Council of Europe. Despite several war-related challenges, the Ukrainian authorities have cooperated closely with the relevant Council of Europe bodies and made efforts to enforce outstanding ECtHR judgments during the reporting period.

To deal with the systemic problem of non-enforcement of domestic court decisions, the government adopted a special strategy in September 2020 and an action plan to implement this strategy in March 2021. The action plan envisaged among other things a revision of social-oriented legislation, additional enforcement mechanisms related to state-owned enterprises protected by moratoria, the improvement of legislation on bankruptcy, the introduction of efficient judicial control over the enforcement of court decisions, the improvement of enforcement procedures and expansion of powers of private bailiffs, and the creation of a register of court decisions rendered against state entities. Most measures in the action plan still need to be carried out.

In 2022, the number of new **enforcement** cases fell by more than half due to the war – from 4.1 million to 1.7 million. In June 2022, the Parliament adopted a law that prohibited enforcement cases from being opened in the temporarily occupied territories and in the war zone. In April 2023, another law was adopted to introduce a minimal protected amount on

debtors' bank accounts. This therefore improves the protection of fundamental rights during the enforcement procedure. It also duly addressed other war-related challenges, such as the transfer of enforcement cases and replacement of bailiffs, as well as enforcement proceedings that involve Russian residents.

The draft law to streamline the enforcement of court decisions and improve the status of private bailiffs has been pending a second reading since July 2021. Russia's war of aggression and sharp deterioration in public finances have slowed down reforms in this area. The government should resume these efforts where possible under the current context, as an effective enforcement system is not only a key pillar of the market economy and the rule of law, but also an indispensable prerequisite for swift economic recovery.

Ukraine took large-scale legal, institutional and practical measures to ensure the **security of court premises** and the safety of judges and staff. The only courts where security cannot be guaranteed by the Court Security Service are those that are located in the territories of Ukraine temporarily occupied by Russia. The Court Security Service should continue building its capacities to ensure effective security of the courts and their staff, including through improved risk assessments and risk response, and the deployment of security equipment and other measures.

Domestic handling of atrocity crimes

Ukrainian authorities have been confronted with the unprecedented scope and gravity of atrocities committed by the Russian Army. This has led to an increased need to strengthen the capacities and provide expertise to investigate, prosecute and adjudicate core international crimes (also called atrocity crimes), while building on the experience that Ukraine had already gained since 2014. As a result, Ukraine started taking significant measures to advance its comprehensive framework for addressing atrocity crimes at domestic level.

Since Russia's full-scale invasion and war of aggression, a total of 107 951 incidents related to various atrocity crimes have been officially registered. 267 people have been indicted and 63 convicted for war crimes by Ukrainian courts. Due to the large number of crime scenes, several law enforcement agencies and authorities are involved in domestic investigations. The National Police of Ukraine and the Security Service of Ukraine created specialist units to investigate atrocity crimes and strengthen interinstitutional cooperation; the Interagency Working Group on Investigating War Crimes was established. The Office of the Prosecutor General also adjusted its institutional strategy and structures for prosecuting such crimes by restructuring its War Crimes Department and establishing nine regional war crime units within its service as well as the Conflict Related Sexual Violence Unit and Specialised Environmental Prosecutor's Office. Cases involving children are being investigated by the Department for the Protection of Children's Interest and Combating Domestic Violence. There are currently 2 944 criminal proceedings involving children as victims of various war crimes, including cases of forced deportation, recruitment of child soldiers, killings and sexual violence. The War Crimes Department developed and applied operational strategies and institutional synergies, aimed at improving the efficiency of investigations into crimes committed in territories of Ukraine occupied by Russia, after their liberation. The very high number of cases creates an intense workload and great amount of data recorded in criminal proceedings, thus raising risks of duplication. To address this problem, the Office of the Prosecutor General started creating a modern e-case management system (see 'Quality of justice' section above).

A dedicated war crimes prosecution strategy has been adopted and additional resources put in place with the support of international assistance providers, including the European Union Advisory Mission Ukraine, to improve investigations into such crimes. Ukraine cooperates

effectively with the Atrocity Crimes Advisory Group, a large multilateral initiative established by the EU, the US and the UK in May 2022 to provide strategic advice and operational assistance to the Office of the Prosecutor General in investigating and prosecuting international crimes in Ukraine. Relevant Ukrainian authorities advanced their coordination with the civil society organisations involved in documenting such crimes.

The Ukrainian domestic legal framework for criminal accountability for core international crimes needs to be adapted to international standards. As a matter of urgency, the Criminal Code of Ukraine should be amended to expand on the elements of core international crimes, incorporate criminal liability for committing crimes against humanity and criminal liability for commanders and other superiors for international crimes committed by the forces under their effective command and control as one of the essential means for prosecuting such crimes. Ukraine has not yet ratified the Rome Statute.

Ukraine cooperates closely with stakeholders at international level for bringing perpetrators of atrocity crimes to justice, in compliance with the principle of complementarity. Following the filing of two ad hoc declarations by the Government of Ukraine accepting the jurisdiction of the International Criminal Court (ICC), Ukraine proactively collaborates with and supports the ICC's Office of the Prosecutor (ICC OTP). This cooperation resulted in high-level investigations and arrest warrants being issued on 17 March 2023 by Pre-Trial Chamber II against the President of Russia Vladimir Putin and the Presidential Commissioner for Children's Rights Maria Lvova-Belova for the war crime of unlawful deportation of population (children) and that of unlawful transfer of population (children) from occupied territories of Ukraine to Russia. In March 2023, the ICC and Ukraine signed a memorandum of understanding to establish an ICC country office in Ukraine to further strengthen their cooperation. Ukraine also closely cooperates with the independent International Commission of Inquiry on Ukraine. It was established by the UN Human Rights Council in March 2022 to report on all alleged violations and abuses of human rights, violations of international humanitarian law and related crimes in the context of the Russian war of aggression against Ukraine.

Together with Poland and Lithuania, Ukraine is a founding member of the Joint Investigation Team (JIT) that was set up in March 2022 to enable the exchange of information and facilitate investigations into core international crimes committed in Ukraine. Estonia, Latvia, Slovakia and Romania also became JIT members, and the US Department of Justice signed a memorandum of understanding to improve coordination between the JIT partner countries and the US authorities in their respective investigations in connection with the war in Ukraine. Furthermore, the ICC OTP became a participant in the JIT. Europol received an official invitation to join the JIT in mid-August 2023 and discussions are ongoing about the UK signing a memorandum of understanding like the US.

In July 2023, the International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA) was launched in The Hague, to support international efforts to secure evidence for the prosecution of the crime of aggression and facilitate the process of case building. The ICPA constitutes a standing structure to improve coordination on the collection, retention and analysis of evidence between JIT members investigating the crime of aggression under their respective national laws. As part of the ICPA, Ukrainian senior prosecutors work side by side with prosecutors from the EU and US, in close coordination with the ICC OTP. In mid-September 2023, a Register of Damage Caused by the Russian Federation Against Ukraine was formally established, as per a resolution of the Council of Europe (May 2023). The Register of Damage will receive and process information on claims of damage and evidence; categorise, classify and organise such claims, assess and determine the eligibility of claims for inclusion

in the Register and record the eligible claims for the purposes of their future examination and adjudication.

Ukraine co-chairs the work streams of the Ukraine Accountability Dialogue Group, an international effort aimed at promoting exchange and coherence across the range of accountability initiatives and related donor support. In November 2022, the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network) invited Ukraine to attend its future open sessions as well as part of the closed sessions upon specific interest of Ukraine and subject to agreement of all member states. The Genocide Network also considered to grant Ukraine observer status on an ongoing basis.

Fight against corruption

Ukraine has **some level of preparation** in the prevention of and fight against corruption. There was **some progress**, in particular with establishing and consolidating a comprehensive anti-corruption institutional framework and the gradual building of a steady track record in investigating, prosecuting and adjudicating corruption cases. This includes high-level convictions and cases moving forward in the courts against officials previously considered ‘untouchable’. Ukraine stepped up the implementation of reforms in the area of anti-corruption and continued to strengthen the anti-corruption framework after receiving EU candidate status. New legislative, strategic and institutional improvements were pursued, including the adoption of the national anti-corruption strategy in June 2022, accompanied by a comprehensive state programme for its implementation adopted in March 2023, as well as the restoration of financial reporting of the political parties. Ukraine has also restored the system of electronic asset declarations, along with the verification functions, taking into account the situation under martial law. The adopted law included some provisions which potentially weaken the verification system, but their effects still need to be monitored in practice.

The work conducted in particular by the Specialised Anti-Corruption Prosecutor’s Office (SAPO) since its new head was appointed in July 2022, led to globally increased effectiveness of the anti-corruption institutions. The new head of the National Anti-Corruption Bureau of Ukraine (NABU) was selected in early March 2023, after a transparent and merit-based procedure.

The Ukrainian authorities are committed to making continued efforts to achieve steady progress, but its sustainability needs to be monitored and further supported. The main challenge is to ensure that the outcome of the work of anti-corruption institutions is systemic and irrevocable, also in view of long-term reconstruction efforts and the need to ensure and maintain safeguards for the accountable management of foreign funding and investment. Efforts to strengthen the independence of key anti-corruption institutions and increase their capacity need to continue, and further allocation of technical, financial and human resources will be important. Sectors most vulnerable to corruption require targeted risk assessments and dedicated measures to ensure robust corruption prevention.

In the coming year, Ukraine should in particular:

- continue to further improve its track record on investigations, prosecutions and final court decisions in high-level corruption cases, including the seizure and confiscation of criminal assets, as well as ensure timely implementation of the 2023-2025 state anti-corruption programme, including appropriate monitoring and allocation of relevant resources and remove undue legal restrictions on the verification powers of the National Agency for Corruption Prevention (NACP), in order to ensure the effectiveness of the electronic asset declaration system, without prejudice to the rules applying to national security during wartime;

- revise the Criminal Procedure Code and the Criminal Code to enable higher efficiency and outcomes in high-level corruption cases, e.g. by preventing procedural delays, introducing reasonable time limits for pre-trial investigations, and improving the regulation of plea bargain agreements; increase the number of judges of the High Anti-Corruption Court by reactivating the Public Council of International Experts and enable the court to adjudicate certain cases in single judge composition;
- enact legislation to improve the selection procedures for the SAPO head and key officials, to strengthen the institutional independence of SAPO by transforming it into a separate legal entity, and to increase its level of procedural autonomy as well as establish robust mechanisms for external and internal control and discipline.

Track record

Ukraine has introduced some reform measures and stepped up efforts to build a credible track record of investigations, prosecutions and convictions of high-level corruption cases, and to some extent the seizure and confiscation of criminal assets. The country continued to pursue a rigorous reform path to facilitate the effective functioning of key anti-corruption institutions for ensuring sound operational capacities.

In 2022, NABU, responsible for the investigation of high-level corruption, initiated a total of 456 criminal proceedings (2021: 633; 2020: 792). By the end of September 2023, NABU started 501 proceedings. Based on the results of its investigations, and under the procedural guidance of SAPO, 54 indictments for corruption offences against 132 people were sent to court in 2022, which constitutes a stable number also compared with previous years (2021: 57 indictments against 127 people; 2020: 67 indictments against 106 people). By the end September 2023, 82 indictments against 203 persons were sent to court and it can be anticipated that the track-record will significantly increase, with the number of indictments likely being doubled in 2023 compared to previous years.

The High Anti-Corruption Court (HACC) was launched in September 2019 as the main court for adjudicating high-level corruption cases investigated and prosecuted by NABU and SAPO. It became operational following a transparent selection procedure of 39 judges for the court with the involvement of international experts (Public Council of International Experts). The court functions as a court of first and second instance and is independent from the ordinary judiciary in Ukraine, although the Supreme Court has the competence to hear cassation cases on verdicts delivered by the HACC. In February 2023, the judges selected a new president of the court.

The HACC has continuously increased its overall operational performance and output since its launch. In 2022, it delivered 37 verdicts against 56 defendants in first instance and 22 verdicts against 27 defendants in second instance, which constitutes an increase over previous years (2021: 34 verdicts against 41 defendants in first instance, and 25 verdicts against 29 defendants in second instance; 2020: 22 verdicts against 25 defendants in first instance, and 8 verdicts against 10 defendants in second instance). By the end of September 2023, the HACC has significantly increased its overall performance and delivered 48 verdicts against 64 defendants in first instance, and 26 verdicts against 32 defendants in second instance. To enable the court to cope with the increased caseload, which is also caused by its mandate being extended to e.g. civil confiscations, its capacity should be strengthened by selecting and appointing new judges in 2024, with the involvement of the Public Council of International Experts. Furthermore, the Criminal Procedure Code should be amended to allow certain cases to be adjudicated in single judge composition.

The cases investigated and adjudicated by the anti-corruption institutions concerned prominent high-level public officials including former deputy ministers, former parliamentarians and high-level judges, e.g. the serving President of the Supreme Court who was arrested in May 2023 for bribery. Similarly, in 2022, NABU and SAPO uncovered suspected high-level embezzlement, including in the management of PrivatBank, Ukrnafta, Ukgazbank, the State Fiscal Service of Ukraine, as well as Naftogaz in 2023.

The Asset Recovery and Management Agency processed a total of 4 401 requests in 2022 on the finding and tracing of assets that can be seized and confiscated in criminal proceedings received from relevant authorities. A total of EUR 864 364 in equivalent revenues were transferred to the State Budget of Ukraine from the management of seized assets and EUR 24 361 679 in equivalent revenues from the sale of seized assets. The HACC applied special confiscation in 10 criminal proceedings in 2022 for a total of approximately EUR 1 million.

During the first half of 2023, the NACP sent 26 cases to courts for administrative offences involving the violation of conflict of interest rules (2022: 72; 2021: 937; 2020: 239). The overall percentage of persons against whom an administrative fine was imposed was 14% during the first half in 2023 (3 people), compared to 18% in 2022 (11 people), 2% in 2021 (4 people), and 7% in 2020 (4 people). During the first half of 2023, the NACP did not conduct comprehensive verifications of asset declarations due to the suspension of this task, mandated by the application of martial law in March 2022. However, a total of 1 610 comprehensive verifications of asset declarations were completed in previous years (2022: 124; 2021: 1 043; 2020: 443), and the agency detected 220 cases of administrative offences (2022: 18; 2021: 171; 2020: 31), 253 cases of criminal offences (in 2022: 38; 2021: 119; 2020: 96), including 12 cases of unfounded assets (2022: 2; 2021: 10; 2020: 0) and 1 case of illicit enrichment that were transferred to courts and relevant law enforcement agencies. A total of 24 people (2022: 5, 2021: 17, 2020: 0) were found guilty of committing an administrative offence; 7 people (2022: 5, 2021: 2, 2020: 0) were found guilty of committing a criminal offence in the first half of 2023. The Constitutional Court issued a decision in 2020 partially rendering unconstitutional the provisions on control and full verification of declarations as well as the criminal responsibility related to false declaration. The immediate result was that a large number of criminal cases had to be terminated. Despite the subsequent restoration of the powers of the NACP and the Criminal Code article on false declaration by the Parliament in accordance with Venice Commission recommendations, the non-retroactive effect of criminal law provisions caused an accountability gap.

The NACP granted 16 whistle-blowers and their close relatives protection out of 27 applications. A total of 46 criminal proceedings for corruption and corruption-related offences were registered and carried out based on the reports of whistle-blowers, including for high-level corruption.

Findings from sociological surveys show a significant decrease in recent years in the share of citizens who have directly experienced corruption (in 2013, the share was 60%, in early 2020 not more than 40%). There has been a gradual increase in comparative corruption level indexes for Ukraine. In 2013-2022, Ukraine's performance in the Corruption Perceptions Index (CPI) increased from 25 to 33 points (maximum score is 100). The result in 2022 is the highest since the updated CPI methodology was launched and Ukraine now ranks 116 out of 180 countries in the CPI.

According to the survey 'Corruption in Ukraine: understanding, perception, prevalence' conducted each year by the NACP, in 2022, 29% (42% in 2021) believe that corruption has increased, while 16% (6% in 2021) believe it has decreased. Among business representatives,

46% believe corruption has decreased and only 16% that it has increased in 2022. There is an increase in the share of the population with a negative attitude towards corruption – in 2021, the share was 49% and in 2022 57%. More are willing to report corruption cases than in previous years. Also, the share of the population and business representatives that support the activities of whistle-blowers has increased – 65% of the population and 86% of business representatives support these activities.

Institutional framework

Prevention measures

The National Agency on Corruption Prevention (NACP) is the special agency responsible for the prevention of corruption in Ukraine. The maximum number of NACP employees is 408, but the actual number of employees in employment relationships remains significantly lower (approximately 85% of this figure). Its main mandate is anti-corruption policy, financial control (asset declarations), compliance review of political party financing, whistle-blower protection and conflict of interest resolution. The most relevant functions of the agency were suspended with the application of martial law in March 2022 due to national security concerns, including the verification of e-asset declarations and political party financing compliance review.

Three years after a full restructuring and change of governance model under the new head of the agency, selected by an international selection commission, the agency has delivered good results and there are strong signs of its growing independence from political and vested interests. The agency has also started to engage in addressing possible corruption risks linked to the large-scale reconstruction of the country. The term of the agency's head will expire in January 2024 and the credible and transparent selection of a new head by an international selection commission, as required by law, will be an important priority for Ukraine.

An independent external assessment of the effectiveness of the NACP's activity in 2020-2021 was conducted by an expert commission composed of three international experts appointed by the Cabinet of Ministers based on a proposal by international donors, as required by law. In its final assessment report published in July 2023, the commission concluded that the agency was effective and independent overall but made a set of recommendations to strengthen it further. The agency and other relevant stakeholders should implement these recommendations swiftly.

The advanced **electronic asset declaration** system has proved to be a key tool for preventing corruption. However, the obligation for public officials to submit asset declarations was fully suspended with the application of martial law in March 2022, together with other restrictions on access to a number of state registers, in order to address security concerns and protect sensitive information during wartime. In September, the Parliament adopted a law restoring the e-asset declaration system and its verification functions by the NACP. The adopted law included some provisions that limited the verification powers of the NACP and closed the e-asset declarations to the public. The President vetoed the adopted law as regards the public access to the declarations. At the end of September, the Parliament re-adopted the law addressing the President's request, while maintaining the other provisions that could create potential weaknesses. In September, the Parliament also adopted a law that weakened the administrative liability for non-submission/false information in the e-asset declaration, but the President has not signed it into effect. Deficiencies in the rules of the automated verification of the e-asset declarations continue to exist and should be addressed by the NACP in the medium term.

Effective implementation of **procurement** rules in all sectors and full use of the related electronic procurement system should help in further preventing corruption in the public services sphere.

Ukraine has made progress in strengthening its comprehensive framework for the protection of **whistle-blowers**. Some outstanding issues include further increasing its effectiveness, more awareness raising about the essential role of whistle-blowers, and launching a unified portal for their reports.

Corruption risk management in public institutions is proactively handled by the NACP. It applies a detailed model methodology and provides guidance in developing institutional anti-corruption programmes. Corruption risks in draft laws and sectors vulnerable to corruption are successfully assessed and addressed. However, further targeted streamlining and simplification of applied processes and methodologies would increase effectiveness. To strengthen the institutional ownership and effectiveness of the corruption risk management system, approval of the institutional anti-corruption programmes could be transferred from the NACP to the heads of the relevant state institutions.

Ukraine's **conflict of interest** framework is comprehensive and largely aligned with international anti-corruption standards. The NACP is well positioned to conduct monitoring and control over compliance with conflicts of interest legislation. It is also tasked with guidance, consultations, training and awareness raising. To strengthen the conflict of interest framework, the NACP should improve internal proceedings and take measures to further increase transparency and outreach of its work, including by reporting systematically to the public. More public awareness raising about the importance of the conflict of interest framework in detecting and preventing corruption is needed. Strong engagement with civil society and independent media in Ukraine is key. The legislative framework should be further improved to also cover apparent conflicts of interest.

Several legislative proposals on **lobbying** regulations were registered but not adopted yet. The NACP has launched the process of preparation of a new law on lobbying. The anti-corruption strategy and state anti-corruption programme require drafting and the approval of lobbying regulations by April 2024. To build up mutual trust of stakeholders and reach consensus on the best approach on a lobbying regulation framework for Ukraine, an open and participatory discussion should be pursued, including a wide stakeholders' engagement (in particular, civil society groups) and extensive public consultations. It will be important to ensure that lobbying regulations do not preclude or limit legitimate activities of civil society or put a disproportionate administrative burden on them.

The Council of Europe's Group of States against Corruption issued its interim compliance report in March 2023, where it assessed the measures taken by Ukrainian authorities to implement the 31 recommendations of the Fourth Round Evaluation Report on corruption prevention in respect of members of parliament, judges and prosecutors. Overall, 15 recommendations have been implemented; nine have been partially implemented satisfactorily; and seven recommendations remain unimplemented. Ukraine should swiftly act on the outstanding recommendations in order to ensure further progress.

Law enforcement

Key anti-corruption institutions responsible for investigating and prosecuting high-level corruption have remained fully operational despite the war. However, limited budget allocations have caused challenges to their operations. Structural issues with the legal framework, overall capabilities and functioning remain, with a continuous need to further strengthen their independence and operational autonomy. The deployed electronic case management system for NABU, SAPO and HACC has been put into practice but still requires full integration with the unified register of pre-trial investigations and the unified judicial information and telecommunication system. Specialised high-quality training is available to

the staff of anti-corruption institutions, including through international technical assistance providers.

In July 2022, the new head of SAPO was appointed by the Prosecutor General following the finalisation of a selection process that was largely transparent and merit-based, but which lasted more than 18 months. After the appointment, the office stepped up inter-agency cooperation with NABU and reactivated high-profile cases. Despite significant progress, SAPO still needs to further strengthen its political and administrative independence from the Office of the Prosecutor General and other institutions. Particularly outstanding issues: improve the selection procedure for SAPO head and key administrative positions of SAPO by aligning it with the procedures applicable to NABU/NACP, strengthen SAPO's institutional independence, and increase its procedural autonomy as well as establish robust mechanisms for external and internal control and discipline. In early 2023, a draft law to address these issues was registered in the Parliament, but was rejected by the responsible parliamentary committee without substantive discussions in February 2023 due to the lack of political consensus. In September, several new draft laws strengthening the SAPO's autonomy were registered in the Parliament.

The new Director of NABU was appointed in March 2023 by the Cabinet of Ministers following a merit-based and transparent selection process conducted with the participation of international members in the selection commission. NABU has been successfully leading complex high-level investigations and is among the most trusted law enforcement agencies in Ukraine. It urgently needs additional staff to work on investigations (detectives, analysts, technicians), with staffing issues being particularly acute in the three regional offices. A draft law has been registered in the Parliament to increase the number of NABU staff from 700 to 1 000. Another reform priority should focus on the reform of the forensic services, to ensure that NABU has a timely and uncompromised access to forensic expertise in its high-level corruption investigations. Similarly, NABU should be able to conduct wiretapping without the need to rely on the Security Service of Ukraine for its practical implementation.

Among other law enforcement agencies, the National Police of Ukraine and the State Bureau of Investigation (SBI) were given powers related to corruption investigation. The Bureau of Economic Security (BES) does not handle corruption cases as such, but its activities aimed at protecting the economic security of the state are closely related. SBI is responsible for investigating corruption involving public officials unless the pre-trial investigation of the crimes falls under the jurisdiction of NABU. BES was created to succeed the tax police (branch of the State Fiscal Service) in protecting the economic security of the Ukrainian state and investigating sophisticated financial crimes, including potentially touching on corruption. At the same time, the Security Service of Ukraine (SSU) has almost unlimited powers, including those related to the investigation of corruption cases. The problems of SBI, BES and SSU include limited public supervision and accountability, lack of inter-agency cooperation as well as the fact that staff is selected in processes that lack integrity control and transparency. Delineation of investigative competences is often disregarded or interfered with in practice by having criminal cases investigated by SBI and the Security Service of Ukraine that fall within the exclusive investigative powers of NABU. It will be important to introduce legal safeguards that will prevent interference in the exclusive investigative powers of NABU by other law enforcement agencies and, in this context, also progress with the SSU reform in line with EU's recommendations.

Legal framework

Ukraine has ratified the most important international treaties to prevent and combat corruption, including the UN Convention against Corruption and the Council of Europe Criminal and Civil

Law Conventions on Combating Corruption. As part of its aspirations to become a member of the OECD, in February 2023 the OECD Council agreed on the proposal of the Working Group on Bribery in International Business Transactions (WGB), to invite Ukraine to become a Participant to the WGB so as to facilitate its accession to the OECD Anti-Bribery Convention. Corresponding amendments to the Criminal Code, Criminal Procedure Code and Tax Code, and to other legislative acts are being prepared for the full implementation of the norms of the OECD Anti-Bribery Convention and the recommendations of the OECD Council.

The domestic legal framework is broadly aligned with international standards and allows Ukraine to conduct complex criminal investigations into corruption cases. However, the Criminal Procedure Code and the Criminal Code should be further improved to enable higher efficiency and better outcomes. The amendments should be aimed at preventing procedural delays, increasing time limits for pre-trial investigations and improving the grounds and procedures for concluding plea bargain agreements. The legal framework on **whistle-blower protection** should be completed and fully aligned with the EU *acquis*.

To reduce the influence of oligarchs on politics, in September 2021 the Parliament passed the Law on prevention of threats to national security associated with the excessive influence of people with significant economic and political weight in public life (**oligarchs**). The adoption of the law and the announced preparation of the register of oligarchs led some of those possibly affected giving up ownership of certain assets to avoid meeting the criteria for being identified as an oligarch under the law. Moreover, the war has disrupted economic activity, with oligarch-owned businesses being particularly affected. This has led to a decrease in profitability and resources, which has limited their ability to influence the political and media spheres. Similarly, martial law has resulted in restrictions on the media and with it, the ability of oligarchs to shape public opinion and exercise traditional influence through the media channels they control or controlled.

While being in force since May 2022, the law on oligarchs has not been implemented. In June 2023, the Venice Commission, in its Opinion on the law on oligarchs, assessed the personal approach of the law on oligarchs as difficult to reconcile with the principles of political pluralism and the rule of law and thus recommended postponing its implementation and reassessing its necessity after the end of the war. It recommended that Ukraine addresses de-oligarchisation through a systemic approach in relevant areas, such as media, competition, financing of political parties, taxation, anti-corruption and anti-money laundering.

Ukraine has duly prioritised systemic measures against oligarchs, in line with the Venice Commission recommendations from June 2023. In particular, on the basis of the Government's anti-oligarch action plan, Ukraine pursued the reforms of the judicial governance bodies and the Constitutional Court, adopted a new media law, continued to implement the state anti-corruption programme and finalised the legal framework on the ultimate beneficial ownership. In addition, in August, legislation strengthening the Anti-Monopoly Committee of Ukraine and restoring the financial reporting of political parties and the verification functions was adopted and later signed into effect. In September, the Government revised its anti-oligarch action plan to postpone the implementation of the law on oligarchs and to prepare amendments to the law within three months after the end of the martial law, taking into account the recommendations of the Venice Commission.

Strategic framework

The Parliament approved the anti-corruption strategy for 2021–2025 in June 2022, 2 years after the NACP, responsible for developing it, submitted the document. The adopted strategy outlines highly relevant anti-corruption reforms across sectors and will also play an important

role in ensuring transparent and accountable reconstruction efforts in Ukraine. Furthermore, the implementation of these reform measures is likely to increase Ukraine's track record on prosecutions and convictions of high-level corruption cases over time. The delay in the adoption of the strategy at the level of the Parliament significantly blocked an effective policy framework and the monitoring of the implementation of anti-corruption reforms. The need for having the strategy adopted as a national law should be reconsidered.

On the basis of the strategy, the NACP developed the state anti-corruption programme (SACP), adopted in March 2023 by the Cabinet of Ministers. The programme contains detailed, actionable measures across sectors and also provides a strategic framework for strengthening the key anti-corruption institutions. It includes clear key performance indicators for each government body. In drafting the strategy and action plan, the NACP carefully considered the findings of sociological surveys and other research, including recommendations and analysis by Ukrainian and international non-governmental organisations. The NACP also consulted independent experts and the public.

The NACP is the agency responsible for coordinating, monitoring and evaluating the effectiveness of the implementation of the anti-corruption strategy and the SACP. It is tasked with monitoring the implementation of measures provided in the programme each quarter. Based on the outcomes, it then provides quarterly information to relevant Ukrainian stakeholders. The current level of implementation of the programme is reasonable, in particular the development and full operationalisation of the open access information system for monitoring the implementation of the SACP is well advanced.

Fundamental rights

Ukraine generally complies with international human rights instruments and has ratified most international conventions on the protection of fundamental rights. The government has made continued efforts and progress, despite the war, on aligning its legislation with international standards and the EU *acquis*. The reporting period was marked by the Russian invasion of Ukraine, resulting in major violations of fundamental rights by Russia in Ukraine. Dealing with the consequences of these massive violations and devoting attention to mitigating measures was at the centre of the work of the Ukrainian authorities and human rights civil society organisations over the reporting period and will represent a challenge for Ukraine's prosecution, judiciary and society in the years to come.

The introduction of martial law and other measures in the interests of national security led to a limited number of restrictions of rights and freedoms. Their full re-establishment at the end of martial law in transparent and pluralistic structures (including for the media), and in accordance with European standards, should already be envisaged while military operations are still ongoing.

The new media law as well as the Law on national minorities (communities) of Ukraine were adopted in December 2022. Ukraine ratified the Istanbul Convention and adopted an updated national action plan on the implementation of United Nations Security Council Resolution 1325. It also adopted the 2030 state strategy on ensuring equal rights between men and women.

In, the coming year, Ukraine should in particular:

- adopt legislation to transpose and to implement the provisions of the Istanbul Convention;
- finalise the review of existing legislation on the rights of persons belonging to national minorities, including in education, media and on the use of state language' and in the law on national minorities in line with the recommendations of the Venice Commission Opinion of June 2023 and of its follow-up opinion of 6 October 2023;

- introduce annual public reporting to the Parliament on the work of the Prosecutor General's Office and the State Bureau of Investigation in investigating acts of torture and protecting victims, and organise a review of the performance of the National Preventive Mechanism;
- ensure application of the legislation on the rights of persons with disabilities and that restored and reconstructed infrastructure is compliant with barrier-free environment standards.

Ukraine has ratified most **international human rights instruments**. Human and fundamental rights are generally respected in Ukraine, and the government has shown commitment to protecting them. In July 2022, the country ratified the Istanbul Convention. Ukraine has yet to accede to the Rome Statute of the International Criminal Court and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and to the Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of the Council of Europe (Convention 108+).

However, the Russian invasion of Ukraine has had a negative impact on the enjoyment of fundamental rights by many Ukrainian citizens, in particular those in areas of active hostilities, in territories temporarily occupied by Russian forces or in their proximity. At the same time, the government has maintained its respect of human and fundamental rights and has shown commitment to protecting them and further aligning them with the EU *acquis*.

Considering Russia's full-scale invasion, Ukraine has achieved considerable progress in implementing the 2021-2023 national human rights strategy and its action plan. The introduction of martial law in February 2022 and its ongoing extension has not led to an increased level of violations of fundamental rights, and is handled cautiously by Ukrainian authorities. At the same time, the details for a return to the full application of all fundamental rights still need to be worked out. It should take place in consultation with civil society and should aim at strengthening the freedoms of Ukrainian citizens and re-establishing the pluralism and openness of Ukrainian society – specifically after the restrictions stemming from the COVID-19 pandemic and Russia's full-scale invasion – while closing the remaining gaps with European standards and rules. The reintegration of territories currently not under government control will also require careful attention in terms of the application of fundamental rights, especially on the reintegration of those territories under Russian occupation since 2014. This should be done in the form of an update to the national human rights strategy and its action plan.

As a result of Russia's blatant violations of international humanitarian law and international human rights law, many Ukrainian citizens were exposed to deliberate targeting and indiscriminate shelling by Russia. This has resulted in killings, together with the loss of homes and basic services such as heating, light, water and sanitation. Many Ukrainians were victims of extrajudicial executions, torture and mistreatment, as well as with sexual and gender-based violence committed by the Russian military. Millions of Ukrainians were displaced. Many civilians, including children, were forcibly transferred to areas temporarily under the control of Russian armed forces or deported to the Russian Federation and Belarus. Human rights violations and abuses by Russia and its proxies in temporarily occupied territories of Ukraine continued unabated amid the lack of independent international actors on the ground. The large number of international crimes, war crimes and human rights violations committed by Russia poses an enormous challenge for Ukraine's institutions to ensure effective investigations and prosecutions across the entire country. At the same time, additional mechanisms (also non-judicial) will be needed to overcome the consequences of Russia's brutal war and restore justice in all Ukrainian territories.

Ukrainian authorities have devoted significant efforts to ensuring full accountability for war crimes and the other most serious crimes committed by Russia, including the crime of aggression. At the same time, Ukraine has yet to ratify and implement some relevant international laws and conventions, such as the Rome Statute of the International Criminal Court.

In June 2023, there were 9 656 **applications pending before the European Court for Human Rights**. The Court delivered judgments on 356 applications and found breaches of the European Convention on Human Rights in 151 out of 154 cases, relating mainly to the right to respect for private and family life, the right to a fair trial, the right to liberty and security of person and the prohibition of torture and inhumane or degrading treatment or punishment. In the reporting period, there were 1 901 new applications allocated to a decision body. There are currently 580 cases under enhanced supervision by the Committee of Ministers.

Civil society organisations highlight problems with implementing the decisions of the European Court of Human Rights adopted in favour of applicants living in Ukrainian territories temporarily occupied by Russia. Applicants are effectively unable to provide the Ministry of Justice of Ukraine with duly certified powers of attorney given their lack of access to the government-controlled territory, institutions and legal representatives.

On the **promotion and enforcement of human rights**, the Ukrainian Parliament Commissioner for Human Rights is designated as the national human rights institution and accredited by the Global Alliance of National Human Rights Institutions with ‘A’ status (largely compliant with the Paris Principles). In 2022, the Commissioner’s office received 42 485 petitions, including 562 collective petitions from 7 779 people and 41 923 individual petitions. Its staff conducted 2 031 monitoring visits and processed 3 784 draft legal and normative acts. Parliament appointed on 1 July 2022 Dmytro Lubinets, previously Chair of the Parliamentary Committee on Human Rights, to the post of the Parliament Commissioner for Human Rights. In the reporting period, the institution of the Parliamentary Commissioner has shown an active and independent approach, with efforts to adapt the institution to its existing responsibilities by organising it around 9 fundamental fields of work, including issues associated with the war of aggression (war crimes, release of prisoners of war, return of Ukrainian children) and extending its presence to Ukraine’s regions.

On the **prevention of torture and ill treatment**, in 2022 Ukraine amended relevant legislation by changing approaches to the use of forced feeding of convicts and detainees, strengthening responsibility for acts of torture and introducing a mechanism for the conditional early release for people sentenced to life imprisonment. Despite these legal improvements, torture and ill treatment remains a systemic feature of Ukraine’s prison system. In addition, the main recommendations of the European Committee for the Prevention of Torture issued in its 2020 report have not been addressed. These covered among others poor material conditions of detention and the need to transfer medical care in prison to the general health system and should be addressed.

A Human Rights Monitoring Department was established within the National Police under the Ministry of Internal Affairs. The aim among other things is to monitor observance of human rights and fundamental freedoms by the police in relation to police conduct. In addition, the pilot project Custody Records is being implemented in police units to improve standards of protection of the rights of those in police custody and ensuring detainees’ rights. At the same time, cooperation between the State Bureau of Investigation, prosecuting authorities and prison authorities remains weak, and the ill treatment investigation mechanism during the pre-trial and prison sentence stage suffers from a lack of efficiency. There are still limited operational and human resources capacities and limited operational independence of the State Bureau of

Investigation to investigate ill treatment allegations, despite the establishment of a dedicated department in 2019. The ineffective investigation into allegations of torture and cases of obstruction of justice are rooted among others in a general culture of mutual protection of law enforcement officers within the criminal justice system.

As to statistics on cases of ill treatment or torture, 30 criminal proceedings with allegations of torture and 990 with allegations of abuse of power by a law enforcement officer were registered in 2022; 11 and 94 people respectively were notified of suspicion, and 6 and 58 criminal proceedings respectively were forwarded to the court. At the same time, the Office of the Prosecutor General reports that 484 criminal proceedings with direct allegations of torture were initiated in 2018-2022, with 60 people found guilty, but only 15 receiving a prison sentence. This highlights how criminal courts do not follow through on the seriousness of the practice of torture and thereby contribute to an atmosphere of impunity enjoyed by law enforcement and prison staff. A permanent body needs to be established that involves civil society organisations and the Human Rights Commissioner to consistently monitor and follow up on alleged torture in the prison system.

To implement the Optional Protocol to the UN Convention against Torture in Ukraine, legal amendments made in 2012 assigned the Ukrainian Parliament's Human Rights Commissioner the functions of the National Preventive Mechanism. This is based on the Ombudsman+ model, with a strong focus on joint work with civil society organisations. In 2022, the Human Rights Commissioner delivered 141 mandates to the representatives of civil society to conduct visits to detention places. However, an inadequate methodology for prison visits and the delayed publication of reports raises questions over the effectiveness and performance of the National Preventive Mechanism. The mechanism continues to suffer from limited financial resources and limited capacities of the Human Rights Commissioner's office.

The **prison system** and detention centres remain an issue of concern. The prison population has fallen sharply in recent years, from 60 621 in 2017 to 42 694 in December 2022. Despite this positive trend, most of the long-standing problems identified by the European Court of Human Rights, the Council of Europe's Committee of Ministers and the European Committee for the Prevention of Torture remain. The issues are primarily linked to the material conditions of detention, very poor healthcare services, the use of detainees for prison duties and the widespread use of violence by guards. The penitentiary system was already under-resourced before Russia's war of aggression and since many facilities have been badly damaged and some completely destroyed, complicating also the provision of basic services. Despite the national strategy on human rights of 2021 and the multi-annual strategy for reforming the prison system of 2022, the key challenges facing it have not been addressed. The poor detention conditions in Ukraine have at times served as grounds for foreign courts to refuse extradition requests from Ukrainian institutions. This undermines Ukraine's fight against serious crime, including corruption and organised crime.

Medical care in places of detention is under the responsibility of the Ministry of Justice. Numerous recommendations by the European Committee for the Prevention of Torture to transfer responsibility for prison healthcare to the Ministry of Health have not been addressed.

Probation was introduced in 2015-2016. In 2022, 110 000 people were under probation. It is available through the country, with 600 offices and 3 000 probation officers. Remote monitoring was recently introduced for certain cases. There is a special probation infrastructure for juveniles, separate from adult probation. Together with conditional early release, probation is the main alternative to detention.

As a result of Russia's war of aggression against Ukraine, the Office of the High Commissioner for Human Rights and non-governmental organisations documented around 1 000 cases of arbitrary detention of civilians perpetrated by Russia and close to 100 cases of arbitrary detentions by Ukraine. So far, there is no designated body or institution responsible for addressing this issue in Ukraine.

On **personal data protection**, Ukraine continued working on alignment with the EU *acquis*. The current key legislative act that regulates data protection is the Law on personal data protection of 2010. It lacks sufficient detail and is not sufficiently enforced. Ukraine has ratified ILO Convention 108 on the Protection of Individuals with regard to Automatic Processing of Personal Data. The Ukrainian Parliament Commissioner for Human Rights is the authority in charge of checking compliance with data protection legislation, but lacks the appropriate resources to do this effectively. A draft law on personal data protection was introduced in Parliament on 7 September 2022 and should be adopted to meet the requirements of both Convention 108+ (not yet signed and ratified by Ukraine) and the General Data Protection Regulation.

The Constitution of Ukraine as well as related legislation and policies provide for the right to **freedom of religion and belief**. In general, Ukrainian public authorities enforce these norms, and incidents of hate speech and intimidation due to religion are infrequent. Religions are represented among others in the Ukrainian Council of Churches and Religious Organizations and are in dialogue with public administration mainly via the State Service for Ethnic Affairs and Freedom of Conscience. Representatives of religions are effectively collaborating with the Ukrainian administration to support Ukrainians during the war and fight disinformation campaigns that have the objectives to incite inter-ethnic and inter-religious conflict. At the same time, a number of issues are not yet fully regulated in Ukraine, such as the restitution and redistribution of church property, and the establishment of principles of relations between state and religious organisations in the spheres of education, social work and humanitarian activities.

The creation of the new Ukrainian Autocephalous Orthodox Church at the beginning in 2019 did not lead to significantly heightened tensions among Orthodox churches and communities, but to a large part of orthodox believers moving away from the Moscow Patriarchate, which is still ongoing. Since Russia's invasion, and as a consequence of its full support by the Moscow Patriarchate of the Russian Orthodox Church, Ukraine has taken legal measures since November 2022 against the Moscow-affiliated Ukrainian Orthodox Church. This includes sanctions against some members of the church hierarchy accused of supporting Russia's war of aggression and conducting searches of various church premises in application of legal standards and practices. With these measures, Ukraine aims to prevent foreign interference from Russia through a religious entity, while not targeting ordinary followers of the church.

Regarding the fight against antisemitism, in September 2021, Ukraine adopted a law on the prevention and countering of antisemitism, which defines antisemitism, prohibits anti-Jewish acts and adds civil liability. Despite stereotypes widely spread by pro-Russian disinformation, antisemitism in Ukraine is significantly less widespread and has been falling continuously in surveys for the last decade. In 2022, the lowest number of acts of antisemitic vandalism was recorded in 20 years of monitoring, with no cases of antisemitic violence. As stated by Jewish representatives in June 2023, previously existing low levels of antisemitism have been practically non-existent in Ukraine since the start of Russia's fully-scale invasion. Concrete efforts have been made regarding Holocaust education and remembrance. Activities to preserve Ukraine's Jewish cultural life and heritage are supported by the state and civil society and are increasing. Ukraine is not a member of the International Holocaust Remembrance Alliance and has not adopted its definition of antisemitism. Ukraine has not appointed a national coordinator

on combating antisemitism. Progress has been made regarding the restitutions of properties confiscated by the Soviet regime.

Freedom of expression

Ukraine is in between some and moderate level of preparation in the area of freedom of expression. Overall, it made **good progress** in strengthening its legal framework during the reporting period, in particular with the adoption of the Law on media. This is a notable achievement in the challenging context of Russia's full-scale invasion, in particular due to its vibrant public civic space and diversity of media outlets, including at regional level. According to the Reporters without Borders global ranking of freedom of media, Ukraine improved its position 27 places from 106th to 79th place.

Before the beginning of the Russia's war of aggression against Ukraine, the general context was favourable to media freedom and allowed for critical media reporting. In the current challenging context of martial law, Ukraine has taken some decisions on restricting access for media and journalists in specific areas and spheres but applied these generally with restraint. A significant drop in advertising revenue has also had an impact on the media market in the country and led to the concentration in particular of TV programmes and decrease the access to pluralistic media.

In the coming year, Ukraine should:

- develop, together with the community of journalists, simplified rules for reporting from the combat zone and adjacent areas, taking into account the security concerns;
- ensure the independence of the national regulator by providing adequate funding, including for necessary adjustments to its structure in line with the new Law on media.
- develop a roadmap to support the re-establishment of a pluralistic, transparent and independent post-war media landscape.

Intimidation of journalists

There have been a limited number of reports on instances of obstructing work and attacks on journalists by individuals. The most recent was on journalists covering victory day commemorations in Poltava and reporting from the Kyiv-Pechersky monastery, both with adequate follow-up by law enforcement. Incidents from previous years are generally being followed up as well. However, the past general practice of intimidating journalists is still to be found, in particular in local and regional contexts. Historical cases such as the murders of Georgiy Gongadze in 2000 and Pavlo Sheremet in 2016 have been followed up with renewed efforts in recent years, but still need to be concluded. A special police unit was established in 2019 to investigate attacks on journalists.

Since March 2023, officers from the Security Service of Ukraine (SSU) have repeatedly questioned journalists seeking military accreditation. The awarding of accreditation is not considered to follow fully transparent procedures, but no arbitrary arrests of journalists have been reported. In the same period, new rules on reporting from the combat zone and adjacent areas have been introduced, but rules are not sufficiently simple or are applied on an indiscriminatory basis. Independent journalism in the temporarily occupied territories of Ukraine is only possible with severe risks to life at the hands of Russian forces and will need to be re-established once the Russian occupation is ended. In addition, eight journalists have

been killed by the Russian Army while performing their professional duties and 42 have died due to shelling by the Russian Army or in detention while not working.

Ukraine has taken some steps to align with the Commission's recommendation on the protection, safety and empowerment of journalists. Media Center Ukraine was established at the start of Russia's full-scale invasion to support foreign journalists, together with a hotline for legal advice to journalists and media. In March 2023, the action plan for implementation of the information security strategy was adopted to clarify among others the rules on access and use of information as well as the protection of journalists' rights. The Parliament resolution of March 2022 on the value of freedom of speech, guarantees of activities of journalists and mass media underlined the importance of independent journalism for public authorities in Ukraine.

Legislative environment

The main achievement in the area of freedom of expression was the adoption of the Law on media in December 2022, which modernised the regulation of the entire sector and made an important step towards alignment Ukrainian legislation with the EU's Audiovisual Media Services Directive. It established the detailed rights of journalists for accreditation and obliges the public authorities to facilitate and support the work of journalists. It also empowered the independent media regulator, which will now need sufficient resources to ensure its independence and sufficient capacities.

In March 2022, in the context of martial law, the President signed a decree on a unified information policy by merging the programming of all national TV channels into a single information platform. This decision led to an expansion of government control over broadcasting and some restrictions. Some media outlets consider these restrictions disproportionate. Similarly, the exclusion of three private (opposition-affiliated) TV channels from terrestrial broadcasting (while the channels continue working and remain available through other means) has been criticised by the opposition on the same grounds. As regards defamation and blasphemy, these are not criminal offences in Ukraine. National legislation, the Law on media in particular, duly addresses the issue of hate speech. This ensures the free expression of views, while prohibiting genuine and serious incitement to violence and hatred.

Implementation of legislation/institutions

The National Council of Television and Radio Broadcasting of Ukraine acts as an independent media regulator in Ukraine. The Council is a permanent collegial body that acts on the basis of the Constitution of Ukraine, the Law on media and other Ukrainian laws and regulates, supervises and controls media. It consists of eight members – the Parliament and the President each appoint half of the members for a five-year term. They are officials and work on a permanent basis. While performing their official duties, they cannot hold any other positions, including on public grounds, in state and non-state bodies, organisations, institutions and companies, or engage in other paid or entrepreneurial activities. They also cannot hold a representative mandate and be a member of a political party.

The selection and appointment of candidates takes place on a competitive basis. The National Council is financed exclusively from the state budget, which needs to be strengthened to address all aspects of its mandate and guarantee its independence. The Law on media significantly changed and expanded the functions of the regulator, while the remuneration of National Council members remains within the limits set by the previous law. Access to information for journalists is regulated in the context of access to public information legislation. The Ukrainian Parliament Commissioner for Human Rights is empowered to draw up protocols and receive appeals on administrative violations of access to information. However, this procedure is not effective enough and should be reformed.

Public service broadcaster

Since 2017, Ukraine has had an independent public service broadcaster, Suspilne, which has three TV and three radio channels, regional networks and a digital broadcasting platform. Suspilne adheres to the standards of independent journalism, has the highest trust ratings among radio and television channels and is considered politically neutral and not subject to political influence. Its editorial standards are enshrined in the Editorial Charter, which is monitored by two bodies – the Editorial Board and the Supervisory Board of Suspilne. The broadcaster's standards are enshrined in the Charter and the Code of Ethics, which are monitored by the Supervisory Board and should ensure a clear separation between quality standards and daily editorial and managerial decisions.

A significant factor that influences Suspilne is its funding, which comes from three sources: the state budget, advertising revenues and donor funds. The main source is funding from the state budget, which has so far fallen short of the amount prescribed by the law.

Economic factors

Ukrainian legislation does not include restrictions that limit or prevent the work of the media. The Ukrainian media landscape of the past few years has been increasingly dynamic and diverse, especially online media. Previously dominant media entities with non-transparent media ownership have been gradually losing ground but still retain a strong position, in particular in television. The onset of the Russian war of aggression has profoundly impacted the media landscape and it should be a government priority to ensure the re-emergence of full media pluralism and clear media ownership transparency, taking into account security considerations. The state budget provides limited financial assistance to address specific issues in media (children, young people, persons with disabilities, science, national minorities etc.), also in form of financial assistance and economic support to media.

Internet

As regards internet freedom, since the beginning of martial law, the blocking of web resources has been conducted by an extrajudicial order on the basis of recommendations issued to providers of electronic communication networks and/or services of basic internet resources by the National Centre for Operations and Technology Management of Telecommunications Networks. In the context of Russia's full-scale invasion and its hybrid warfare including disinformation, these restrictions are legitimately rooted in national security concerns. However, the Ukrainian government should provide a clear vision for the re-establishment of previous rights and freedoms after martial law ends.

Freedom of artistic expression

The freedom of artistic expression is not restricted and is guaranteed by the Ukrainian constitution. This is repeated in the Law on culture as well as in other related legislation. Intimidation of artists is rare and is followed up in general by Ukrainian authorities. Since 2014 and following further amendments of the Law on culture in June 2022, Ukrainian authorities have implemented a ban on Russian cultural figures and their artistic work in Ukraine in response to Russia's war of aggression against Ukraine and occupation of the part of its territory. The ban includes actors, musicians, writers and artists who do not condemn the aggression against Ukraine. The ban also applies to the use of symbols that represent Russia or Russian propaganda.

Professional organisations and working conditions

Ukraine has a large number of journalism organisations that represent journalists, such as the National Union of Journalists of Ukraine and the Independent Media Trade Union of Ukraine. The latter is a member of the International Federation of Journalists and the European Federation of Journalists. Members of the National Union of Journalists and Independent Media Trade Union must adhere to standards of journalism – namely the Ethics Code of Ukrainian Journalists. Both are financed by contributions and donations. Cases of violation of the code are considered by the Commission on Journalism Ethics, a self-regulatory body of journalists and editorial offices in Ukraine. The Independent Media Council promotes high professional standards of journalism and self-regulation in the Ukrainian media sector by providing expert opinions, advice and recommendations based on international standards, national legislation and ethical standards of professional journalism. These professional organisations are involved in public councils that organise dialogue with the government and local authorities, for instance with Suspilne.

In general, the employment of journalists is precarious given the current wartime situation and is more difficult for freelance journalists. An amendment to the Law on state support of media, guarantees of professional activity and social protection of journalists adopted in 2023 provides for specific guarantees on the remuneration and social security for journalists, but does not include freelance journalists in its scope.

The right to **freedom of assembly and association** is guaranteed by the Ukrainian constitution, and the government respects these rights. Existing legislation allows for a court to restrict these rights in the interests of national security and public order. A comprehensive law in line with international standards that would regulate the process of organising and conducting events to make full use of the freedom of peaceful assembly in Ukraine is still missing. Restrictions on these rights linked to COVID-19 are no longer in force. The introduction of martial law in February 2022 allows the government to introduce temporary restrictions on the right to peaceful assembly, for instance curfews, but it applies them with restraint. The Ukrainian constitution provides for the restriction of the freedom of association by judicial procedures for reasons of national security. On this basis, the government suspended by decree the activities of 11 political parties with claimed ties to the Russian government for the duration of martial law. Major concerns remain over the freedom of assembly and association in the territories of Ukraine that Russia temporarily militarily occupies, where Ukrainian citizens are deprived of these rights. These freedoms are to be restored by Ukrainian authorities after these territories have been liberated.

Issues of **labour and trade union rights** are covered in Chapter 19 – Social policy and employment.

On **property rights**, there has been a focus on modernising and strengthening these rights since 2013. The State Register of Rights to Real Estate provides official recognition and confirmation by the state regarding the origin, transfer or termination of rights to property. However, it is estimated to be only 40% complete and does not include the majority of property rights that were acquired before its introduction and that are still stored in the State Land Cadastre (land register), with a number of mismatches. The territories not under government control since 2014 possess much more limited confirmed property rights given the wide-scale violations of property rights by Russian-supported henchmen and their criminal activities. Before the full-scale invasion by Russia, progress had been made in revamping the State Property Fund, modernising the its procedures and also in continuing to privatise small and large assets. In 2022, the European Court of Human Rights adopted seven decisions against Ukraine, which

was found to be in violation of Article 1 of Protocol No. 1 to the European Convention on Human Rights. The government is following up on this.

Since the start of Russia's full-scale invasion, property rights in government-controlled territories have not been limited, apart from the possibilities for the Ukrainian armed forces to requisition property for their needs, in particular in areas near the frontline. The government undertook a number of measures to ensure the legal continuity of property rights and take war damages into account. In February 2023, Ukraine adopted among other things a real estate law on compensation. This enables people to claim and receive compensation for property that has been damaged or destroyed as a result of Russia's full-scale invasion. To monitor property damage and destruction, local military administrations provide reporting, the state digital services platform Diia also allows for self-reporting, and the state registry of damaged and destroyed property provides a loss reporting infrastructure for property rights. In February 2022, the Criminal Code of Ukraine was amended to protect citizens from self-interested property crimes during wartime.

In the area of **non-discrimination**, Ukrainian society remains open in general and tolerant towards respecting persons in vulnerable situations. The Ukrainian constitution guarantees protection against discrimination. The law on the principles of preventing and combating discrimination in Ukraine prohibits discrimination on different grounds with race, colour, political, religious and other beliefs, sex, age, disability, ethnic or social origin, family and property status, place of residence and language receiving explicit protection.

The Law on media adopted in December 2022 prohibits dissemination in the media and on platforms of shared access to videos of statements that incite hatred towards people and groups based on their national, racial or religious characteristics, as well as statements that incite discrimination based on their ethnic and social origin, citizenship, race, religion and beliefs, age, gender, sexual orientation, gender identity, disability or any other characteristic. The National Council of Ukraine for Television and Radio Broadcasting currently formalises the criteria for identifying such violations and has the authority to take response measures against any media outlets that commit such violations.

Ukrainian criminal legislation provides for punishment of hate crimes and hate speech based on three characteristics – race, nationality and religious beliefs – but does not cover sexual orientation and gender identity, which is recommended by the European Commission against Racism and Intolerance as a matter of priority. A draft law, prepared by the Ministry of Internal Affairs to include these other protected grounds, was introduced to Parliament in 2021, still has to be adopted. The National Police of Ukraine introduced a new data collection form to investigate hate crimes and offences as part of the reporting system. In the first 2 months of 2023, it launched a pretrial investigation into 26 criminal offences based on hatred.

The Ukrainian Parliament's Commissioner for Human Rights is the main holder of powers to combat discrimination. It is an independent body, with powers equivalent to the mandate typically attributed to national equality bodies. In 2022, it received 395 reports of discrimination on various grounds and in general ensures follow-up by the authorities. The capacities of police officers, prosecutors, judges and staff of the Ombudsperson of Ukraine should be increased to tackle discrimination, hate speech and hate crime through suitable training. The legal aid system should be strengthened to implement the legislation and combat discrimination, hate speech and hate crime effectively.

As regards **gender equality**, Ukraine has several laws in place, in particular the Law on ensuring equal rights and opportunities of men and women of 2005, the Law on principles of prevention and combating discrimination in Ukraine of 2012 and the Law on prevention of

domestic violence of 2018. However, this legislation is generally declarative in nature and provides only limited guidance to the application of these laws. The Cabinet of Ministers adopted the 2030 state strategy on ensuring equal rights and opportunities for men and women in August 2022. The strategy is a comprehensive document that addresses among others gender inequality and women's participation in public institutions, economics and environmental issues.

Institutionally, since 2017 the coordination of gender policy in the government has been entrusted to the office of the Deputy Prime Minister for European and Euro-Atlantic integration, where the Commission on Gender Policy was established in order to ensure the concerted and coordinated involvement of all executive bodies, allowing for a more effective horizontal approach on gender equality.

On 18 July 2022, Ukraine ratified the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), which entered into force on 1 November 2022. The effective implementation of the Convention is still to be initiated in a situation of increased priority, as gender-based violence prevention has suffered major setbacks in 2022 when local budget subventions were reduced due to budget constraints, and social services being degraded near the frontline and in temporarily occupied territories of Ukraine, as well as in regions experiencing massive influx of internally displaced persons (IDPs). While the number of cases of gender-based violence documented by the police has decreased by almost 50% in the first six months of 2022 (773 cases compared to 1 508 cases during the same period in 2021), the number of non-documented cases is unknown and is likely to have increased. The number of such cases linked to post traumatic stress are likely to have increased as well, including in families of military personnel.

Conflict-related and gender-based sexual violence emerged as an important war-related issue with hundreds of confirmed cases against both sexes of all ages and an estimated large number of unreported cases. In the same period, Ukraine revised the National Action Plan on UN Security Council Resolution 1325 on women, peace and security to address the changing realities in the country and include measures on conflict-related sexual violence. To fully implement the action plan, Ukraine needs to ensure the inclusion of women in the reconciliation negotiation process and in the decision-making process conduct mandatory systematic training of law enforcement agencies and the military on women's rights. It should also include the detection of forms of violence against women in their respective institutions and capacity-building for police and armed forces as first respondents in cases of conflict-based sexual violence.

Similarly, further steps are needed to ensure justice with a gender-sensitive approach, fulfil obligations to prevent, investigate and punish sexual and gender-based crimes committed during armed conflicts. This includes aligning the legal framework with international standards. Ukrainian authorities have committed to establish a comprehensive response system, including one-stop response centres in the regions to assist the victims, as well as the establishment of investigation mechanisms. In May 2022, a memorandum of cooperation was signed between the government and the UN on the prevention and counteraction of sexual violence in wartime. Gender equality has also been defined among seven cross-cutting priorities of the government's recovery plan.

Since February 2022, all positions in the Ukrainian armed forces have been opened to women, and in March 2023 more than 60 000 women were serving in the armed forces, a large part being on the frontline of combat operations. This is accompanied by increased acceptance of equal rights for women soldiers in Ukrainian society. This implies the obligation to cater more to the needs of women soldiers and veterans in terms of equipment, protection against sexual

violence and harassment and medical support during and after combat, and reintegration support to civilian life once they retire from the armed forces.

Ukraine ratified the UN Convention on the **Rights of the Child**, acceded to the three Optional Protocols to the Convention and endorsed the Paris Commitments to protect children from unlawful recruitment or use by armed groups. It also ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention). Ukraine has furthermore signed the Safe Schools Declaration, which aims at protecting children and ensuring their right to education in the context of conflict and war.

The last few years have seen progress, with legislation strengthening the social protection of children and support for families with children, and introducing the notion of the best interests of the child. There is however still a need to develop procedures and criteria to provide guidance for determining the best interests of the child, including of children in need of care and protection, and giving the best interests of the child due weight as a primary consideration. Similarly, there is room to strengthen integrated social services to prevent family separation, support alternative family placements and reintegration of children from institutions into families, including investing more resources into a minimum package of social services as the first steps towards meeting the provisions of the EU Child Guarantee and secure a social service workforce trained in integrated social services and corresponding case management approaches.

Since 2021, the state guarantees a right to all medical services, with equal funding and equal access for children. Monetary benefits are provided for children, with higher rates for children with disabilities. At the same time, remaining issues include a lack of available resources, limited data collection and monitoring policies on child rights, which should be solved. Efforts have been undertaken to protect children in civil and criminal proceedings, but further capacity building to support cases involving children needs to be envisaged.

The existing difficulties in ensuring the rights of the child have been exacerbated since the beginning of Russia full-scale invasion. According to OHCHR until 30 June 2023, 535 children were killed and 1 095 injured. Research indicates that a high number of children show signs of psychological trauma. In many cities, children cannot receive proper medical care due to constant shelling by Russia and the systemic destruction of critical infrastructure. The war limits access to education for children; 3 395 educational institutions have suffered from bombings and shelling and 363 have been completely destroyed. Many children depend on online education, which is complicated by a lack of access to technology, internet connectivity and electricity availability. The government established the Coordination Headquarters for the Protection of Children's Rights under Martial Law to address these challenges in light of the difficult wartime circumstances.

Before February 2022, Ukraine had the largest number of children in institutional care in Europe. These institutions are under-resourced and include outdated and inappropriate boarding schools run by the Ministry of Education, baby homes run by the Ministry of Health, and institutions overseen by the Ministry of Social Policy for children deprived of parental care by the courts. The 2017 Law on education introduced protection with special educational needs. Since then, the number of inclusive classes and accessibility of schools have increased significantly.

Since the Russian invasion in February 2022, a number of large institutional care facilities have been evacuated to neighbouring countries under very difficult circumstances, including to a number of EU Member States. Ukraine also asked host countries to keep groups of evacuated children together. In February 2023, the President's Office committed to the goal of zero

children in institutional care and comprehensive childcare reform. UNICEF has an agreement with the Ministry of Social Policy and the President's Office to support them in the deinstitutionalisation planning process, including the short-term ambition of reunifying or placing all children who are in institutions as quickly as possible in safe, supported biological or foster families.

Since Russia's full-scale invasion in February 2022 and even before in temporarily occupied areas of the Donbas, Russia started to forcibly transfer and deport at least 19 000 children from non-government-controlled territories of Ukraine, using the pretext of 'evacuation'. Ukrainian and international non-governmental organisations (NGOs) report on the forced 'russification' of Ukrainian children in Russian institutions and 'summer camps'. In 2022, Russia introduced legislative changes to allow Ukrainian orphans and children without guardianship to obtain Russian citizenship in a simplified manner, enabling Ukrainian children to be adopted by Russians. Ukrainian NGOs as well as the Office of the United Nations High Commissioner for Human Rights note that there is currently no functioning mechanism for reunifying children with their relatives in Ukraine. The identification and monitoring of missing children and their families also remains challenging.

In 2010, Ukraine ratified the UN Convention on the **Rights of Persons with Disabilities** and its Optional Protocol. The Law on the basis of social protection of persons with disabilities in Ukraine prohibits discrimination on the basis of disability and introduces quotas for companies. However, integrating persons with disabilities into the workforce remains limited. The application of the principle of reasonable accommodation for persons with disabilities remains rare. The National Strategy for Barrier-free Environment in Ukraine, covering the period up to 2030, was adopted in spring 2021. It provides a framework for empowering persons with disabilities to fully participate in society and ensures their fundamental rights. It is being implemented by way of annual action documents. This led to a number of actions in 2022, even though they were limited by the impact of the Russia's full-scale invasion. In June 2023, Ukraine adopted the action plan for 2023-2024. It provides for monitoring the barrier-free nature of the physical environment and transport, adapting them to the needs of persons with reduced mobility, as well as introducing new and improved state construction norms and standards. The government announced that all restored infrastructure should be compliant with barrier-free environment standards by 2024. This now requires consistent implementation at all levels of government.

As of 1 January 2020, 2.7 million persons with disabilities were registered in Ukraine, among them 160 000 children. This number is expected to have risen dramatically because of Russia's war of aggression. It includes only persons who were able to register their disability. This leads to barely relevant disaggregated data as Ukraine has not yet introduced the WHO's International Classification of Functioning, Disability and Health for the registration of persons with disabilities. Furthermore, there is limited legal capacity in Ukraine to enable persons with disabilities the opportunity to claim their rights. Persons with intellectual and psychosocial disabilities remain highly vulnerable due to exceptionally high levels of institutionalisation, including of children and infants, instead of family- and community-based alternative care. Previous reform attempts have not led to a sufficient reduction in institutionalisation, also due to the lack of capacity at local and regional level. This reform needs to be prioritised.

The situation for persons with disabilities remains very challenging as regards equal participation and opportunities. There is a distinct lack of accessible transportation, healthcare, social services and public buildings. Legislation does not provide incentives for employing persons with disabilities in the open labour market. Russia's invasion led to additional strains on public services for persons with disabilities due to the growing number of war victims

among veterans and civilians, the further extension of conflict-affected areas, as well as the forced displacement of persons with disabilities, their families and carers and the destruction of care infrastructure.

Overall, during the reporting period the general trend of increasing tolerance and acceptance of **lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ)** persons in Ukrainian society over the last decade was sustained. The trend towards a decrease in the number of attacks and hate crimes against LGBTIQ persons continues (–44% since 2020). Surveys conducted in 2022 show that a majority is in favour of same-sex partnerships and equal rights for LGBTIQ persons. The government clearly communicates its support for the rights of LGBTIQ persons and against hate crimes and discrimination. In addition, Kyiv Pride was held on 25 June 2023 in Warsaw together with the city's Equality Parade, focusing on rights for LGBTIQ persons as well as on the support for Ukraine.

Existing legislation, for instance the Labour Code, already provides some level of protection against discrimination based on sexual orientation, and reforms to ensure equal rights are currently under way. The media law, adopted on 15 December 2022, bans hate speech and incitement based on sexual orientation and gender identity in media. The National Human Rights Action Plan 2021-2023 envisages progress in the status of LGBTIQ persons, for instance by amending the Criminal Code of Ukraine to apply the notion of the term 'bias' as regards sexual orientation and gender identity. The plan also suggests drafting a law that would provide for the elimination of discriminatory provisions that may violate the property and non-property rights of unmarried partners as well as the introduction of a registered civil partnership. Amendments to the provisions of the Family Code which currently discriminates same-sex couples compared with unmarried couples of the opposite sex are necessary. In March 2023, a draft bill on legalisation of same-sex marriage was introduced by MPs to Parliament and government has committed to approve the bill by the end of 2023. The judgment by the European Court of Human Rights of 1 June 2023 reinforced the requirement for the state to ensure the equal treatment of same-sex couples in Ukraine.

Procedural rights are outlined and protected among others in the Law on the judiciary and status of judges and in the Criminal Procedure Code. However, the implementation of existing rules and procedures suffers from a lack of efficiency and capacity of the judicial system. Ukraine's legal system is not yet aligned with the EU *acquis* on procedural rights for suspects and accused persons in criminal proceedings, but measures are being taken in this direction: the presumption of innocence, the right to information about the main procedural rights, the right of access to a lawyer and the right to be present at the trial are provided. The Criminal Procedure Code provides for the translation of legal documents and persons involved in the criminal proceedings have the right for an interpreter at the expense of the State.

There are safeguards for children who are suspects and accused in criminal proceedings. During the reporting period, the free legal aid system showed a high level of stability, while legal services quickly adapted to the new conditions. In 2022, the right to free secondary legal aid was extended to people without documented Ukrainian citizenship, victims of criminal offences during hostilities and armed conflict, and to those deprived of their liberty in the context of Russia's war of aggression against Ukraine. The country's legislation on victim rights should be fully aligned with the Victims' Rights Directive and Council Directive 2004/80/EC relating to compensation to victims of crime.

In 2022, the Ukrainian Parliament Commissioner for Human Rights received 5 105 reports on violations of procedural rights, 790 on administrative and civil proceedings, 3 628 on criminal proceedings and 687 on places of detention. They refer in particular to the violation of the right

of access justice, of the right to a fair trial for excessive length of the proceedings as well as violation of rights by law enforcement officials. The right to a fair trial is frequently violated, as shown by 61 decisions delivered by the European Court of Human Rights in 2022 in cases against Ukraine regarding violations of Article 6 of the European Convention on Human Rights. These issues reflect structural problems with the practices of the judiciary and law enforcement authorities. Recent law reforms have not yet led to a visible improvement in the situation, in particular as the COVID-19 pandemic and Russia's full-scale invasion have further burdened the wide application of appropriate standards and rules in law enforcement and the judiciary, in particular the rights of access to justice and the right to a fair trial within a reasonable time. A draft Law on excessive length of proceedings was registered in September 2022. It proposes reducing the terms of consideration of civil, commercial and administrative cases, introducing a protection mechanism and providing compensation for plaintiffs, but still needs to be adopted.

Regarding the **respect for and protection of persons belonging to minorities**, the wide range of national, ethnic, linguistic and religious identities in Ukraine continues to be an important element of Ukrainian society. Ukraine has been a party to the Council of Europe's Framework Convention for the Protection of National Minorities since 1998 and to the European Charter for Regional and Minority Languages since 2005. Since 2017, the legal framework for national minorities is being reformed but is not fully implemented yet. This was addressed by the Commission's opinion on Ukraine's application for EU membership, which recommends that Ukraine *'finalise the reform of the legal framework for national minorities currently under preparation as recommended by the Venice Commission and adopt immediate and effective implementation mechanisms.'*

In general, the rights of persons belonging to ethnic, linguistic, religious or national minorities are upheld in Ukraine. This is despite the efforts of the Russian regime to instrumentalise uses the topic of the Russian minority in its disinformation campaign in order to justify its illegal aggression against Ukraine. Civil society organisations and international organisations are very concerned about this high politicisation of the topic, while the issues to be addressed revolve mainly around those concerning the daily lives of persons belonging to national or linguistic minorities, such as education, language use in public life, media, civic participation and representation of national minorities.

On 13 December 2022, the Law on national minorities (communities) of Ukraine was adopted. It replaced the Law on national minorities adopted in 1992 as the main act regulating the rights of national minorities. It creates rules and structures for national minority rights in Ukraine. In the preparatory process, efforts were made to also consult representatives of national minorities. The adopted accompanying implementing measures address the structures of regional centres of national minorities, financial support to public associations of national minorities, the methodology for using minority languages and the creation of consultative bodies on national minorities, as well as a state programme 'Unity in Diversity' for national minorities, but the implementing bodies remain to be underfunded.

The Venice Commission Opinion of 10 June 2023 provided detailed guidance on the remaining issues and recommended amending the Law on national minorities (communities) as regards the use of minority languages in public life, administration, use of minority languages in media and books to ensure that the law complies with European standards. As indicated in the Venice Commission Opinion, Ukraine should also address earlier recommendations of the Venice Commission on the Law on education and the Law on State language. On 11 June 2023, Ukraine adopted a law extending the transition period for education in minority languages by 1 year for pupils starting their education before 2018. In October 2023, Ukraine registered a

draft law in Parliament to exempt these pupils from the obligations of the education law. This would allow Ukraine to reconsider the minority school system also in light of previous Venice Commission recommendations to ensure equal opportunities for persons belonging to national minorities, avoiding disproportionate interference with their rights. The amendment to the Law on national minorities was adopted on 21 September to accommodate some of the Venice Commission comments, in particular those directly relevant to the law on national minorities (communities). The Venice Commission follow-up Opinion of 6 October 2023 assessed the progress of the amending law, but also identified those recommendations that remain to be addressed. According to the final provisions of the revised law, within the six months following its entry into force the Cabinet of Ministers has to prepare and submit to Parliament a draft law to revise the education law, the State language law and the media law. These need to be in line with the recommendations of the Venice Commission.

The impact of Russia's war of aggression against Ukraine has severely affected national minorities, leading to disruptions to their social fabric by displacements of their members, challenges to guarantee education in minority languages as well as a general lack of state funding to implement adopted reforms. In the medium term, in particular after the end of the war, this will require a broad review of Ukraine's policies to enable the full application of the rights of persons belonging to national minorities.

The **Roma minority** remains one of the most marginalised communities in Ukraine and continues to face significant challenges. These include discrimination and antigypsyism, economic and social exclusion, lack of access to ID documents, lack of adequate education, continuing segregation in settlements, lack of poverty reduction and lack of adequate housing. There is a continued need for empowering women, for family planning programmes, increased protection of children's rights and the prevention of teen pregnancies, misappropriation of funds designed for child support as well as discrimination by police. These existing challenges were exacerbated by the impact of Russia's full-scale invasion, which led to the displacement of a large part of the Roma minority within the country and abroad. At its beginning, Roma faced additional obstacles in various regions, preventing an efficient evacuation. Instances of mob violence against Roma targeting both settlements and individuals were recorded in recent years. Civil society organisations point out that attention should be paid to the non-discriminatory nature of aid delivery in order to reach citizens without a full set of ID documents, as well as marginalised settlements, documentation procedures for Roma individuals should be simplified and accelerated, and the legalisation of Roma settlements should be ensured. Roma should also be included in the recovery and reconstruction efforts of Ukraine.

In July 2021, Ukraine adopted the strategy promoting the realisation of the rights and opportunities of persons belonging to the Roma national minority in Ukrainian society up to 2030. The strategy is being implemented only slowly and the related action plan, which needs to be fully aligned with the EU Roma strategic framework, developed with the full involvement of the Roma community and be given sufficient resources for its implementation, has not yet been adopted.

On 7 April 2023, the Ukrainian government adopted a state policy strategy on internal displacement until 2025, together with an operational plan for 2023-2025. The strategy aims to properly address all issues related to **internally displaced persons**, and this at all stages: from the decision to relocate these persons to the period when a person decides to return to the liberated and safe territory. Implementation of this strategy will heavily depend on the capacities and financial resources of the Ukrainian government. According to the International Organization for Migration (IOM), in June 2023, an estimated 5 088 000 were internally

displaced. According to the United Nations High Commissioner for Refugees (UNHCR), in June 2023, 6 303 500 people Ukrainians were registered as refugees. Across Ukraine, IOM estimates that 4 757 000 people have returned to their place of habitual residence in Ukraine following a period of displacement, 20% of whom returned from abroad. Income sources of internally displaced persons have been severely affected by the war. In addition, given the overall priority given to winning the war and the scale of the social emergencies created by the Russian war of aggression, increasing difficulties are reported in ensuring adequate state budget allocations for social services. Significant and continued reliance on external assistance is expected by relevant ministries in charge of social policies, with few plans at the moment in terms of self-sustainability. IOM data indicates that around one in four internally displaced persons (24%) that responded stated that monthly livelihood cash assistance was their primary source of household income. The vast majority (72%) of internally displaced persons who rely on social assistance reported a total monthly household income which – when divided by the number of people in the household – was equal to or less than UAH 2 500 (EUR 55), the subsistence minimum as of January 2023.

While **cultural rights** in Ukraine are respected and protected, also for national minorities as reiterated in the Law on national minorities (communities) of Ukraine, Russia systematically and purposefully carries out activities that violate the cultural rights of Ukrainians and specifically national minorities in the temporarily occupied territories of Ukraine. This concerns illegal archaeological excavations by Russia in Crimea, the looting of museums, archives, libraries and objects of movable cultural heritage in temporarily occupied territories, the nationalisation of Ukrainian cultural property, as well as persecution of the Orthodox Church of Ukraine in Crimea. It is very difficult for Ukrainian authorities to monitor and track looted objects as well as document cultural heritage and eventually reconstitute it after the liberation of temporarily occupied territories.

Russia continues its efforts to systematically destroy Ukrainian identity in the temporarily occupied territories of Ukraine. Under the Russian Federal Law No 19 (as of 17 February 2023), the four temporarily occupied territories of Kherson, Zaporizhzhia, Donetsk and Luhansk regions of Ukraine are to be integrated into Russia's federal education system. This includes clearing the educational space of anything Ukrainian (all school instructions are given in Russian only and there are no subjects related to Ukraine), militarising education and instilling Russian civic identity. Ukrainian authorities and citizens are currently unable to protect Ukrainian children against these illegal acts, but will need to prepare measures to reintegrate this portion of its population into its national education system.

The **citizen rights** of Ukraine are governed by the Law on citizenship of Ukraine. Anyone born to at least one Ukrainian parent automatically receives Ukrainian citizenship at birth, while foreign nationals can be naturalised after living in the country for at least five years. While only sole citizenship is permitted in Ukraine, in practice Ukrainian citizenship is not automatically lost if foreign citizenship is acquired, resulting in an estimated large number of Ukrainians possessing more than one citizenship, often with an additional EU citizenship.

2.2.2. Chapter 24: Justice, freedom and security

The EU has common rules for border control, visas, external migration and asylum. Schengen cooperation entails the lifting of border controls inside the EU. Member States also cooperate with Ukraine in the fight against organised crime and terrorism, and on judicial, police and customs cooperation, all with the support of the EU justice and home affairs agencies.

Ukraine has **some level of preparation** in implementing the EU *acquis* in the area of justice, freedom and security. Russia's full-scale invasion of Ukraine and the martial law regime

introduced in response have had a profound impact across the entire justice, freedom and security area. Law enforcement agencies are heavily involved in defending the country and protecting the population and critical infrastructure. Despite the war-related challenges, including significant losses of personnel and equipment and reduced financing, the institutions continue to demonstrate strong resilience and determination to deliver on their mandates. However, multiple shortcomings persist, many of which predate Russia's full-scale invasion. The legal and strategic framework is underdeveloped. Integrity and accountability mechanisms need further strengthening across the sector. Institutional cooperation and coordination remain weak, in particular as regards the investigation of organised crime, but also migration and border control. The smuggling of goods, including cigarette smuggling, is still not criminalised, despite being a low-risk and high-profit activity. Technical capacities for border control and surveillance need improvement, along with the anti-corruption measures. Legislation on visa policy and asylum is broadly aligned with the EU *acquis*. **Limited progress** was made in the reporting period. The overarching strategic plan for the law enforcement sector was adopted, while the preparation of a credible implementation plan is underway.

In the coming year, Ukraine should in particular:

- adopt a time-bound and measurable action plan for the implementation of the overarching strategic plan on law enforcement reform, including a strong anti-corruption component, taking the war-related context into account, and make tangible progress in implementing it;
- adopt and implement a context-adjusted migration policy strategy and revised integrated border management strategy, and ensure that corresponding action plans have indicators that allow for the proper assessment of implementation;
- adopt and start implementing legislation to criminalise the large-scale smuggling of goods, including effective prison sentences for damage to the state budget above a certain threshold.

Fight against organised crime

Ukraine has **some level of preparation** to implement the EU *acquis* in this area. The country has a dedicated strategic and institutional framework to fight organised crime, along with reasonable knowledge and technical means, and a good level of international cooperation. Russia's full-scale invasion of Ukraine and the martial law regime have had a profound impact on the institutional capacities to fight organised crime. Like other institutions in the home affairs sector, the institutions that fight organised crime are heavily involved in the country's defence and civil protection efforts, demonstrating remarkable resilience and operational capabilities. There has also been a shift in priorities towards the investigation of international crimes and offences committed by Russian entities. Overall, the legal framework and operational capacities to fight organised crime remain weak. A number of legal and procedural gaps, jurisdictional overlaps and institutional fragmentation, the prevalence of corruption, the inefficient use of resources, the uneven level of professionalism and underdeveloped IT infrastructure are observed in this area. Strengthening inter-agency coordination remains crucial. More efforts are needed in particular to combat serious forms of organised crime, money laundering (including alignment with Directive (EU) 2018/1673 on combating money laundering by criminal law) and other financial crimes. Despite the difficult context and existing challenges, the outlook is positive as the country is determined to proceed with implementing the strategic approach, including the revision of the legal framework and the putting in operational use the national serious organised crime threat assessment (SOCTA).

Some progress was made at operational level, in particular through participation in an increasing number of joint operations with EU Member States and neighbouring countries. Investigations were launched against the criminal authorities ('thieves in law'). The number of seized, confiscated and destroyed firearms and ammunition as well as convictions for trafficking of small arms increased considerably. The Office of the Prosecutor General started developing the e-case management system in the criminal justice chain.

In the coming year, Ukraine should in particular:

- develop and adopt the national SOCTA and strengthen the institutional capacities to implement it, including intelligence-led policing, open-source intelligence, information management and analysis, inter-agency cooperation; establish a permanent national coordinator to fight organised crime;
- adopt and start implementing a credible action plan for the implementation of the 2023-2025 asset recovery strategy; improve the legal framework and institutional capacities for financial investigations, asset recovery and management;
- enact legislation enabling a competitive, transparent and merit-based selection, including a credible integrity check, of the new Head of the Bureau of Economic Security and other staff and carry out the selections based on the improved legislation, introduce a strong integrity and accountability framework within the Bureau and start applying it;
- continue improving the legal framework related to firearms and other small arms and light weapons (SALWs), conduct regular threat assessments and continue cooperation between national law enforcement agencies and the military to prevent the illicit possession and trafficking of firearms and other SALWs.

Institutional set-up and legal alignment

In 2022, the National Police of Ukraine had more than 110 000 police officers, which corresponded to approximately 270 police officers per 100 000 inhabitants, against an EU average of 335 officers per 100 000 inhabitants (Eurostat, 2019-2021). An attempt to reform the National Police was undertaken in 2019, aimed at increasing public trust in the police and strengthening its ability to deal with organised crime. Specialised police units were put in place to deal with terrorism, cybercrime and drugs.

Since late 2022, the Ministry of Internal Affairs has acted as a temporary national coordinator on organised crime, in line with the strategy and action plan for combating organised crime. It is critical to establish a permanent national coordination body to tackle organised crime and upgrade the inter-agency cooperation and coordination mechanisms, including business processes and IT infrastructure.

The Bureau of Economic Security (BES) was established in November 2021 and started operating in 2022. It was expected to become the central law enforcement and analytical body to fight financial crimes and protect the economic interests of Ukraine. However, its operational capacities remain very limited. Its track record in the first few years of activity raises questions about its effectiveness and coordination with other law enforcement agencies and institutions. BES remains heavily understaffed, with less than 20% of its positions filled. The head of BES was dismissed in April 2023. In May 2023, investigative media raised allegations of corruption against the acting head of BES. Legislation should be amended to enable the selection of the new head and other staff in a competitive, transparent, merit-based manner, including a credible integrity check.

The state financial monitoring service supervised by the Ministry of Finance performs the role of a financial investigation unit, assisting the law enforcement agencies in anti-money laundering investigations. The service prepares analytical reports and ensures data exchange with other countries.

The national agency for finding, tracing and management of assets derived from corruption and other crimes (ARMA) was established in February 2016. It is tasked with formulating and implementing state policy on tracing assets that are subject to seizure and managing seized assets in criminal proceedings. ARMA has access to a number of national and international databases. It has established cooperation with foreign asset recovery and management agencies and their networks. In January 2023, ARMA launched the unified state register of assets seized in criminal proceedings. The agency had no permanent head for almost 4 years. The initial competition failed to identify a suitable candidate in August 2022. A new competition, relaunched in late 2022, selected a suitable candidate. In June 2023, the Cabinet of Ministers appointed her. However, civil society raised concerns about the selection and appointment process and the integrity of the appointee. ARMA has been criticised for inefficiency and limited capacity, and also faces corruption allegations against its previous management.

Ukraine has a dedicated legal framework to fight organised crime. The Law on organisational and legal principles of combating organised crime was adopted in 1993, but is largely outdated with numerous shortcomings. An assessment of compliance of Ukrainian law with EU law and international standards in the area of organised crime is still pending. Legislation related to asset recovery and management remains deficient and in need of thorough revision. The legislation for tackling the proliferation of illicit firearms needs further improvement, in particular by expanding criminal liability for cross-border illicit trafficking of firearms and their parts/components within the meaning of the UN Protocol on Firearms. A new law on firearms is pending adoption. Ukraine ratified the Budapest Convention on Cybercrime in 2006, and its substantive law is largely in line with the Convention. Ukraine also ratified the First Additional Protocol to the Convention on Cybercrime and signed the Second Additional Protocol on enhanced co-operation and disclosure of electronic evidence in November 2022; it still needs to be ratified. In 2006, Ukraine made a reservation not to apply paragraph 1 of Article 6 of the Budapest Convention concerning the criminalisation of misuse of IT devices, including computer programmes, which contradicts the efforts to tackle organised crime involved in cybercrime. The national cybersecurity strategy of 2021 (its action plan was adopted in 2022) has a cybercrime component. The Law on **witness protection** exists, but is largely outdated as it was adopted in 1993.

A strategy and action plan on the fight against organised and serious crime are in place. The strategy on combating organised crime was approved in September 2020, while the action plan for implementing the strategy was approved in September 2022. The key priorities of the strategy include the renewal of legislation, setting priorities and strengthening analytical capacities, operationalisation of SOCTA, a stronger focus on criminal networks, the involvement of the civil society and the establishment of a national coordinator – an interdepartmental commission for combating organised crime. The overarching strategic plan to reform the law enforcement sector for 2023-2027 was approved by the President in May 2023 as part of the pre-accession reform steps set out in the June 2022 Commission Opinion on Ukraine's membership application. The plan sets out six priorities that focus on increasing the effectiveness of the law enforcement and prosecuting bodies, consistency of the criminal policy, result-oriented management, digital transformation, as well as transparency, accountability and independence. A relevant and credible action plan with time-bound and measurable deliverables should still be adopted to facilitate the implementation of the strategic

plan. A national strategy on asset recovery for 2023-2025 was adopted in August 2023, an action plan for its implementation still needs to be developed. There is no formal government strategy on firearms trafficking, but a draft action plan on firearms trafficking is prepared. Cooperation between the Ukrainian authorities and the EU is continuing in this area. The current war context as well as the emerging trends and threats linked to organised crime need to be taken into account when developing and further updating the strategic framework.

As for the **international legal framework**, Ukraine signed and ratified the main international agreements and regional conventions that directly or indirectly target organised crime. In particular, Ukraine ratified the UN Convention against Transnational Organised Crime in 2004 and the UN Convention Against Corruption in 2009, as well as the Council of Europe (CoE) Conventions on Civil Law in 2005 and Criminal Law in 2009. It also ratified the CoE Convention on Cybercrime in 2001 and the CoE Convention on Action Against Trafficking in Human Beings in 2005. Ukraine has been a member of the CoE's Group of States against Corruption since 2006 and of the Group of Experts on Action against Trafficking in Human Beings.

Ukraine should focus heavily on strengthening **integrity and anti-corruption** in the criminal justice system, as corruption in the system undermines public trust and the fight against serious crime, including organised crime. In particular, the transparent and merit-based selection of managerial staff, including credible integrity checks, should be ensured in the institutions fighting organised crime, along with strong disciplinary and anti-corruption frameworks tailored to the local context and actual corruption risks. So far, these frameworks within the criminal justice institutions have not been effective. Internal security and disciplinary bodies are limited in their mandates, resources and independence.

Implementation and enforcement capacity

Ukraine is located at the crossroads of smuggling illegal goods to the EU, including arms, drugs and cigarettes. Illegal logging is widespread, and despite efforts made in recent years, the illegal trade in timber persists. Ukraine is a source, transit and destination country for human trafficking. It is also a production and transit country for drugs. The Russian war of aggression against Ukraine is changing the nature of organised crime, as it has affected international criminal networks and the traditional trafficking routes. At the same time, it is creating new risks that need to be addressed, in particular those linked to arms and human trafficking.

Considering the existing challenges and the evolving threat landscape related to the war, the institutional capacities to tackle organised crime remain limited. Ukrainian law enforcement agencies are currently heavily focused on investigating international crimes. They also have to operate with substantially reduced budgets and staff. Even before the war, a series of ad hoc reforms, competition between law enforcement agencies and influence by political and vested interests hampered progress in civilian security sector reforms. The unclear division and fragmentation of competences among law enforcement agencies undermines the fight against complex forms of organised crime. The existing rules and court practice on the inadmissibility of evidence gathered by a law enforcement agency that is not competent for a given case, coupled with the unclear division of competences, further complicate the fight against organised crime groups involved in diverse criminal activities, and open the door to corruption and abuse. Inter-agency cooperation among Ukraine's law enforcement, intelligence, prosecuting and judicial bodies formally exists, but is not efficient and is marred by the absence of a permanent coordinator and clear procedures. There is also fierce competition between law enforcement agencies and a high degree of distrust. The absence of a modern e-case management system in the criminal justice chain and limited access to the relevant registers, databases and intelligence information, even within a single agency, remains a problem.

The Security Service of Ukraine (SSU) still retains a technical monopoly on intercepting communications, even if the National Police of Ukraine (NPU) and the National Anti-Corruption Bureau of Ukraine have been legally empowered to conduct interceptions on their own since autumn 2019. The systemic problems within the judiciary, including a severe shortage of staff, underfunding, corruption, the absence of a modern e-case management system (see Chapter 23) as well as a lack of proper specialisation undermine the adjudication of organised crime cases.

The **number of criminal investigations** into organised crime groups and criminal organisations, although still relatively low overall, gradually increased to 499 cases in 2021 (2020: 377 cases; 2019: 293 cases) and remained at this level in 2022: 485 criminal proceedings against organised crime groups were sent by the NPU to courts, 12 of them with transnational ties. Proactive measures are being taken to combat the subjects of increased criminal influence, including the ‘thieves in law’, although tangible results in the form of convictions have yet to be seen. The NPU continues to suffer from corruption, outdated equipment and limited capacity overall, including the capacity to conduct financial investigations.

In 2022-2023, the SSU, as part of its work on organised crime, uncovered 123 organised crime groups (of which 99 organised groups and 24 criminal organisations). 517 people were notified of being suspected of committing criminal offences in organised forms of complicity. In particular, 28 organised crime groups known as professional criminals were identified. 27 people were notified of being suspected of establishing or spreading criminal influence, organising, assisting in, conducting or participating in a criminal assembly, or applying for the use of criminal influence. 12 people were convicted.

Despite the transfer of competences from the SSU to the Bureau of Economic Security in 2021 and the SSU’s increasing focus on its core activity – counterintelligence and national security – the SSU remains active as a criminal law enforcement agency. It causes institutional fragmentation, jurisdictional overlaps and competition, and opens the door to corruption and abuse. Following international practice, the SSU’s pre-trial investigation functions should be abolished. In the meantime, the prosecution service should strengthen its role as the leader of pre-trial investigations and prevent jurisdictional tension and abuse, including occasional breaches of the exclusive jurisdiction of the National Anti-Corruption Bureau of Ukraine and the Specialised Anti-Corruption Prosecutor’s Office in high-level corruption cases.

As for Ukraine’s **international police cooperation**, it is well developed and is producing positive results on the ground. Ukraine is a member of Interpol, and has a working arrangement in place with CEPOL, the European Union Agency for Law Enforcement Training, and an operational and strategic agreement with Europol, the EU’s law enforcement agency. The law enforcement agencies of Ukraine capitalised on all forms of capacity building provided by CEPOL and this co-operation should continue. The Liaison Bureau of Ukraine in Europol was opened in November 2017. A second liaison officer was deployed in 2023. Ukraine has access to SIENA, the secure information exchange network application platform for EU law enforcement. Since the start of the war, a strong international police and prosecutorial cooperation framework has played a positive role in uncovering cross-border organised crime activities.

Ukraine is an active participant in the European Multidisciplinary Platform Against Criminal Threats (EMPACT). In 2022, Ukraine planned to participate in 174 out of 293 operational actions, covering all 15 operational action plans under EMPACT. However, due to the war, Ukraine had to scale back its participation, also in terms of the number of operational actions it committed to in 2023 (122). Ukraine nevertheless acted as co-action leader in 2022 for an

operational action on high-risk criminal networks and will continue doing so in 2023. It also took part in three joint action days organised by the platform.

There has been limited progress in implementing **intelligence-led policing**. In recent years, the NPU set up a new criminal analysis department and regional departments in every region. These departments provide analytical support for criminal investigations. In 2022, they produced more than 13 000 analytical studies. However, Ukraine should still establish unified and up-to-date intelligence sharing tools and procedures for its law enforcement agencies. It should also develop a common IT platform for facilitating inter-agency cooperation and for gathering, analysing and sharing information and intelligence between the relevant institutions.

The preparation of the national **serious and organised threats assessments** (SOCTA) has been delayed since 2017. The absence of these national SOCTA undermines policymaking, priority-setting, operational work and coordination between agencies tasked with fighting organised crime. In 2022, a government resolution on the introduction of SOCTA was adopted. To relaunch preparations, an inter-agency working group was established in October 2022 under the lead of the Ministry of Internal Affairs. Regional groups to assess the threat of organised crime were created throughout the country, but their level of activity is unclear. Ukraine should develop and adopt SOCTA without further delays, and build the institutional capacities to implement it, including intelligence-led policing, open-source intelligence, information management and analysis, and inter-agency cooperation.

The state financial monitoring service (SFMS) continued its operations despite the challenging operational environment. In 2022, it registered 52 123 **suspicious financial transactions** and sent 934 referrals to the law enforcement agencies. The agencies made use of SFMS referrals in 349 criminal proceedings. In 2022, the SFMS also processed 1 242 international requests. The absence of a bank account register of physical persons makes its work and financial investigations difficult.

Financial investigations are not conducted in a consistent and sustainable manner. The Mutual 2017 Evaluation Report issued by Moneyval, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, and the follow-up reports point to a lack of understanding among law enforcement agencies as to what is meant by financial investigations. To address these shortcomings, the Office of the Prosecutor General issued instructions and methodological guidance to all regional prosecution offices on the investigation of money laundering offences and the application of financial investigations in proceeds-generating crimes. There is no legal obligation to apply them in all proceeds-generating offences, which undermines their consistent application when investigating offences linked to organised crime. The concept of financial investigations should be further embedded in the legal framework, in particular in secondary legislation, and systematically enforced under the supervision of prosecutors. The institutional capacities to conduct them should be further strengthened across the relevant institutions.

On **asset confiscation**, the legal and institutional framework is largely aligned with international standards. However, asset confiscation and recovery tools remain underused, and a credible track record of seizures and confiscations still needs to be established. Inter-agency cooperation between the relevant law enforcement, prosecuting and judicial bodies, as well as SFMS and ARMA and the institutional capacities of these bodies should be further strengthened. The national asset recovery strategy, which could help develop a more effective and efficient system of asset recovery, was adopted in August 2023, but not yet implemented. A comprehensive technical analysis of the operational effectiveness and independence of ARMA, including related asset recovery and management functions, was conducted. On this basis, comprehensive ARMA reform should be implemented, including a system for the

transparent selection of ARMA's head, fully fledged pre-seizure planning, prioritising the seizure of assets by criminal courts, transparent procedures for the management, sale and evaluation of assets and unblocking the possibility to manage corporate property rights.

On **trafficking in human beings (THB)**, the assessment of alignment of the Ukrainian law with the EU *acquis* remains to be conducted. In 2022 the NPU stopped activities of five organised groups involved in trafficking in human beings. 133 criminal offences of human trafficking were registered and 93 people were notified of suspicion and 63 were indicted. 66 people were recognised as victims of human trafficking, including 36 women and 12 children. In addition, the activities of 12 organised groups and criminal organisations were stopped, consisting of 40 people who smuggled people across the Ukrainian border.

In June 2023, the Cabinet of Ministers approved a targeted social programme for combating human trafficking up to 2025. Following the start of Russia's full-scale invasion and given the much higher trafficking risks, Ukraine took a number of measures to prevent and combat human trafficking. Information campaigns on the risks were conducted among citizens travelling abroad and three nationwide operations were organised to combat child trafficking. Migration police units participate in pan-European measures to combat human trafficking for the purpose of sexual exploitation and forced begging, and to neutralise organised crime groups. Close cooperation has been established with national and international civil society organisations. The Ministry of Internal Affairs established permanent communication and the exchange of information with the EU Anti-Trafficking Coordinator. In addition, the NPU cooperates closely with Europol and its counterparts in the EU Member States. Four international anti-trafficking operations were conducted in the EU Member States.

On **the trafficking of small arms and light weapons**, following the start of the full-scale invasion of Ukraine, the number of registered criminal cases involving firearms increased almost six-fold compared to 2021 (394 and 2 206 crimes, respectively). During this period, 517 offenders were notified of suspicion, 483 criminal proceedings were sent to the court with a charge. In addition, during 2022, law enforcement agencies (mainly the National Police) seized 1 939 firearms, 25 grenades and grenade launchers, 11 000 hand grenades and 202 924 rounds of ammunition. The number of firearms destroyed is not included in official reports. In Ukraine, each manufactured, imported or deactivated firearm of a certain category is marked according to the special rules approved by the Ministry of Internal Affairs. In June 2023, the ministry launched a unified register of firearms for civilians, streamlining the control, permission management and other processes. When fully implemented, this register is expected to become the central database of firearms for the authorities, allowing the control all civilian firearms during their full life-cycle from manufacture to the destruction or export. Ukraine should continue its active engagement with the international law enforcement community, including Europol and EU Member States police forces, to address these risks.

Ukraine appointed the second liaison officer to Europol on **cybercrime**. In 2022, 14 948 criminal offences were detected, and suspicion announced in 7 296 criminal proceedings. 7 502 people were sent to court with indictments. Indictments were brought against 1 293 people. Cyber police took part in six international operations to neutralise and document members of hacker groups. The fight against cybercrime should remain a priority in the present war context and in view of the fact that it forms part of Russian hybrid warfare.

Money laundering is criminalised. Prosecuting money laundering as a stand-alone crime is possible under Ukrainian law. However, the capacities of law enforcement to investigate cases and recover criminal assets are limited. In 2022, across all law enforcement agencies, 523 criminal proceedings on money laundering were registered. 117 indictments were sent to court and 19 verdicts were issued. 16 people were convicted for money laundering offences.

As for **witness protection**, the system is underdeveloped and fragmented among several institutions. The level of training and technical equipment is low. The NPU, which is the most advanced institution in this area, is not ready to ensure a witness protection programme or witness relocation due to the lack of relevant legislation and resources. On the implementation side, the NPU's Witness Protection Unit was dismantled in late 2019, with all trained members leaving. In March 2022, the NPU made the decision to re-establish it. In August 2022, seven operators started to reorganise the unit. The lack of a strong witness protection system undermines the fight against organised crime. Ukraine should speed up the adoption and implementation of the new witness protection law that complies with international standards and best practices.

Cooperation in the field of drugs

Institutional set-up and legal alignment

The legal framework for the fight against drugs in Ukraine is partly aligned with the EU *acquis*. The national drug policy strategy for the period up to 2030 and its action plan for 2023-2025 is being prepared, but has not yet been adopted. The draft action plan envisages establishing a national early warning system on new psychoactive substances. Ukraine is a party to the relevant international narcotic drug control conventions, including the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

The Institute of Psychiatry, Forensic Psychiatric Examination and Drug Monitoring of the Ministry of Health is responsible for drug monitoring at national level. It produces a report each year on the drugs and alcohol situation in Ukraine and publishes it online in both Ukrainian and English. The Centre for Public Health of the Ministry of Health is responsible for harm reduction measures, social reintegration of former drug addicts and research. The State Service for Medicines and Drug Control is the central executive body that implements national policy on control over the circulation of narcotic drugs and combating their illegal circulation. There is a certain amount of inter-agency cooperation, coordinated by the Ministry of Health. There is currently no national early warning system to exchange information on new psychoactive substances.

The main body to prevent, detect and investigate drug trafficking is the NPU. The Security Service of Ukraine is also authorised to investigate drug-related crimes. The State Border Guards Service and the State Customs Service as well as other agencies provide detection and related support to investigations.

Implementation and enforcement capacity

Despite the war, the illicit production of synthetic drugs continues in Ukraine. As to its track record, in 2022 there were 34 398 registered crimes linked to illicit drug trafficking, 22 678 notices of suspicion were sent, and 19 701 indictments were issued. In 2022, 2.4 tonnes of narcotic drugs and psychotropic substances, as well as 3 187 kg and 26 828 litres of precursors for the production of narcotic drugs and psychotropic substances, were seized. Illegal drug trafficking via the internet (dark net) with the use of cryptocurrency makes it harder to identify drug dealers and beneficiaries.

A new working arrangement was signed between the European Monitoring Centre for Drugs and Drug Addiction and the Ministry of Health in 2022. It updates and replaces the previous memorandum of understanding signed in 2010. Drug monitoring efforts and the collection of data requested by the centre are difficult in the current security circumstances and are affected by the war. This makes it impossible to analyse and report on some data.

Despite the impact of the war on health infrastructure, the Ministry of Health and its institutions are partnering with a range of non-governmental organisations to ensure uninterrupted access to drug-related health services.

Fight against terrorism

Institutional set-up and legal alignment

The Anti-Terrorism Centre of the Security Service of Ukraine is the inter-agency body tasked with coordinating national efforts to fight terrorism. Its regional branches coordinate counter-terrorism activities at local level. The centre monitors terrorist threat levels, gathers intelligence, conducts drills at critical infrastructure facilities and carries out information analysis on terrorism for the national security authorities.

Ukraine has comprehensive anti-terrorism legislation and is a party to the relevant UN and Council of Europe counter-terrorism conventions and protocols. The national security strategy and the strategy of ensuring state security are in place, as well as the concept of combating terrorism in Ukraine and its action plan. In 2022, Ukraine ratified the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism and subsequently introduced amendments to the Criminal and Criminal Procedure Codes, together with other legislative acts to improve the fight against terrorism. The legal framework on the fight against terrorism has not yet been assessed for compliance with the EU *acquis* and the principles of prevent, protect, pursue and respond. The 2021 Law on critical infrastructure is a part of the national security legislation.

As to identifying and tracing financial flows that fund terrorism, the updated anti-money laundering law was adopted in 2020. In 2022, the Ministry of Finance adopted relevant secondary legislation on risk criteria that facilitates identification and prevention of terrorism financing. The financial monitoring and intelligence system complies with recommendations from the Financial Action Task Force. In 2022, Ukraine also adopted a law protecting the financial system from Russian influence and adapting legislation to specific Financial Action Task Force standards and provisions of the EU Directive on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

Implementation and enforcement capacity

Since the beginning of Russian aggression against Ukraine in 2014 and especially after the full-scale invasion in February 2022, counterterrorism activities have shifted to countering sabotage activities by Russian intelligence and its proxies. In 2022, 287 criminal offences related to terrorism were registered, among which 95 criminal proceedings were initiated for acts of terrorism, 1 for involvement in an act of terrorism, 2 for public incitement to commit an act of terrorism, 148 for the creation of a terrorist group or terrorist organisation, 1 for facilitation to commit an act of terrorism and 40 for financing terrorism.

As regards **operational cooperation with European agencies** on fighting terrorism, cooperation takes place mainly on war crimes, where Europol supports investigations through the analysis project on core international crimes. The Security Service of Ukraine has access and capacities for information exchange on counterterrorism issues with Europol through the secure information exchange network application (SIENA). Future steps in counterterrorism should include strengthening cooperation between the Security Service and Europol by establishing a direct communication through CT SIENA and capacity building for Ukrainian counter-terrorism authorities on modern law enforcement and intelligence collection methods. Ukraine has also appointed a Eurojust contact point for terrorism-related matters to enhance judicial cooperation against terrorism.

On **external influences**, the terrorism threat in Ukraine is mostly perceived as originating from Russian intelligence agencies and Russian-controlled terrorist groups, including private military companies. Russia uses terrorism-type activities aimed at intimidating the Ukrainian population as part of its aggression against Ukraine. The full-scale involvement of organised crime groups is a specific characteristic of hybrid warfare waged by Russia against Ukraine. This includes the use of organised crime groups and criminals in occupied territories as mercenaries in warfare, organised crime groups and criminals controlled by Russian intelligence all over Ukraine, and the weaponisation of corruption at local and central levels.

On **terrorism prevention measures**, the Security Service of Ukraine constantly monitors the situation and is ready to respond to radicalisation. The threat of religious-based radicalisation is low because religious communities, including Islamic ones, are considered part of Ukrainian society, which is also helped by a sense of community in resisting Russian aggression.

Judicial cooperation in civil and criminal matters

The current legal framework on judicial cooperation in civil and criminal matters is comprehensive, appropriate and in line with EU standards. Ukraine has 87 bilateral treaties and agreements on cooperation in civil and criminal matters with 50 countries, Eurojust and the UN.

Ukraine has been a member of the Hague Conference on Private International Law since 2003 and is a contracting party to 12 conventions, including those on child abduction, child protection and child support. Ukraine ratified the 2019 Hague Judgments Convention in August 2022, which came into force on 1 September 2023. Ukraine has also ratified on 24 April 2023 the 2005 Hague Convention on Choice of Court Agreements that entered into force on 1 August 2023.

National legislation and bilateral and international agreements to which Ukraine is a party contain rules on mutual legal assistance, extradition, conflicts of law, mutual recognition and the enforcement of decisions and judgments, document service and evidence exchange, the transfer of people sentenced to imprisonment, and the fight against terrorism and other forms of organised crime, including cybercrime. The specific provisions are partly aligned with the EU *acquis*.

International prosecutorial cooperation in criminal matters is successfully managed by the Office of the Prosecutor General. Ukraine has a liaison prosecutor in Eurojust and actively participates in multiple joint investigation teams facilitated by Eurojust.

In 2022, the Ministry of Justice received and processed 2 560 requests for legal assistance in civil and commercial matters as well as for the recognition and enforcement of judgments. It processes requests within 30 days, and the average processing time by Ukrainian courts is between 3 and 6 months.

As for judicial cooperation in criminal matters, the Ministry of Justice processed 974 requests for international cooperation in 2022: 923 for international legal assistance, with the average processing length from 6 to 8 months, and 51 for extradition, with the average processing time from 5 to 6 months.

There is well-established cooperation in criminal matters with Eurojust as a result of the cooperation agreement signed in 2016 and collaboration between the Ukrainian Liaison Prosecutor and Eurojust, as well as between Ukraine and EU Member States. In 2022, Ukraine was involved in 79 new cases opened at Eurojust. Eurojust set up a joint investigation team on war crimes committed in Ukraine and hosts the International Centre for the Prosecution of the Crime of Aggression against Ukraine.

The Ukrainian Office of the Prosecutor General signed a working arrangement with the European Public Prosecutor's Office (EPPO) in March 2022 aimed at facilitating judicial cooperation in criminal matters and the exchange of information. A working arrangement between the EPPO and the National Anti-Corruption Bureau of Ukraine (NABU) followed in July 2023. Both instruments rely on the European Convention on mutual legal assistance and its Protocols for providing mutual legal assistance.

The participation of Ukrainian representatives in joint investigation teams is limited due to legal constraints that need to be urgently addressed. The reimbursement of joint investigation teams' operating costs is impossible due to certain provisions of Ukrainian secondary legislation.

Legal and irregular migration

Institutional set-up and legal alignment

Migration policy in Ukraine is developed and coordinated by the Ministry of Internal Affairs. The State Migration Service of Ukraine is responsible for implementing state migration policy as well as helping to develop it. The service shares responsibility for implementing the state migration policy on border security and visa policy with the State Border Guard Service (SBGS) and the Ministry of Foreign Affairs. The Ministry of Social Policy is responsible for developing labour migration policy and the Ministry of Economy is responsible for implementing it. The Ministry of Education and Science determines the priority sectors for the provision of educational services to foreigners and stateless persons. The government continues to improve migration coordination, however, there is ample room for improvement.

The State Migration Service territorial departments, which are situated in direct proximity to border areas or to areas with active hostilities, have been relocated, but continue to operate. The service plans to reduce the number of territorial units and introduce the concept of mobile ones. Citizens, foreigners and stateless persons can access administrative services in any of its territorial departments.

The State Migration Policy Strategy for the period until 2025 is being updated. The Integrated Border Management Strategy has been updated in July 2023 to reflect the context of Russia's war and Ukraine's EU candidate status. The action plans for both strategies have expired and the new ones have not yet been approved. The legislative framework is in place for a mass influx of migrants. However, there is no approved implementation mechanism for inter-agency coordination in the event of a migration crisis.

There is no specific legislation on long-term residence, nor a single procedure or single work or residency permits. Legislation on voluntary and forced return is in place, including the respect of the principle of *non-refoulement*. The procedure for voluntary return is rarely applied due to a lack of funding. There are no rules on passenger information or visa verification obligations of carriers that transport foreign nationals to Ukraine. Access to the labour market for foreign students, asylum seekers and stateless persons was regulated in the reporting period.

The State Migration Service is responsible for the standard readmission procedure, while the SBGS is in charge of the accelerated readmission procedure. An electronic readmission case management system for the State Migration Service and the SBGS is in place and fully operational for readmission cases with Poland.

The EU-Ukraine **readmission agreement** remains in force since 2007, though since the beginning of the war it has been used with precaution by the EU Member States. Implementing protocols between Ukraine and eight EU Member States (Austria, Czechia, Estonia, Poland

Lithuania and Benelux States) have entered into force. Ukraine approved implementing protocols with Romania, Latvia, Spain and Hungary.

Readmission dialogue is at various stages with 12 EU Member States: Bulgaria, Croatia, Cyprus, France, Germany, Greece, Italy, Malta, Portugal, Slovakia, Slovenia and Sweden. In 2022, the State Migration Service received 276 readmission requests, including 260 under the agreement between Ukraine and the EU, with 206 approved. It sent 13 readmission requests during the year; two people were readmitted from Ukraine.

Ukraine also has readmission agreements in force with other third countries, such as Switzerland, Denmark, Belarus, Georgia, Iceland, Republic of Moldova, Norway, the Russian Federation, Vietnam, Türkiye, Turkmenistan and Uzbekistan. However, the agreements with the Russian Federation, Belarus and Vietnam are not applied in practice.

Implementation and enforcement capacity

In 2022, the SBGS detained 12 068 people for violation of immigration rules in Ukraine, including 622 foreigners detained for illegal crossing or attempted illegal crossing of the state border. The majority of irregular migrants were detained at the border with EU countries. They included citizens of Moldova, Russia, Türkiye, Pakistan, Nepal, Cuba and others.

In 2022, the SBGS issued 271 expulsion decisions against foreigners and stateless persons who had illegally crossed or attempted to illegally cross the state border, with 192 forcible returns and 79 forcible expulsions. The State Migration Service reports that the number of irregular migrants decreased in 2022 (5 062) compared to 2021 (8 308).

The State Migration Service operates six special establishments that include three migrant accommodation centres with overall capacity for 566 people and three temporary accommodation centres for up to 421 foreigners and stateless persons. The staffing capacities are sufficient, and all centres are adequately equipped. The Chernihiv migrant accommodation centre was destroyed in the early phase of the war, with the migrants evacuated. The centre is currently being rebuilt and is not yet operational. The migrant accommodation centres in Volyn and Mykolaiv are operational.

An integrated migration management information system is in place with automated business process workflows and inter-agency cooperation, in particular between the State Migration Service, the SBGS and the Ministry of Foreign Affairs. However, complementary legislation on the processing of biometric data is needed to fully use the system for biometric data exchange.

The Department of Migration Police, which is part of the National Police of Ukraine, cooperates with Europol's European Migrant Smuggling Centre to identify and uncover criminal schemes that involve irregular migration and human trafficking. In 2022, it participated in several large-scale operations run by Europol to combat human trafficking, including child trafficking, human trafficking for labour and sexual exploitation.

Asylum

Institutional set-up and legal alignment

The State Migration Service and its territorial bodies are responsible for handling applications for international protection and asylum claims.

The legislation on asylum is broadly in line with the EU *acquis*, in particular on the time it takes to process applications and on asylum applicants' rights, such as the right to access employment, secondary education, family reunification and subsidiary protection.

Psychological and social aid are also covered in the legislation. However, limited support is available in practice due to the lack of capacity. Free legal assistance is available. The action plan for refugee integration has been in preparation since 2021, but work has stalled because of the war. Procedural guarantees are available for the applications of unaccompanied minors. Ukraine is a party to the relevant international conventions, including the 1951 Geneva Refugee Convention and its 1967 Protocol.

In March 2023, amendments were introduced to the Law on refugees and persons in need of additional and temporary protection. In accordance with these amendments, the restriction is imposed on the SBGS to accept applications submitted during the legal regime of martial law for recognition as refugees or persons in need of additional protection in cases where the applicant crosses the Ukrainian border directly from a country where there is no danger to life.

Implementation and enforcement capacity

In 2022, 205 applications for recognition as a refugee or a person in need of additional protection were submitted. 20 foreigners and stateless persons were recognised as refugees, and 26 as persons in need of additional protection. Interpretation is provided by the State Migration Service territorial departments during the consideration procedures of asylum applications. The national system for biometric verification and identification is operational and used during border controls.

There are three temporary accommodation centres for applicants and people granted international protection with a total reception capacity of 421 people. Staff levels seem to be sufficient for the number of applications that Ukraine has had. Material conditions are sufficient, however there is room for improvement with regards to integration and psycho-social support. The financial capacity to integrate recognised refugees is limited, as is the capacity of the relevant local authorities.

Ukraine does not have a roadmap for bilateral cooperation with the European Union Agency for Asylum.

Visa policy

Ukraine's visa policy is broadly in line with the EU *acquis* on the processing of applications, the criteria for granting protection and the processes for issuing different visa types. However, the list of third countries with which Ukraine has visa-free regimes is not fully aligned with the EU's visa policy. The following countries for which EU nationals require a visa are visa-exempt for Ukraine: Armenia, Azerbaijan, Bahrain, Belarus, Ecuador, Kazakhstan, Kuwait, Kyrgyzstan, Mongolia, Oman, Qatar, Saudi Arabia, Tajikistan, Türkiye and Uzbekistan.

The security features of visas and travel documents are broadly aligned with EU standards. Ukraine has been issuing biometric passports since 2015. The last non-biometric passports were issued in 2016, and the complete phasing out is planned for 2026 upon expiry. Ukraine has an electronic national visa registration database that includes biometric identifiers.

Ukraine does not have agreements on consular and visa-issuing cooperation, joint locations or representation agreements on the issuing of visas with other countries. Since 24 February 2022, it has suspended issuing visas at the border.

Implementation of the **visa-free regime** with the EU, established in 2017, has been smooth. The European Commission's sixth report on the Visa Suspension Mechanism⁵, published in October 2023, concluded that Ukraine continues to meet the visa liberalisation benchmarks.

⁵ COM(2023)730 final

Thanks to tighter border controls and awareness-raising campaigns, unfounded asylum applications from Ukrainian citizens in the EU and Schengen associated countries have decreased. In 2020, the number of Ukrainian applicants for international protection in EU Member States was 5 990, 37% less than in 2019. The recognition rate increased slightly from 10% in 2019 to 11% in 2020. In 2022, 26 715 Ukrainians applied for international protection in Member States (compared to 6 460 in 2021) with a recognition rate of 90% (compared to 17% in 2021).

In 2022, Russia's war of aggression led to an influx of millions of people seeking refuge in the EU and in neighbouring countries. Following a Commission proposal to activate the Temporary Protection Directive for the first time, on 4 March 2022 the Council adopted the implementing decision to grant temporary protection status to Ukrainian nationals and other categories of people displaced from Ukraine on or after 24 February 2022. Furthermore, the Commission adopted operational guidelines for external border management to facilitate border crossings at EU-Ukraine borders. There were over 21.5 million entries into the EU by Ukrainian nationals between 24 February 2022 and 20 August from Ukraine and Moldova⁶. Over 4.1 million active registrations for Temporary Protection are recorded by Member States, Norway, Iceland, and Switzerland as of mid-August 2023, of which 4.03 million in the EU Member States. Under these exceptional circumstances, the visa-free regime between the EU and Ukraine has facilitated travel to and from Ukraine, in particular for those Ukrainian nationals who decided not to take up residence in the EU and those who do not fall under the scope of the Temporary Protection Directive.

Schengen and external borders

Institutional set-up and legal alignment

The SBGS is responsible for managing Ukraine's borders. An integrated border management strategy for the period up to 2025 is in place and has been updated in light of new challenges related among others to restoring border management in the liberated area of the state border. The action plan for the implementation of the strategy for 2020-2022 has expired. The new action plan for 2023-2025 has not yet been approved. Implementation of the action plan will need better monitoring, as well as quantitative and concrete indicators to measure the progress of its implementation. There is no Schengen action plan in place yet.

The **legislative framework for border control**, in particular rules on checks and surveillance and the strategic integrated border management framework are partly aligned with EU policy and best practices. Ukraine has no legislation to request advanced passenger information (API) from airlines for flights entering or departing its territory. The API system was piloted at Kyiv Boryspil international airport.

Implementation and enforcement capacity

The Inter-Agency Working Group for Integrated Border Management, chaired by the Deputy Prime Minister for European Integration, was established in 2019 with a core task of monitoring implementation of the integrated border management strategy. In August 2023 it has convened for the first time since the beginning of the war to discuss IBM Strategy and its action plan.

The SBGS has a total staff of 60 000, including 52 000 military personnel. Due to the war, more than half of its staff has rotated from regular border-related activities to deployments –

⁶ The number of exits by Ukrainian nationals (including exits to Moldova) was nearly 18.7 million. Figures indicate the number of cross-border movements and not single individuals.

either on the frontline or at the border with Belarus. The capacities of integrated border management agencies at border crossing points are insufficient due to the lack of appropriate infrastructure and technical equipment. Technical resources require a significant upgrade to improve the quality of border checks, especially in relation to anti-smuggling. Border checks meet minimum standards. However, additional equipment is needed to detect weapons and people hiding in large vehicles and containers. The implementation of Ukraine's local border traffic agreements with neighbouring countries is satisfactory. Border surveillance is not fully effective. Risk analysis-based border surveillance mechanisms are satisfactory. In addition, as a result of the Russian war of aggression, 117 out of 234 border crossing points have been closed. Considerable infrastructure at border crossing points on the northern, eastern and southern sections of the border have been destroyed.

SBGS risk analysis aims to gradually comply with the common integrated risk analysis model. The level of situational awareness and responsiveness at Ukraine's borders could be improved by strengthening operational inter-agency cooperation and information exchange. The SBGS training curriculum is partly harmonised with the common core curricula of Frontex, the European Border and Coast Guard Agency.

There is no national **inter-agency cooperation** centre in Ukraine. Instead, relevant border management agencies operate coordination centres in their respective organisational structures to ensure intra-agency and partial inter-agency coordination and cooperation. In 2022, a virtual analytical centre was established to improve inter-agency coordination. There is no structured crisis response mechanism.

The SBGS has had a working arrangement with Frontex, the European Border and Coast Guard Agency, since 2007. Cooperation includes information exchange, joint risk analysis, participation in joint operations (as an observer or in operations without executive powers exercised by European border guards on the territory of Ukraine) and staff training. A Frontex liaison officer with a regional mandate for the Eastern Partnership has been deployed and is currently based in Moldova. The EU Border Assistance Mission to Moldova and Ukraine has been supporting both countries since 2005 and has helped them improve integrated border management.

Ukraine systematically provides data on invalid, lost and stolen travel documents to Interpol. However, only large border crossing points in Ukraine have access to Interpol's stolen and lost travel documents database and stolen vehicles database.

On border control, Ukraine uses the national system of biometric verification and citizen identification that allows for an automatic check of all types of biometric documents. All 166 international and interstate border-crossing points are connected to Interpol databases.

On operational **cooperation with neighbouring countries**, Ukraine has a number of agreements (with Poland, Slovakia, Hungary, Romania), including agreements on joint patrols, joint cooperation centres and local border traffic management. Ukraine is currently negotiating bilateral agreements on joint controls, in particular with Poland.

Some measures in place to fight border corruption consist of preventive and internal control measures implemented by the SBGS and the State Customs Service. However, more effective measures are needed to fight corruption, including preventive measures. In the reporting period, the SBGS reported 1 449 inspections, 19 servicemen were detained for abuse of office and the facilitation of illegal activities at the border. 15 border guards were found guilty of corruption offences. The stiffest sentence was a restriction from service for 3 years and a prison sentence of 6 months.

The smuggling of goods, including cigarettes, is currently decriminalised in Ukraine, constituting an administrative offence. The draft Law on the criminalisation of large-scale smuggling is pending adoption. It also includes criminal responsibility for unintended mistakes in customs declarations. Criminalisation increases the risk of abuse by law enforcement agencies if adopted. Criminalising the smuggling of all goods is a crucial element in combating cross-border crime.

2.3. ECONOMIC CRITERIA

<i>Table 2.1:</i> Ukraine - Key economic figures	2014-19 average	2020	2021	2022
GDP per capita (% of EU-27 in PPS) ¹⁾	29	30	29	
Real GDP growth	-0.8	-4.0	3.4	-29.1
Economic activity rate of the population aged 15-70 (%) , total	62.5	62.1	61.8	N.A.
<i>female</i>	56.4	56.3	56.1	
<i>male</i>	69.2	68.5	68.1	
Unemployment rate of the population aged 15-64 (%) , total	9.0	9.5	9.9	N.A.
<i>female</i>	7.7	9.1	10.2	
<i>male</i>	10.2	9.9	9.6	
Employment of the population aged 15-64 (annual growth %)	-3.3	-4.0	-1.9	N.A.
Nominal wages (annual growth %)	21.7	10.4	20.9	5.9
Consumer price index (annual growth %)	18.0	2.7	9.4	20.2
Exchange rate against EUR	26.6	30.8	32.3	40.2
Current account balance (% of GDP)	-1.8	3.4	-1.9	5.0
Net foreign direct investment, FDI (% of GDP)	2.6	0.2	3.8	0.3
General government balance (% of GDP)	-2.3	-5.3	-3.4	-16.3
General government debt (% of GDP)	68.7	60.9	48.9	78.5

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

2.3.1. The existence of a functioning market economy

Due to the impacts of Russia's ongoing full-scale invasion as well as the pre-existing structural economic challenges, the Ukrainian economy is **between an early stage and some level of preparation** towards establishing a functioning market economy. Since the full-scale invasion by Russia, the conduct of monetary policy, overall economic governance and the institutional and regulatory environment have faced exceptional difficulties. Despite the extraordinary challenges, the Ukrainian authorities have responded swiftly and appropriately, while showing remarkable resilience and adaptability to preserve macroeconomic and financial stability, although the authorities will need to continue their efforts to return economic and monetary policy settings to those conducive to the smooth long-term functioning of a market economy.

Ukraine's macroeconomic performance was somewhat muted before the full-scale invasion. Low levels of investment, a declining working age population, reliance on low value-added sectors all contributed to subdued economic growth (of around 3% per year in the four years before the pandemic) and a persistent gap with the standards of living in the EU. In 2022, as a result of the war, the economy contracted by 29.1%.

Despite the war, the Ukrainian authorities ensured predictability, transparency and stability-orientation in policy-making. In light of the wartime conditions, the National Bank of Ukraine (NBU) took decisive and appropriate actions to maintain financial stability and bolster confidence in the domestic currency, particularly by suspending the inflation-targeting framework, fixing and devaluing the exchange rate, and raising its main refinancing rate. In addition, the banking sector remained fully operational and stable with ample liquidity, also thanks to previous reforms and supervisory forbearance measures. Although the full impact of the war on the quality of assets in the financial sector remains to be seen, the ratio of non-performing loans has been high and appears to have increased more recently.

The state of public finances has deteriorated substantially due to the duration and cost of the war and its impact on economic activity, undoing the considerable fiscal consolidation and corresponding reduction in the debt stock that had been achieved in previous years before the COVID-19 pandemic. Tackling this, notably by introducing measures to increase the revenue base, will be of key importance going forward. Furthermore, the state footprint on the economy, already high before the war, has increased. The significant internal and external population displacements, together with capital destruction, affected the labour market, which was characterised by a relatively low activity rate and somewhat higher unemployment rate compared to the EU, already before the invasion. Despite progress, the functioning of product markets continues to show a number of weaknesses, particularly related to institutions, corruption, contract enforcement, and competitiveness, which are reflected in a large informal economy. At the same time, this assessment also highlights the determination and capability of the authorities to navigate through the exceptional challenges Ukraine is facing.

In order to improve the functioning of the market economy, and taking into account the ongoing war and ensuing reconstruction efforts, Ukraine should in particular:

- continue to implement prudent policies underpinning macroeconomic stability. Ensure adequate resources to maintain core state functions, while ensuring the sustainability and improving the transparency of public finances. Safeguard the stability of the financial sector, including by addressing the growing presence of non-performing loans;
- take measures to improve the business environment with a view to prepare for reconstruction efforts, in particular by reducing regulatory and administrative burden, addressing issues related to corruption and the rule of law and enhancing the anti-monopoly framework. Take steps to enhance the management of State-Owned Enterprises in line with OECD recommendations, while intensifying privatisations;
- develop and implement a strategy to attract and reintegrate displaced persons in the Ukrainian labour market and those whose participation has been disrupted by the war as well as to address structural labour market issues and, take steps to tackle informal employment, and increase labour market participation.

Economic governance

The government has shown a strong commitment to implement much-needed reforms to encourage growth and financial stability. The authorities of Ukraine have demonstrated a strong commitment to pursue stability-oriented macroeconomic policies since the Maidan

Revolution of Dignity in 2014. As part of the reform requirements outlined in successive IMF programmes, important actions were taken to reinforce the stability of the banking sector, including measures to enhance banking supervision and resolution mechanisms, as well as reforms to improve the independence of the National Bank of Ukraine. Ukraine has also taken steps to bolster the transparency of public finances and institutions, in particular by publishing budgetary information, improving the public procurement system and introducing asset reporting requirements for public officials. Additional reforms are needed to further guarantee the transparency of public finances, as well as prevent interference from vested interests, fight corruption, strengthen the rule of law, and improve the business environment.

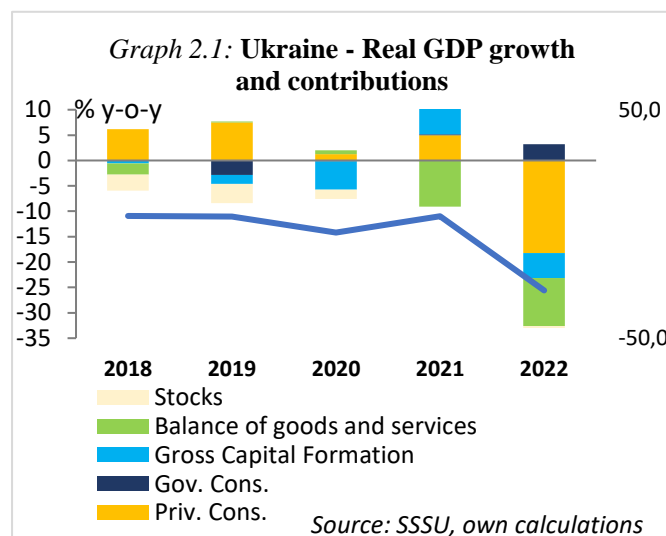
The policy and regulatory response to the exceptional war situation was overall appropriate, although it has had an impact on the application of market principles and government involvement in the economy. Throughout Russia's full-scale invasion, the Ukrainian authorities demonstrated commendable resilience and adaptability in implementing policies to maintain macroeconomic and financial stability. Nevertheless, the current context has inevitably led to some centralisation of power and a reduction in the independence of institutions responsible for economic policy. The central bank appropriately suspended the inflation-targeting framework, moved to a fixed exchange rate regime and introduced supervisory and regulatory forbearance measures (all of which helped safeguard financial stability and bolstered confidence in the domestic currency)⁷. In addition, the NBU directly financed about one third of the government's funding needs in 2022, although this practice ceased in early 2023, reducing risks for price and external stability. The government also introduced price controls on essential goods and communal services, and many taxes were temporarily reduced. Support schemes to households and businesses have been expanded and deregulation efforts have continued, which helped improve the business environment. Overall, the government has shown a remarkable degree of continuity, including through the design of a seven-pillar national recovery and development plan, presented in May 2022 and followed-up by a government priority action plan for the current year approved in March 2023. The continuous and evolving engagement with the IMF, as well as with the Commission under the Macro-Financial Assistance Plus instrument (MFA+), have also been an important anchor for further reform efforts.

Macroeconomic stability

Before Russia's full-scale invasion, Ukraine's macroeconomic performance was rather weak, owing to low levels of foreign and domestic investment, a declining population, and a reliance on low value-added sectors. In 2021, total investment in Ukraine accounted for 13.8% of GDP (EU average of 22.1%). Foreign direct investment (FDI) has remained weak at an average of 2.8% of GDP over 2017-2021. A decline in population, fuelled by low birth rates and substantial emigration, has not only reduced Ukraine's total population but also decreased the share of the working-age population from 70% in 2011 to 67% in 2021. This has hindered economic growth and added to fiscal pressures by increasing the dependency ratio. In addition, Ukraine's economy is reliant on low value-added sectors – especially agriculture and mining – which makes the economy vulnerable to fluctuations in global commodity prices and weighs on its living standards. As a result, Ukraine has made limited gains in income convergence with the EU average over the past decade, with GDP per capita standing at 29.3% of the EU average

⁷ However, conscious of the long-term impacts of a fixed exchange regime on the economy and on the effectiveness of monetary policy, the NBU adopted in June 2023 a strategy to ease FX controls and move towards a more flexible exchange rate once conditions allow. On 3 October 2023, the NBU shifted to a managed float system for the hryvnia, marking the first step in liberalising the exchange rate.

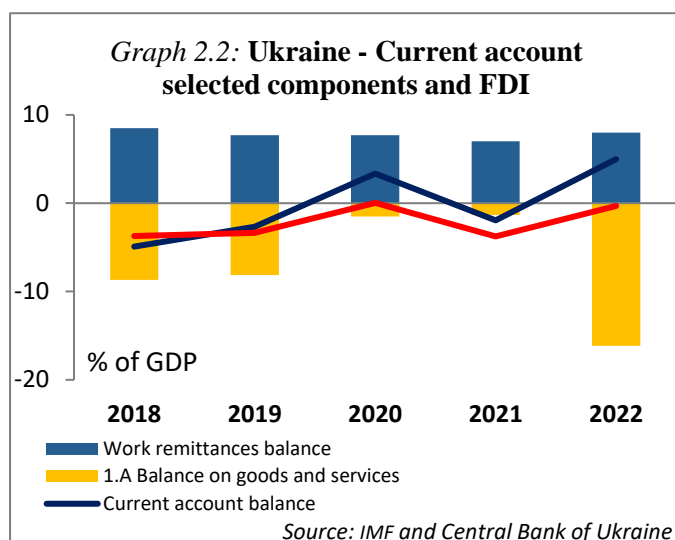
in 2021 in terms of purchasing-power parity (PPP). Income inequality remains low compared to the EU and has been stable over the past decade, with the GINI coefficient reaching 25.6 % in 2020, compared to an average of below 30% in the EU.



Ukraine's economy has been profoundly impacted by Russia's war of aggression. After a milder-than-expected COVID-19 recession and an incomplete rebound in 2021, real GDP growth collapsed in 2022 (-29.1%, somewhat more resilient than initially expected). Population displacement, supply-chain disruptions, inflationary pressures, and territorial losses due to the war took a toll on economic activity in 2022, especially on consumption and investment, which fell by 27% and 34%, respectively. Net exports also declined considerably as supply bottlenecks

weighed on exports and the spending of Ukrainian refugees abroad boosted import growth. Despite growing by 18% in real terms due to war-related spending, the contribution of public consumption to GDP growth remained small. In 2023, the economy has started to recover somewhat despite continued Russian attacks. This is thanks to the resilience of critical energy infrastructure, some positive signs of a partial return of refugees, and the ability of businesses and households to adapt to the war economy.

The current account turned into a surplus following Russia's invasion. In the 5 years prior to the pandemic, Ukraine's registered current account deficits of 2-3% of GDP mainly due to a sizeable negative trade balance. This was offset in part by traditionally strong remittances inflows to Ukraine. The pandemic caused the current account to swing into a small surplus due to a compression of import volumes following the sharp contraction in economic activity over the course of 2020. Russia's war of aggression against Ukraine led to an unprecedented trade deficit of 16.2% of GDP in 2022, which was mainly driven by a strong contraction in the exports of goods (-35.2%) due to production disruptions as well as transport and supply-chain difficulties. Still, the current account posted a record surplus of 5% of GDP, thanks to a strong surplus of both the primary and the secondary income balance, driven by exceptionally high foreign official grants and remittances inflows, which stood at 5.4% and 15.7% of GDP, respectively.



Foreign investment has fallen markedly following the outbreak of the war. After a notable recovery in 2021, foreign investment inflows have collapsed since the outbreak of the war (-92% in 2022). Portfolio investment in Ukraine registered an outflow of 1.3% of GDP in 2022, while other investments in the country reached 8.5% of GDP, driven primarily by the additional government borrowing. The financial account registered an aggregate outflow of USD 11.1 billion (6.9% of GDP) in 2022. The gap to the current and capital account inflow of

USD 8.2 billion was financed through the draw-down of the official international reserves by USD 2.9 billion.

The National Bank of Ukraine (NBU) has ensured financial stability and strengthened confidence in the domestic currency. Prior to the war, Ukraine implemented welcome reforms to enhance the autonomy and governance principles of the NBU, which successfully helped reduce inflation from 12.6% in January 2017 to 3.2% in January 2020. Following the Russian full-scale invasion, the NBU introduced swift actions to ensure financial stability and strengthen the confidence in the domestic currency. These included suspending the inflation-targeting framework, fixing and devaluing the exchange rate, and raising its main refinancing rate. While official reserves suffered a depletion in the first months of the war, international financial support helped restore them to their highest historical level in July 2023. The positive trends in terms of improved expectations and confidence in the national currency allowed the NBU to refrain from a further increase in its policy rate beyond 25% (which was on the contrary cut by 300 basis points in July 2023 and 200 basis points to 20% in September 2023) or from further devaluing the hryvnia (beyond the 25% in July 2022). The NBU took additional confidence-enhancing measures in late 2022 and early 2023, as a result of which the spread between the market and official exchange rates narrowed down to a rather marginal 4%. The central bank is fully committed to return to an inflation-targeting framework in a flexible exchange rate regime as soon as circumstances permit it, as highlighted in the recently adopted FX strategy, as well as in the decision of the NBU on 3 October 2023 to move to a managed exchange rate regime.

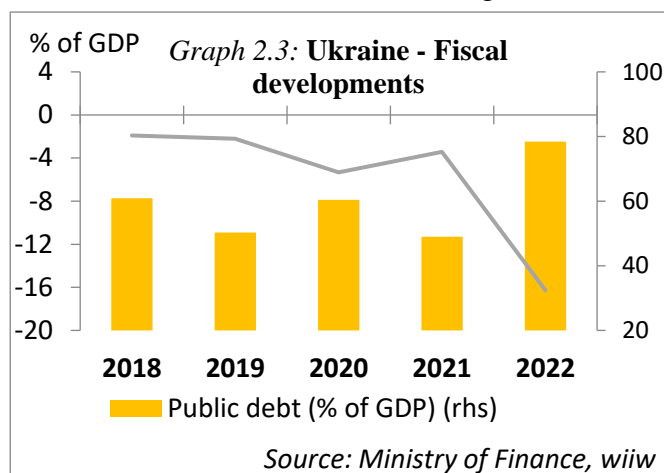
Inflation declined strongly in 2023 after reaching a 6 year high in 2022. After some moderation in 2020, inflation increased steadily throughout 2021, mainly due to increasing global commodity prices – particularly for energy and food – as well as supply bottlenecks both in Ukraine and abroad. The war exacerbated inflationary pressures, causing further disruptions in supply chains, a decrease in the supply of some goods, and higher production costs. Coupled with considerable monetary financing by the central bank during the war, these factors led to a strong and steady rise in inflation over 2022, reaching 26.6% in December 2022. Inflation has nevertheless eased visibly since, reaching 8.6% in August 2023, due to increased supply of food and fuels, a rapid partial recovery of the energy system from Russia's attacks, which reduced energy prices, as well as skilful policymaking by the NBU. Indeed, conscious of the adverse effects of monetary financing, including on macro-financial stability, the NBU has discontinued this practice since the beginning of 2023 and the government has relied on taxation, foreign assistance, and financing mobilised from the domestic market. This helped

reduce inflation expectations and ease pressures on core inflation.

Public finances deteriorated markedly, reversing the gains from fiscal consolidation prior to the war. The state of public finances has deteriorated markedly due to the duration and cost of the war, making Ukraine lose access to international debt markets and rely on foreign assistance and domestic markets to finance its funding needs. Thanks largely to massive official foreign grants, the 2022 general government deficit was contained to 16.3% of GDP. Driven by spending on defence and public order, overall public expenditure increased by 65% in 2022. While tax revenues contracted by almost 8% in 2022, total public revenues increased by 32%, primarily thanks to the massive foreign grants. The war has led to a reverse in gains from the

considerable fiscal consolidation that had been achieved since 2017, during which public debt had decreased from around 81% of GDP in 2016 to 49% of GDP in 2021. Driven by the sizeable borrowing but also reflecting the decline in nominal GDP, total public debt reached 78.5% of GDP at end-2022. The substantial deterioration in public finances highlights the need to execute the budget within the available resource envelop in the short-term, complemented by important efforts to increase the revenue base over the medium term. In addition,

in the area of public financial management, building on significant improvements in the years before the war, further priority reform areas include ensuring the availability of fiscal data, restoring the medium-term budgetary framework, improving public investment management, and reinforcing the mandate and functionality of the supreme audit institution. Improving the monitoring and management of fiscal risks, including those related to state-owned enterprises, public guarantees and age-related expenditure, is also an important reform priority.



Functioning of the product markets

Business environment

Weaknesses in the business environment led to low levels of investment. Ukraine's competitiveness is weak, primarily owing to weak institutions, the prevalence of market dominance and an ineffective anti-monopoly policy. Nevertheless, some progress in deregulating its economy has been made, where the cancellation of almost one fifth of the regulatory acts under review in the period 2016-2020 was a significant step to streamline regulation. Despite a moderate regulatory burden and no significant legal barriers to market entry, corruption, ongoing geopolitical tensions and inefficient contract enforcement discourages private investment and cross-border business relations, including FDI.

To allow companies to operate during the war, the authorities have lifted certain regulatory requirements for the period of application of the martial law and continued to progress with a number of broader reforms. Against the backdrop of a highly uncertain outlook, business activity was supported by further steps towards deregulation and reducing administrative burden. As of August 2022, it is possible to set up a limited liability company in an automatic way on the basis of a model charter, without the need to go through a state registration authority. Similarly, digital tools have been deployed successfully to facilitate the functioning of the court system. The Rada also adopted a law that introduces a simplified

bankruptcy procedure that avoids summoning the parties, while simplifying the insolvency officers' work and providing for the creation of an automated information system.

The informal sector still constitutes a substantial share of Ukraine's economy, estimated at 30-40% of Ukraine's GDP. This significantly impacts tax revenues, exacerbates poor working conditions by hindering access to social protection, distorts competition and hampers the effectiveness of policy measures. Several factors contribute to the persistence of this phenomenon: despite deregulation, there is still a complex and inefficient regulatory framework; weak law enforcement; and a general lack of trust in governmental institutions. Furthermore, corruption creates a volatile business environment, providing a strong incentive for businesses to operate informally.

State influence on product markets

The war has exacerbated the state's footprint in the economy. The Ukrainian state already had a substantial economic footprint in peace times. In 2021, the public sector accounted for 18% of gross value added (down from 21% in 2020) and 32% of gross fixed capital formation (down from 35% in 2020). Ukraine's more than 3 256 state-owned enterprises (SOEs) at central level accounted for one-tenth of output and 18% of employment before the war, with an average return on equity at 0.3% in 2019 far below that of the private sector (8%). Furthermore, SOEs have held a dominant role in many markets, stifling competition and making it difficult for new firms to enter. In 2022, for which detailed national accounts are not available yet, the relative share of the sector of public administration and defence jumped up to 24% of GDP (from 7.2% in 2021), while the share of government consumption more than doubled to 38.2% of GDP. The importance of many public companies, e.g. the railways, the energy provider and the post office, strengthened as a result of their crucial role in the emergency response to the full-scale invasion.

Privatisation and restructuring

Privatisation and corporate governance of state-owned enterprises are a significant challenge for economic policy. Prior to the war, Ukraine had been quite successful in privatising small property and production assets, notably through the electronic auctions platform ProZorro. In July 2022, the Rada adopted a law to simplify the procedure for small privatisations, which have resumed since then. Investors showed interest in two ports, several distilleries and other small real estate pieces. On 30 May 2023, a law was adopted that inter alia unblocks large-scale privatisations, which have been suspended since the beginning of the war, and where progress had previously been limited. The law also amends the structure of the State Property Fund of Ukraine (SPFU). The law also makes significant changes vis-à-vis sanctioned property, which will be transferred to the SPFU for management and/or privatisation, sale or lease. As far as SOEs are concerned, while progress on the corporate governance reform was recorded before the war, it is not yet in line with OECD standards to ensure de-politicised, professional and transparent management.

Functioning of the financial market

Financial stability

Although the already high non-performing loans ratio has increased during the war, financial stability has been preserved thanks to swift policy action by the National Bank of Ukraine. Following the 2014-2016 banking crisis, the National Bank of Ukraine strengthened proper oversight of the banking sector, which was characterised by a high level of non-performing loans. Nevertheless, after two rounds of asset quality reviews, bank closures, and recapitalisations, non-performing loans started to decrease, declining from 58%

in 2017 to a still very high 30% in 2021. In response to the full-scale invasion, the National Bank of Ukraine took steps to safeguard banks' liquidity and the confidence in the system, which has remained strong as evidenced by the increase in deposits by 35% y-o-y by end-February 2023. The banking sector has remained stable and with ample liquidity, although Non-Performing Loans ratio increased to 38.1% by end-2022 in light of war-related impacts on economic activity and collateral. Despite building additional provisions for about USD 3.5 billion, banks remained profitable in 2022, owing to high liquidity ratios, which yield significant interest income in a high interest rate environment. With a market share of close to 50% over the last five years, the four state-owned banks dominate the banking sector.

Access to finance

Lending to the private sector remains low. Ukraine's financial sector is predominantly bank-based and the total stock of bank lending to the private sector stood at just 20% of GDP in 2022 (28% in 2021), much below the EU average. Banks showed strong resilience to the war situation. This was thanks to initiatives such as Power Banking (guarantee of service despite power outage) and national ATM roaming (no inter-bank withdrawal charges), although both risk appetite and loan demand have decreased against the backdrop of rising interest rates. Banks' aggregate portfolio contracted by 4% in 2022, with corporate loans almost flat while loans to households declined by 13%. To ease borrowers' situation, the government has simplified the conditions for benefitting from debt restructuring and extended access to the programme of 'Affordable Loans 5-7-9%'. Even during the war, surveys do not point out access to finance as an impediment to conducting business. Capital markets and non-bank financial intermediation are in a very early stage of development.

Functioning of the labour market

Ukraine's labour market suffers from labour and skills shortages, structurally high rates of young people not in education, employment or training (NEET), as well as informal employment. Despite witnessing a decline in labour supply, the unemployment rate has fluctuated at around 9% over the past five years. Labour force participation stood at 62% in 2021, with a low and decreasing rate of participation among women. The share of young people (aged 15-24) who were NEET stood at 15.5% in 2021. Despite high formal educational attainment, skill mismatches persist, which impacts productivity. Improvements in active labour market policies could help increase employment and reduce skill gaps by training workers with the skills that employers need. Informal employment was estimated at 20% of all employed in 2021.

The war has had a profound impact on the labour market and exacerbated pre-existing structural challenges. The massive outflow of people to other countries, an estimated 5 million internally displaced persons, and substantial job destruction in the wake of the invasion have reshaped the labour market landscape. At the macroeconomic level, the most important change was not the increase in the unemployment rate, but the dramatic fall in the labour force. Around 6.2 million people left the country, of which around 2.1 million were of working age. In addition, it has been estimated that around two thirds of refugees at working age have an advanced education. Coupled with the physical and mental impacts of the war on workers, this could exacerbate earlier trends of decreasing labour supply caused by a declining population at working age. Additionally, the surge in internally displaced persons has intensified skill mismatches and labour shortages in regions experiencing a pronounced workforce exodus and higher unemployment rates while fostering informal employment in recipient regions. Despite nominal wages remaining roughly constant, the hike in inflation has led to a collapse in real incomes for households.

2.3.2. The capacity to cope with competitive pressure and market forces within the Union

Due to the impacts of Russia's ongoing full-scale invasion as well as the pre-existing structural economic challenges,, Ukraine is at an **early stage of preparation** in terms of its capacity to cope with the competitive pressure and market forces within the EU. The war has severely damaged the country's capital infrastructure and caused a massive human exodus that has deeply affected the economy. Investment as a share of GDP was already very low before the war and infrastructure remained underdeveloped, especially trade-related infrastructure. Investment in research and innovation has been low, and educational outcomes have not met the needs of the labour market.

The structure of the Ukrainian economy changed little in the five years before the start of the Russian war of aggression and remained concentrated in sectors with low added value. Even before the war, the stock of FDI was well below the EU average, reflecting persistent weaknesses in the business environment and high perceived corruption. While trade integration with the EU has been advancing recently, including thanks to the implementation of the Deep and Comprehensive Free Trade Area, it remains low, while the openness of the Ukrainian economy overall had been decreasing before the invasion.

At the same time, the international response in support of Ukraine has been massive over the last year. Future reconstruction could also help support modernization and allow Ukraine to specialise in higher value-added chains and strengthened competitiveness.

To improve competitiveness and support long-term growth, Ukraine should in particular:

- continue and, when the situation allows for it, accelerate repairs and rehabilitation of infrastructure, in particular the restoration of energy transmission and generation capacity, including from renewable energy sources, as well as utilities, transport infrastructure, schools and health facilities;
- take measures to facilitate investment, including for reconstruction, in particular by improving public procurement processes, reducing barriers to project implementation, reforming planning processes and strengthening the administrative capacity needed for investment management;
- take steps to improve the quality of education and training, including for Ukrainians returning from abroad, to ensure outcomes align with the needs of the labour market, including the skills required for reconstruction. Ensure that the education system is also equipped to re-integrate Ukrainians returning from abroad.

Education and innovation

Ukraine invests a relatively large share of its GDP in education, which is not proportionately reflected in outcomes. The country invests a higher proportion of GDP in education than the EU. This has contributed to high levels of formal educational attainment, with 54% of the working-age population in 2020 enrolled in or having completed tertiary education, nearly double the EU average. A large part of this share is accounted for by vocational education and training rather than traditional academic degrees. Ukraine ranked 39th out of 77 countries in the latest round of PISA reading assessments in 2018, which is low compared with its investment in education.

Despite relatively high rates of investment and formal educational attainment, there is still a mismatch between the skills of the workforce and those demanded by employers. Nearly 38% of firms in Ukraine identified an inadequately educated workforce as a major

constraint, which is much higher than the EU average. This rate increases to nearly half of firms with at least 10% foreign ownership. Compared to relatively large investments in vocational training within the education system, spending on active labour market policies to mitigate the skills mismatch remains very low at just 0.03% of GDP in 2017.

The war has prolonged the pandemic-related disruptions to the continuity of education and poses a serious challenge to educational outcomes in the medium term. As of February 2023, an estimated 10% of all educational institutions in the country had been damaged or destroyed, and around 4.6 million children had been forcibly displaced by the war. According to the Ministry of Education and Science, only 32% of primary and secondary-school students are in full-time, face-to-face education as of June 2023.

Investment in research and development remains low. Total expenditure on research and development, which has been declining over the last 10 years, reached 0.29% of GDP in 2021 compared to an EU average of 2.2%. Over half of R&D spending comes from the private sector. According to the European Innovation Scoreboard 2022, Ukraine is regarded as an emerging innovator.

Physical capital and quality of infrastructure

The state of Ukraine's physical infrastructure reflects a persistent lack of investment in the years before the war and will require significant investment in order to support recovery and economic growth. The average ratio of gross fixed capital formation has fluctuated at around 17% of GDP since the Maidan Revolution, which is about half of the investment effort of similar emerging economies. FDI inflows averaged 2.2% of GDP over the five years from 2018, falling to 0.3% of GDP in 2022. The total stock of pre-war FDI remained low at around 31% of GDP. The country ranks very low on the quality of trade-related infrastructure and around a quarter of firms identified transportation as a major constraint in the 2019 World Bank Enterprise Survey. These challenges have been exacerbated by war-related disruptions to export routes including in the Black Sea. Ukraine has a highly developed gas transmission system that is also closely integrated into the European gas network, though a significant part of the country's overall energy generation and transmission infrastructure has been damaged in the war.

In terms of digitalisation, Ukraine has made remarkable progress in recent years, though war-related damage has disrupted connectivity. In 2021, 83% of Ukrainian households had internet access at home, representing an increase of over 20 percentage points in just three years. Internet connectivity was a key driver of pre-war economic growth, in particular for the IT industry. Good digital connectivity has supported the country's resilience during the war.

The destruction of physical capital caused by the war has been immense. According to the Rapid Damage and Needs Assessment, direct damage in the first year of the war is estimated at EUR 150 billion, with the housing (38%), transport (26%) and energy (8%) sectors having suffered the greatest damage. Total reconstruction and recovery needs were estimated in February 2023 at EUR 380 billion. This encompasses steps towards becoming a modern, low-carbon, disaster- and climate-resilient country in view of becoming an EU Member State and takes into account inflation, surge pricing commonly seen during mass construction, higher insurance premiums, etc. The destruction of the Kakhovka Dam in June 2023 caused severe economic and environmental loss. Russia has occupied, damaged or destroyed a large part of Ukraine's installed power capacity, thousands of kilometres of electric, gas and heating networks, transformers, compressor stations, heat-only boilers and other infrastructure facilities. Emergency repairs have continued with international support, which together with exceptional efforts by the transmission system operator Ukrenergo have kept the grid

operational. About a quarter of agricultural land could not be used for production before demining has taken place.

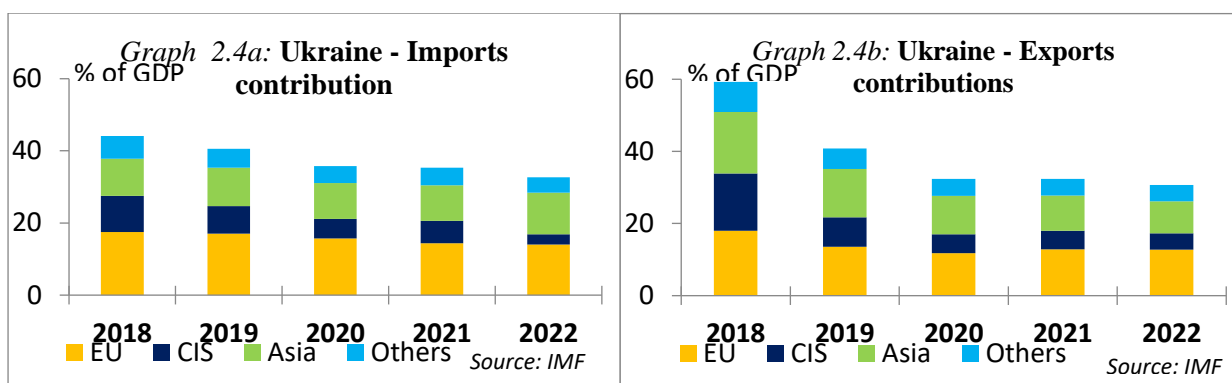
Sectoral and enterprise structure

The structure of the Ukrainian economy changed little in the five years before the start of the war and remained concentrated in sectors with low added value. Agriculture accounted for just over 12% of GDP (EU average: 1.6% of GDP) and over a fifth of total employment in 2021. The share of manufacturing in GDP has been declining persistently in recent years from 14.4% in 2016 to 8.6% in 2022 due in part to labour market pressures resulting from high emigration, electricity tariff reform as well as the impact of the war in Donetsk and Luhansk and the COVID-19 pandemic. The ICT sector, where Ukraine had been developing a comparative advantage, kept its relative share in output almost intact at 5.2% of GDP in 2022. Before the war, the trade, agriculture and industry sectors accounted for almost 60% of all employment, suggesting that these sectors were lagging in labour productivity relative to the other parts of the economy.

Nearly all businesses in Ukraine (99.98%) are small and medium-sized enterprises (SMEs), with access to finance remaining an obstacle for firms of all sizes. In 2020, SMEs employed 81% of workers and accounted for 62.6% of GDP and over a quarter of exports. Access to finance remains a key obstacle for businesses of all sizes and was identified by nearly half of firms as a major constraint in 2019, five times the rate in the EU. The interest rate spread for SMEs compared to large firms had been rising before the war, though SMEs account for an increasing share of outstanding loans (61% in 2020) and represent nearly one-third of new lending each year. The government strategy to boost SME development and open access to finance expired in 2020, and an updated strategic policy framework remains to be developed. The government introduced an affordable loan programme to improve access to bank lending for small firms. This has continued and expanded during the war, with an increase in the maximum loan amount and a reduction in interest rates to 0% for the duration of martial law.

Economic integration with the EU and price competitiveness

The overall openness of the economy had been shrinking even before the war, with foreign trade relative to GDP contracting from 108% in 2015 to 88% in 2022. Despite this general trend, economic integration with the EU progressed further thanks to the implementation of the Association Agreement and the Deep Comprehensive Free Trade Agreement (DCFTA). Ukrainian companies have been actively using the opportunities of the DCFTA, with 27% more businesses exporting to the EU in 2022 than in 2016. The share of exports to the EU, which consisted mostly of agricultural products, metals and minerals, increased from 28% in 2015 to 36% in 2021. The share of imports from the EU, which comprised primarily machines, chemicals and minerals, also strengthened from 36% in 2015 to 41% in 2021. The EU is the largest source of FDI in Ukraine, accounting for three-quarters of FDI inflows in 2021. Thanks to the temporary suspension of all tariffs, the agreement on road transport and the effective implementation of logistical Solidarity lanes since the start of the war, trade integration with the EU has progressed further, with 39% of Ukrainian exports going to the EU in 2022 and about half of Ukrainian imports coming from the EU.



On price competitiveness, unit labour costs remained relatively low and stable in Ukraine between 2014 and 2018, **remaining less than a third of those in neighbouring EU Member States in US dollar terms.**

2.4. PUBLIC PROCUREMENT, STATISTICS, FINANCIAL CONTROL

Chapter 5 – Public procurement

EU rules ensure that the public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.

Overall, Ukraine has **some level of preparation** in the area of public procurement. **Limited progress** was made during the reporting period in the face of the Russian war of aggression against Ukraine and the application of martial law. Further legal alignment with the EU *acquis* is needed, including on concessions and public-private partnerships (PPPs), exclusion, selection, use of the most economically advantageous tender criterion, as well as defence procurement.

In the coming year, Ukraine should in particular:

- make progress in aligning the laws on public procurement with the EU *acquis*, including on concessions and PPPs;
- proceed with the appointment of public procurement commissioners in the Anti-Monopoly Committee of Ukraine;
- ensure that exceptions to the laws on public procurement are kept to the minimum required under martial law.

Institutional set-up and legal alignment

The **legal framework** on public procurement is partially aligned with the 2014 EU directives on public procurement. Further alignment is needed, including on the scope of and exemptions from public procurement legislation, mixed contracts and value estimation, exclusion, selection and award criteria. This includes the removal of fixed weights for the price criterion and mandatory use of e-auctions, as well as adjustment in the use of e-catalogues. The Law on concessions was significantly modified in 2019, but still does not comply fully with EU requirements. The defence procurement Law, adopted in 2020, is partially aligned with the EU Directive on defence procurement.

An amendment to the Law on public procurement, which entered into force in July 2022, introduced temporary domestic content requirements for a period of ten years for selected machines and equipment. However, public procurement in connection with Ukraine's international commitments is exempted from domestic content requirements.

In light of the Russian war of aggression against Ukraine, the application of martial law in Ukraine and its duration, Ukraine has introduced temporary exceptions from public procurement legislation, including the use of direct awards and simplified procedures, by way of resolutions.

An appropriate institutional framework to implement the public procurement policy is in place with adequate powers and functions. The role of the Authorised Body, responsible for defining the public procurement policy, is performed by the Ministry of Economy of Ukraine and its Public Procurement and Competition Policy Department; concessions and PPPs fall under the responsibility of the Department on Investments, Innovations and Intellectual Property of the Ministry of Economy.

Implementation and enforcement capacity

Despite the ongoing military aggression, the authorities have ensured the continuity of operations in public procurement, including the use of the e-procurement system Prozorro. Based on the annual reports from the Ministry of Economy, the **public procurement market** represented 9.3% of GDP in 2022 against 17.1% in 2021 and 17.8% in 2020. There was therefore a notable decrease in 2022 due to the war.

On the **monitoring of contract awards and implementation**, negotiated procedures were suspended under martial law and replaced by direct award. The use of framework agreements and centralised procurement, especially at regional and local level, needs to be scaled up. Concessions and PPPs have remained very low as the required IT solutions have not yet been implemented following the relevant law introduced in 2019. In 2022, the State Audit Service (SAS) detected irregularities in 67% of monitored procedures, down from 78% in 2021 (this includes all types of irregularities). Public procurement control is complex and weak due to a lack of skilled staff, overlapping responsibilities, suboptimal quality of control and enforcement. Although expanding, SAS coverage of monitoring and the *ex post* internal audit of public procurement remains modest; while the system of risk indicators needs improvement. The contracting authorities need to continue to build **capacity to manage public procurement processes**. Professional standards, a professionalisation strategy and training policy based on an assessment of training needs, need to be put in place. Training currently remains voluntary, and no statistics are available on the number of trained staff.

Efficient remedy system

Legislation on the **right to legal remedy** is partially aligned with the EU *acquis*. The Antimonopoly Committee of Ukraine (AMCU) handles complaints about public procurement violations. Complaints related to violations of PPPs and concessions legislation are looked into by the administrative and commercial courts of Ukraine.

The **implementation capacity** of the AMCU remains insufficient. Before the war, the AMCU was heavily overloaded with complaints (14,828 cases in 2021 compared to 3,865 cases in 2022). Following the 2021 amendment to the AMCU law establishing commissions for the consideration of public procurement complaints four commissioners out of a maximum of ten envisaged were recruited in 2023.

The ongoing increase of the number of commissioners and the introduction of specialised commissions for public procurement is expected to increase the AMCU's capacity to resolve cases. However, its internal administrative capacity would also need to be expanded.

Chapter 18 – Statistics

EU rules require that Member States are able to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information.

Ukraine has **some level of preparation** in the area of statistics. **Limited progress** was made during the reporting period towards alignment with the EU *acquis*, including adoption of legislation to integrate the European Statistics Code of Practice. The administrative capacity of the institutions involved needs to be further strengthened and coordination among them improved. The publication of statistical information has been largely suspended while martial law is imposed. Data transmissions to Eurostat remained limited.

In the coming year, Ukraine should in particular:

→ strengthen the institutional independence and administrative capacity of the State Statistics Service of Ukraine (SSSU) and the coordination among relevant bodies to improve the quality of statistics;

→ adopt the national strategy for the development of Ukrainian statistics for 2024-2029;

→ increase the production and transmission of high-quality and timely data to Eurostat.

On **statistical infrastructure**, the Law on state statistics provides the legal framework for national statistics and regulates the rights and functions of national statistical bodies. The Law on official statistics, which strengthens the coordinating role of the SSSU and establishes the Statistics Council, entered into force on 1 January 2023. The SSSU is the recognised national statistical authority of Ukraine in charge of production of the official statistics. It operates under the Ministry of Digital Transformation. It coordinates the national statistical system, which also includes the Central Bank of Ukraine and the Ministry of Finance. The country is making preparations to establish a National Council of Statistics as a consultative body to the Cabinet of Ministers. Its exact tasks and role within the national statistical system should be clearly defined. Ukraine is in process of preparing a new national strategy for the development of Ukrainian statistics for 2024-2029.

Ukraine cooperates with and regularly submits limited data in several statistical domains to Eurostat on a voluntary basis. In connection with the World Bank's International Comparison Program, Ukraine carries out nearly all the surveys required under the relevant regulation, using the methodologies and classifications set out in the Eurostat-OECD Methodological manual on purchasing power parities.

On **classifications and registers**, the main classifications are in line with the EU *acquis* and are updated regularly. The State Statistics Service maintains the register of statistical units' classification of economic activities.

On **macroeconomic statistics**, annual and quarterly sector accounts are compiled using the classification of institutional sectors. Annual and quarterly indicators for GDP and its components use the production approach by income category and by end-use category. Ukraine needs to start submitting national accounts data to Eurostat. Transmission of European System of National and Regional Accounts (ESA) 2010 data to Eurostat is very limited. transmitted to Eurostat.

The Ministry of Finance compiles **government finance statistics** (GFS) based on the IMF's GFS Manual 2014, which differs substantially from the System of National Accounts 2008 and European System of Accounts 2010 in presentation. GFS or excessive deficit procedure statistics are not transmitted to Eurostat. Institutional arrangements need to be carefully reviewed to ensure statistical independence in the delineation of the general government sector and the recording of its operations.

On price statistics, the harmonised index of consumer prices is not calculated. Price statistics data is not transmitted to Eurostat.

Ukraine follows the methodology and conceptual framework for compiling the **balance of payments data** as set out in the relevant manual (BPM6, IMF, 2009). The dissemination of data on the monthly and quarterly balance of payments and international investment position corresponds to the timelines set by Regulation (EC) 184/2005.

On **business statistics**, in 2022, a new methodology for calculating indicators of demographic statistics of enterprises was developed in accordance with the requirements of European Business Statistics Regulation. Business statistics data is not transmitted to Eurostat.

On **social statistics**, the latest population census took place in December 2001. The next census is planned six months after the end of martial law. Ukraine annually provides to Eurostat the data for population statistics (POPSTAT) and demographic statistics (DEMOBAL) questionnaires. However, the data provided is only broken down by age and sex and without the necessary full metadata information. Ukraine needs to develop statistics in the area of asylum and managed migration. Social protection statistics are implemented and comply with Regulation on the European System of Integrated Social Protection Statistics. Labour market statistics on the structure of earnings, the labour cost index, and the labour cost survey have been partially implemented. During the martial law, state statistical bodies have not been conducting sample surveys of the population (households), including the survey of the labour force.

On **agricultural statistics**, a pilot agricultural census was conducted in 2012. The date of the next census will be decided after the war has ended. No data on agricultural statistics is transmitted to Eurostat.

On **transport statistics**, no transport data is provided under the regulated statistics. In 2022, work on identifying sources of administrative data, which are needed by the State Statistics Service for the implementation of European legislation in transport statistics, continued. Despite some data quality concerns, Ukraine is broadly in line with the *acquis* on **energy statistics**.

Environment statistics data is not transmitted to Eurostat. It is therefore not possible to evaluate compliance. Ukraine's self-assessment indicates the production of some statistics on waste and compilation of four environmental accounts.

Chapter 32 – Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the euro against counterfeiting.

Ukraine is at an **early stage of preparation** for implementing financial control. During the reporting period, Ukraine made **limited progress** by approving the financial audit methodology for external audits and establishing audit committees within central authorities.

In 2023, Ukraine should focus on the following recommendations:

- ensure tighter connectivity between public internal financial control (PIFC) reform and the Central Harmonisation Unit (CHU), and strengthen the CHU's role in enforcing delegated managerial accountability;
- strengthen the Accounting Chamber of Ukraine's (ACU) independence, mandate and ISSAI-based audit work through the approval of a new ACU law, and address the shortage of internal auditors;

→ increase cooperation between the ACU and Parliament to strengthen oversight of the state budget and its implementation.

Public internal financial control

The **strategic framework** for PIFC is part of the public finance management reform strategy for 2022–2025. The CHU monitors progress of both key areas in PIFC, internal control and internal audit. Around 100 key spending units are responsible for budget management, medium-term budget plans and performance management, as assigned by the budget code.

Managerial accountability is not yet fully incorporated into legislation and administrative practice. The Cabinet of Ministers has adopted basic principles of internal financial control that apply to spending units at all levels, but the principles do not go into details about lower-level management and employees. The implementation of basic managerial accountability mechanisms for central government bodies remains limited in practice.

The Budget Code of Ukraine regulates the requirement to establish **internal audit practice**. Internal audit units are mandatory in ministries, central executive bodies and other key spending units at central and regional level, but recommended in local self-government. In 2023, the legal requirement of installing audit committees at central public entities came into force. The capacity to effectively carry out internal audits is hindered by a shortage of internal auditors and high staff turnover. A certification commission has been established within the Ministry of Finance.

The **CHU** within the Ministry of Finance focuses on (i) developing internal control and internal audit functions; and (ii) coordinating activities related to internal audit and the evaluation and monitoring of internal control systems. Its tasks are described in the Budget Code and secondary legislation. The CHU aims to improve efficiency in its key tasks, for example by developing a web-based PIFC portal.

An enhanced cooperation between the Public Internal Financial Control institutions and the auditing institution with the law enforcement agencies could help in combating corruption.

External audit

The **Constitution** does not recognise **the independence** of the Accounting Chamber of Ukraine (ACU). The legal framework limits the ACU's mandate to audit public bodies and resources, including control over the national budget's revenues and use. It does not have the mandate to audit local budgets, state-owned businesses or off-budget spending. While the ACU reports on PIFC and internal audit findings to the Ministry of Finance, exemptions should be considered to maintain its autonomy. Although the ACU is instructed to apply international audit principles, this has led to flawed practices not aligned with international standards due to conflicts with Ukraine's constitution and laws.

The ACU has recently approved the methodology for financial audits, which aligns with international standards. The manual will be used in planned pilot audits in 2023. Methodologies for compliance and performance audits still require approval. In practice, the ACU focuses more on inspections than audits, as defined by international public sector auditing standards. There is also an overlap between the mandates of the ACU and the State Audit Service (SAS), with the latter having a broad mandate that includes defined public financial and IT audits.

The current **impact** of the ACU's **audit work** is minimal as its performance is measured based on the number of audits conducted rather than the actual impact of audit recommendations. There is no formal procedure for monitoring the implementation of ACU audit recommendations.

The ACU currently does not produce audit reports that are in line with recognised international standards. These are rather inspection reports that do not serve the purpose of promotion of reforms or identifying systemic issues.

Protection of the EU's financial interests

The national legislation ensures some degree of EU alignment. It addresses issues of corruption offences, money laundering and misappropriation. It is essential to establish and strengthen liability for fraud that impacts the EU budget. Ukraine should adopt a national fraud strategy for the protection of the EU's financial interest.

While an anti-fraud coordination service (AFCOS) has not yet been established to facilitate effective cooperation and exchange of information, including of an operational nature, with the European Anti-Fraud Office (OLAF), the State Audit Service (SAS) was nominated as the national contact point for cooperation with OLAF and the European Court of Auditors. Although its mandate is limited at the national level in this capacity. There is no corresponding AFCOS network of authorities involved in the protection of the EU's financial interests, but a national mechanism was designated through the setup of the Interdepartmental Coordination Council which needs to meet regularly to become effective. While Ukraine does not manage EU funds directly and thus does not report irregularities through the Irregularities Management System, the SAS has developed procedures to prevent and report violations, errors and fraud to relevant bodies, including the European Commission. Collaboration between OLAF and relevant institutions is on a case-by-case basis. The Bureau of Economic Security, which is responsible for investigating offences that impact Ukraine's financial interests, is under review, with the scope of its activities in protecting the EU's financial interests yet to be determined.

Protecting the euro against counterfeiting

Ukraine has signed and ratified the 1929 Geneva Convention for the Suppression of Counterfeiting Currency. The Centre for the Suppression of Counterfeit Banknotes and Coins, which is operated by the National Bank of Ukraine, manages, analyses and processes counterfeit euro banknotes and those from other foreign currencies withdrawn from circulation by Ukrainian banks. The responsibility for combating counterfeiting lies with the Bureau of Economic Security, the Ministry of Internal Affairs, the State Security Service and the prosecution service. However, the allocation of responsibilities among these bodies requires further clarification.

3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Russia's full-scale war of aggression against Ukraine has affected the latter's relations with enlargement countries and neighbouring member states, as well as its activities in regional formats.

Ukraine participates in the **Eastern Partnership** policy, and is part of a number of regional formats, including the Central European Initiative, the Black Sea Economic Cooperation, the Organization for Democracy and Economic Development and the Regional Cooperation Council. The level of engagement of Ukraine in some formats was strengthened, or was profoundly shaped such as in the Black Sea Economic Cooperation Organization without the participation of Russia. Some formats are being reassessed.

Ukraine maintains longstanding close ties with neighbouring **Moldova**. Bilateral political dialogue on all levels has improved further, following Moldova's strong support for Ukraine in the context of Russia's war, including through hosting a high number of refugees and actively supporting the export of Ukrainian products under the Solidarity Lanes initiative. Both

countries exchange on the EU accession process, on regional and security issues, the situation in the Transnistrian region and on management of water resources of the Nistru River, which remains a challenging topic.

Ukraine and **Georgia**, fellow “Association Trio” members have a strategic partnership since 2017, but relations are currently strained. While Georgia, continues to support Ukraine’s territorial integrity and sovereignty, including through co-sponsorship of Ukrainian UN resolutions and hosts a significant number of Ukrainian refugees, Ukraine considers Georgia’s position on the Russian aggression as ambivalent. Ukraine has criticised inter alia, the non-alignment of Georgia with EU sanctions against Russia and absence of military-technical cooperation. The ill health of former Georgian President Saakashvili, a Ukrainian citizen, had led to additional diplomatic tensions.

Türkiye is a strategic partner for Ukraine, with important bilateral economic and people-to-people ties, evidenced by a bilateral visa-free regime and a free trade agreement signed in February 2022 (not yet ratified). Bilateral relations have been bolstered since the beginning of Russia’s full-scale war by Türkiye’s technical, humanitarian and military support to Ukraine, by its co-sponsoring of UN resolutions in favour of Ukraine’s territorial integrity and sovereignty, by its closure of the Bosphorus and Dardanelles straits for the passage of military ships, as well as Türkiye’s mediation efforts contributing to prisoner of war exchanges and the Black Sea Grain Initiative. Türkiye has also been a prominent participant in Ukraine’s International Crimea Platform. Nevertheless, Türkiye has not aligned with EU sanctions against Russia in the context of the latter’s full-scale aggression. Ukraine has not joined all CFSP statements on Türkiye in the past.

The Ukrainian authorities have sought to maintain and prioritise effective cooperation and close diplomatic ties with neighbouring EU Member States, both in the context of the war of aggression – determined in large part by the support of individual countries – and in the context of Ukraine’s prospective EU integration.

In the Western Balkans, Ukraine’s relations with **Albania** remain good. Albania has sponsored or co-authored all resolutions in support of Ukraine during its non-permanent membership (2022-2023) of the UN Security Council.

Bosnia and Herzegovina supports the territorial integrity and sovereignty of Ukraine, condemning Russia’s war of aggression. Bilateral relations are generally good but have been affected by certain statements on Russia’s role in Europe and significant hindrances, due to political contestation, in the implementation of restrictive measures against Russia. The two countries enjoy the visa-free regime. A number of agreements are in place, including on trade and on investment protection. Trade flows remain low.

The ties between Ukraine and **North Macedonia** are strong and deepening through political dialogue and diplomatic support as well as military assistance in the face of Russia’s full-scale war. A bilateral free trade agreement was revised and upgraded in 2022, and North Macedonia declared its support for Ukraine as a priority for its Chairmanship of the OSCE in 2023.

Ukraine-**Montenegro** relations are equally strong, bolstered by the latter’s continued support in UN fora as well as on sanctions, trade, technical and military assistance.

Ukraine-**Serbia** relations have been challenging since 2014 by Ukraine’s perception of limited Serbian support in the face of Russian aggression, in particular as regards Serbia’s absence of alignment with EU common foreign and security policy restrictive measures. Still Serbia voted in favour of UN General Assembly resolutions in support of Ukraine’s territorial integrity and sovereignty and has confirmed this support at the Presidential level. Serbia is also Ukraine’s

first trade partner in the Western Balkans, while negotiations on a free trade agreement still need to be concluded.

Ukraine has not recognised the independence of **Kosovo*** but has indicated continued support for EU-facilitated dialogue between Belgrade and Pristina. Ukraine also participated in the NATO Kosovo Force mission until 2022, when it withdrew its contingent of servicemen and military equipment. Kosovo has decided on a voluntary basis to support all Declarations by the High Representative on behalf of the EU and has aligned with EU restrictive measures, including all those related to Russia's aggression against Ukraine.

Hungary participates in initiatives such as Grain from Ukraine facilitating Ukrainian food exports and provides financial and humanitarian support to Ukraine. However, relations continue to be affected by Ukrainian legislation relating to persons belonging to national minorities, including the implementation of the recommendations of the Venice Commission on education, state language, use of minority languages in public life, administration, media and books.

Poland has become one of Ukraine's closest strategic partners in the context of Russian war of aggression and has been providing vital political, humanitarian, economic, technical and defence assistance. Poland also continues to host big number of Ukrainian refugees. The introduction of exceptional and temporary preventive measures on imports from Ukraine to the European Union - which was requested by Poland, Bulgaria, Hungary, Romania and Slovakia - has caused tensions between the two countries. The measures were lifted on 15 September.

Ukraine and **Romania** continue to cooperate closely, with recently strengthened bilateral political dialogue. Romania participates in the Grain from Ukraine scheme and helps export Ukrainian food products through EU solidarity lanes. Romania hosted the Black Sea Security Conference under the auspices of Ukraine's Crimea Platform in April 2023. Like Poland and Slovakia, Romania has hosted logistical hubs for the delivery of EU humanitarian and civil protection support to Ukraine since early 2022. Also, a new trilateral cooperation format encompassing Ukraine, Moldova and Romania was established.

Ukraine's good relations with **Slovakia** have also been enhanced during Russian war of aggression. Slovakia provided political, military, financial and humanitarian assistance, as well as its international advocacy in support of Ukraine's policy goals. Slovakia hosts a significant number of Ukrainian refugees under the temporary protection. A joint commission on economic, industrial, scientific and technical cooperation was relaunched in December 2022.

Since early 2022, Poland, Romania and Slovakia have been hosting logistical hubs for the delivery of EU humanitarian and civil protection support to Ukraine.

Relations with **Bulgaria** were bolstered by Bulgarian political, financial, military and humanitarian aid to Ukraine, as well as growing economic ties. They were also nurtured by Bulgaria's participation in EU solidarity lanes and the Grain from Ukraine initiative.

4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

CLUSTER 2: INTERNAL MARKET

This cluster covers: the free movement of goods (Chapter 1); freedom of movement for workers (Chapter 2); right of establishment and freedom to provide services (Chapter 3); free movement

* This designation is without prejudice to position on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.

of capital (Chapter 4); company law (Chapter 6); intellectual property law (Chapter 7); competition policy (Chapter 8); financial services (Chapter 9); and consumer and health protection (Chapter 28).

This cluster is key for Ukraine's preparations for the requirements of the EU's internal market and is of high relevance for the implementation of DCFTA. Ukraine is moderately prepared in the area of free movement of goods and is in between some and moderate preparation in the area of free movement of capital. Ukraine has some level of preparation in most areas of the internal market, namely in the area of right of establishment and freedom to provide services, competition policy, company law, intellectual property law, financial services and consumer and health protection. In the area of free movement of workers, Ukraine is at an early stage.

In the area of free movement of goods, some progress was made on quality infrastructure. Regarding the freedom of movement of workers, no progress was made. Ukraine demonstrated some progress in the area of right of establishment and freedom to provide services, in particular by adopting a new law on postal communications. In the area of free movement of capital, some/good progress was made with prevention of money laundering. On company law, some progress was made by adopting legislative amendments aimed at further alignment on company law, financial statements and audit. Good progress was made in intellectual property law, thanks to the launch of the National Intellectual Property Authority and the adoption of the Law on copyright and related rights. On competition policy there was limited progress. On financial services some progress has been demonstrated by starting to unwind some emergency measures, implementing the *acquis* on corporate governance in banks, conducting risk-based supervision of banks and introducing legislation to promote sustainable and digital finance. Limited progress was made on consumer and health protection.

Chapter 1 – Free movement of goods

The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.

Ukraine is **moderately prepared** in the area of free movement of goods. **Some progress** was made during the reporting period on alignment with the EU *acquis* on quality infrastructure and on several “new and global approach” EU product *acquis* on products that may be covered under a potential agreement on conformity assessment and the acceptance of industrial products (ACAA) envisaged under the Deep and Comprehensive Free Trade Area.

In the coming year, Ukraine should in particular:

- complete the alignment of its legislation with the *acquis* on quality infrastructure, in particular on market surveillance;
- further align its legislation with the *acquis* on harmonised sectoral legislation;
- re-establish the inspection and enforcement capacity of the market surveillance authorities.

General principles

The DCFTA contains obligations for Ukraine to align its legislation with the EU *acquis* in the harmonised area. It also provides for the possibility to conclude an ACAA once Ukraine has completed the alignment process in selected product sectors in terms of legislation, institutions and standards. Preparations for an ACAA are currently underway. This includes the Commission's assessment of Ukraine's alignment with specific EU *acquis* in the harmonised area, as well as alignment with and the implementation and enforcement of the *acquis* on

product conformity assessment, notification and market surveillance, the institutional framework for the **production, distribution and marketing of industrial products**. Once concluded, an ACAA would enable Ukraine to participate in the single market on the same terms as an EU Member State for the selected sectors.

Non-harmonised area

In the **non-harmonised area**, Ukraine needs to start activities for screening national technical regulations for compliance with Articles 34-36 of the Treaty on the Functioning of the European Union.

Harmonised area: quality infrastructure

Ukraine's legislation on quality infrastructure is partially aligned with the EU *acquis*. Administrative structures already exist to deal with technical regulations, standardisation, conformity assessment, metrology, accreditation, and market surveillance.

On **standardisation**, Ukraine's implementing legislation is fully aligned with the EU *acquis*. The national standardisation body, UkrNDNC has 123 staff. It has been an affiliate member of the European Committee for Standardisation (CEN) and the European Committee for Electro-technical Standardisation (CENELEC) since January 2023. UkrNDNC has also been an observer to the European Telecommunication Standards Institute (ETSI) since 2018. Ukraine is a full member of the International Electro-technical Commission and of the International Organisation for Standardisation (ISO). National standards are adopted in conformity with European standards (CEN, CENELEC and ETSI standards). During the reporting period, 26 000 European and international standards were all adopted at once in December 2022. Ukraine still has conflicting old standards that need to be withdrawn.

Ukrainian legislation on the **accreditation** of conformity assessment bodies is partly aligned with the EU *acquis*. The National Accreditation Agency of Ukraine (NAAU) has 104 employees. Ukraine has 1 095 accredited conformity assessment bodies (722 testing laboratories, 38 medical laboratories, 31 calibration laboratories, 105 certification bodies of management systems, 14 certification bodies of persons and 115 inspection bodies). NAAU is a signatory of the European Cooperation for Accreditation Multilateral Agreement (EA MLA) in the areas of accreditation of testing and calibration laboratories, medical laboratories, product certification bodies, management system certification bodies, personnel certification bodies and inspection bodies. Ukraine is a full member of both the International Laboratory Accreditation Cooperation by having signed its Mutual Recognition Agreement and of the International Accreditation Forum by signing its Multilateral Agreement.

On **metrology**, four national metrology institutes operate in Ukraine. Calibration activities are performed by 24 state-owned enterprises. During the reporting period, the National Metrology Institute in Kharkiv and state-owned enterprises located in territories directly impacted by war faced substantial damage. The national metrology institutes in Kyiv and Ivano-Frankivsk maintain their capacity and are operational. Ukraine is a full member of the International Organization of Legal Metrology, the International Measurement Confederation and the International Bureau of Weights and Measures.

In the field of **market surveillance**, the State Service of Ukraine on Food Safety and Consumer Protection is operational with 140 employees. During the reporting period, due to the ongoing war the number of inspections decreased in line with provisions of the martial law. Market surveillance inspections and controls remain suspended, with only exceptional unscheduled measures taking place. This suspension limits the effectiveness and efficiency of market surveillance and may affect the quality and safety of products.

Harmonised area: sectoral legislation

In the area of ‘**new and global approach**’ **product legislation**, Ukraine has adopted implementing legislation in the reporting period designed to be fully aligned with the *acquis* on machinery, electromagnetic compatibility, low voltage and construction products. Ukraine had previously also adopted legislation designed to align with the *acquis* on radio equipment, toys, cosmetics, recreational craft, civil explosives, pressure equipment and personal protective equipment. Ukraine is partly aligned with the *acquis* on lifts, cableways, gas appliances, equipment for explosive atmospheres, simple pressure vessels, environmental noise from using outdoor equipment and pyrotechnic articles. More work needs to be done on alignment with the *acquis* on eco-design, energy labelling (Ukraine has been party to the Energy Community Treaty since 2011), measuring instruments, non-automatic weighing instruments and medical devices.

On ‘**old approach**’ **product legislation**, Ukraine is partly aligned with the *acquis* on motor vehicles (EU-type approval) and 2/3 wheeled motor vehicles, and on fertilisers, pre-packaging and units of measurements. It is not aligned on tractors, or on non-road mobile machinery. It is also not aligned with the *acquis* on chemicals, including the registration, evaluation, authorisation and restriction of chemicals (REACH Regulation), chemicals labelling (Classification, Labelling and Packaging Regulation (CLP)), good laboratory practice (GLP), detergents, **drug precursors** or aerosol dispensers.

On **procedural measures**, Ukraine’s legislation is designed to align with the *acquis* on footwear and on textile labelling, it is partly aligned with the *acquis* on defence products, defence procurement, and the **return of cultural objects unlawfully removed from the territory of an EU Member State**. It is not aligned with regard to crystal glass or firearms, or medicinal products pricing.

Market surveillance and product safety institutions of Ukraine are vulnerable to corruption risks. Current preparations for changes to the law on Market surveillance aligning to the EU market surveillance regulation (2019/1020) foresee to centralise control of market surveillances activities with the Ministry of Economy alone, which could increase corruption risks in the market surveillance system of Ukraine. Further concerns are the lack of funding for inspection activities and the ongoing suspension of market surveillance during the martial law. Corruption risk mitigation strategy needs to be developed in line with overall anti-corruption policy framework.

Chapter 2 – Freedom of movement for workers

Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

Ukraine remains at an **early stage of preparation** regarding the freedom of movement of workers. Over the reporting period, during Russia’s full scale invasion, there was **no progress** on ensuring that EU workers and their family members are treated in the same way as Ukrainian nationals.

In the coming year, Ukraine should in particular:

- work on concluding additional agreements on social security coordination, notably with EU Member States;
- start work in preparation of joining the European Network of Employment Services.

Ukraine's legislation is not aligned with the *acquis* on **access to the labour market and free movement of workers**. Foreigners and stateless persons can be employed in Ukraine after obtaining an appropriate permit issued by the State Employment Service of Ukraine. There is a minimum wage threshold for obtaining the permit. Foreigners cannot be employed as civil servants. There is no specific legislation on employment of EU nationals, who therefore fall under the same conditions as nationals of non-EU countries. The right of EU workers to reside in Ukraine can be revoked on the grounds of involuntary unemployment, illness or accident (and if employment is terminated). Moreover, foreigners, including EU workers' children, only have free and equal access to higher education as nationals if they are permanently residing in Ukraine.

There is no dedicated body that deals with the promotion, monitoring and support of equal treatment and free movement of workers. There are also no plans to create one for the moment. No steps have been undertaken to prepare for joining the European Network of Employment Services (**EURES network**). Beyond the bilateral agreements mentioned above, there are no further initiatives to cooperate with other countries on freedom of movement of workers, such as exchange of information, sharing of best practices or joint inspections.

On the **coordination of social security systems**, Ukraine has several bilateral agreements with EU Member States on mutual employment and social services, including on pension rights, for Ukrainian nationals who worked abroad. These agreements also provide for equal treatment of EU workers and their family members as Ukrainian nationals.

No national health insurance card has yet been implemented in Ukraine. Implementation of the **European Health Insurance Card** might therefore be challenging.

Chapter 3 – Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.

Ukraine has **some level of preparation** in the area of right of establishment and freedom to provide services. **Some progress** was made during the reporting period, in particular on postal services, but further efforts are needed to align legislation with the EU *acquis* under this Chapter.

In the coming year, Ukraine should in particular:

- take measures towards eliminating existing restrictions for the provision of services, using the possibilities provided by the Association Agreement;
- complete approximation with the EU postal *acquis*, including with the Regulation on cross-border parcel delivery services;
- continue its progress in aligning with the EU *acquis* on mutual recognition of professional qualifications.

The EU-Ukraine Association Agreement includes rules that grant the **right of establishment** to EU natural and legal persons in Ukraine. The process of removing barriers to this right of establishment, as described in the Association Agreement, has not yet been initiated.

On the **freedom to provide cross-border services**, the Association Agreement provides for the cross-border supply of services except for some sectors, for instance audiovisual services,

national maritime cabotage, and domestic and international air transport. The process of removing the remaining barriers to the provision of cross-border services by EU natural and legal persons has not yet been initiated.

As regards the right of establishment and the freedom to provide cross-border services, Ukraine will need to align its legislation also with the Services Directive (2006/123/EC). Progressive steps should be taken in this regard.

On the **mutual recognition of professional qualifications**, the legislation and approach followed by Ukraine varies depending on the sector involved. It is based on a comparative assessment of the education and professional qualifications of the applicant seeking recognition with the relevant professional qualifications defined by the professional standard approved in Ukraine. No agreement for mutual recognition of professional qualifications currently exists with the EU. Full implementation of EU law on professional recognition needs to take place. This includes the Professional Qualifications Directive, the Proportionality Test Directive and sector-specific legislation (e.g. for lawyers: the Establishment Directive and Lawyers Services Directive).

In the area of **postal services**, Ukraine has made progress on alignment with the EU postal *acquis*. On 3 November 2022, a new Law on postal communications was adopted, which entered into force on 25 May 2023. The new legal framework for postal services is partially aligned with the Postal Services Directive 97/67/EC amended by Directives 2002/39/EC and 2008/6/EC. It sets out the scope, main principles and financing of universal service provision and the role of the national regulatory authority. The designated universal service provider, which is state-owned, maintains the exclusive right to provide a universal postal service, including ordinary letters. Postal service provision is not licensed in Ukraine, but is based on notification to the national regulatory authority. There are 166 economic operators included in the unified state register of providers of postal services. The national regulatory authority, which is legally separate and operationally independent, carries out regulatory oversight, monitoring and enforcement of obligations arising from the postal law. Ukraine has also committed under the EU-Ukraine Association Agreement to align with the EU Regulation on cross-border parcel delivery services by 2024. The Annex on rules applicable to postal and courier services was updated with the Regulation in November 2021.

Chapter 4 – Free movement of capital

In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.

Ukraine is **in between some and moderate level of preparation** in the area of free movement of capital. **Some/good progress** was made in the reporting period, in particular as regards the alignment of Ukrainian anti-money laundering legislation with the FATF standards. Ukraine has committed to impose no restrictions on capital movement and current payments in accordance with the rules in Article VIII of the Articles of Agreement of the IMF and Chapter 7 of the Association Agreement with Ukraine. However, the National Bank of Ukraine (NBU) has introduced foreign currency (FX) restrictions under martial law to safeguard macroeconomic stability. In the coming year, Ukraine should in particular:

- Continue preparations to apply for the Single Euro Payments Area (SEPA);
- Continue the alignment of Ukrainian legislation and institutional practices with the FATF standards;

→ Take steps to establish the Register for holders and beneficial owners of bank accounts, payment accounts and safe-deposit boxes.

On **capital movements and payments**, the NBU introduced temporary capital restrictions following the start of the Russian invasion with a view to safeguarding Ukraine's macroeconomic stability. Restrictions are subject to constant revision by the NBU in light of developments in the monetary and FX markets. The NBU has drafted a roadmap on gradually easing war-related currency restrictions introduced at the beginning of the invasion in cooperation with the IMF.

As for restrictions that were in place before the war, Ukraine had already taken some steps towards currency liberalisation based on the Law on currency and currency operations. It entered into force in 2019, and the NBU has a roadmap for its implementation. This roadmap provides for a gradual cancellation of all currency restrictions and the transition to a regime of free capital flows, taking into account the pace of improvement in macroeconomic conditions in Ukraine (but without any specific deadlines for removing the currency restrictions).

The Land Code of Ukraine adopted in March 2020 banned the acquisition of agricultural land by foreigners for an unlimited period of time. This ban will be lifted upon referendum of which the date is not yet specified. Since March 2022, there has been a Cabinet of Ministers' resolution that sets a moratorium on transactions that involve Russian assets and establishes the list of people deemed to be associated with the aggressor and exceptions.

On **payment systems**, Ukrainian laws prescribe the same terms and conditions for domestic and cross-border transfers of currency valuables and there are no special rules for such transfers with EU Member States. One of the differences between cross-border payments and payments in the domestic currency is the currency supervision of cross-border payments (covering not only payments to customers of EU Member States). On the transparency of currency conversion changes, Article 30 of the Law on payment services sets the requirements on the information provided to users before concluding the agreement on the provision of payment services. The adoption of the Law on payment services, which came into force in August 2022, was an important step towards alignment with the EU *acquis* in the area of payment services. It incorporated the EU Payment Services Directive 2 and the E-Money Directive into national law. This law is an important step on Ukraine's path to applying for the Single Euro Payments Area (SEPA).

On the **fight against money laundering and terrorism financing**, Ukraine remains in Moneyval's enhanced follow-up process since December 2017. Following the start of the war, Moneyval suspended its evaluation of Ukraine, but in June 2023 it decided to resume it, at the request of Ukraine. The next Moneyval follow-up report is expected at the end of 2024.

In September 2022, amendments were adopted on the ultimate beneficial ownership (UBO) framework that improved the UBO registration and verification system and increased legal liability for failure to provide UBO information. The Ukrainian Government also adopted a number of bylaws to align Ukrainian anti-money laundering legislation with the international Financial Action Task Force (FATF) standards, including on the ultimate beneficial ownership and supervision of non-financial businesses and professions. In November 2022, the Ukrainian Parliament changed the definition of politically exposed persons, contrary to FATF standards. In September 2023, the Parliament passed in the first reading a law aimed at restoring a FATF-compliant definition of politically exposed persons, but several of its provisions were not in line with FATF standards. In October 2023, the Parliament adopted a new legislative amendment removing the three-year time limitation and reverting to a risk-based approach for

former holders of prominent public functions to be qualified as politically exposed persons to restore a FATF-compliant definition of politically exposed persons.

As regards virtual assets, Ukraine needs to either complement its 2019 law or to proceed with the adoption of a new comprehensive law on virtual assets in order to implement the applicable FATF standards. Ukraine's alignment with the FATF standards and further reform needs to be formally assessed by Moneyval as part of its regular monitoring and evaluation framework.

Chapter 6 – Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.

Ukraine has **some level of preparation** in the area of company law. **Some progress** was made during the reporting period with the adoption of legislative amendments aimed at further alignment with certain aspects of the EU *acquis* on company law, financial statements and audit.

In the coming year, Ukraine should in particular:

- further align its legislation with the EU *acquis*, including on disclosure of company and foreign branches information, on encouraging long-term engagement of shareholders, and on takeover bids;
- align national legislation with the *acquis* on cross-border operations (conversions, mergers and divisions) and on the use of digital tools and processes in company law.

In the area of **company law**, a new Law on joint stock companies entered into force in January 2023 to further align with the EU *acquis* on shareholders rights and listed companies, including electronic voting at general meetings, management structures and changes in corporate structure. The Unified State Register can be accessed electronically providing information on legal entities and private entrepreneurs that is in line with the EU *acquis*. The Law on public electronic registers provides for the electronic interaction of registers created in Ukraine. The system should be technically ready for interconnection with business registers of EU Member States once Ukraine joins the EU and a complete alignment with the EU *acquis* as regards the information to be disclosed by companies to the national business registers for transparency purposes is achieved. Further alignment is needed with the *acquis* on disclosure of company and foreign branches information, cross-border operations (mergers, divisions, conversions), long-term shareholder engagement, gender equality on boards of directors and use of digital tools and processes. In 2022, Ukraine's corporate governance code (based on OECD principles) was extended to limited liability companies and additional liability companies that are professional participants on capital and organised commodity markets.

On **company reporting**, national legislation is partially aligned with the EU *acquis* for the main legal requirements, including on annual financial statements, management reports, rules on auditors, disclosure obligations and sanctions. There is a simplified financial reporting regime for small and micro-companies. Amendments adopted in 2022 to the Law on accounting and financial reporting introduced the size categories of parent company groups and their subsidiaries (small, medium and large) for the preparation and publishing of consolidated financial statements, with exemption for certain small and medium-sized groups from their mandatory preparation (except groups that include public interest entities). Under martial law, administrative and/or criminal liability has been lifted for the non-submission or late submission of financial and audit reports. Ukraine needs to prepare to align with the 2022 EU Directive on corporate sustainability reporting.

While there are provisions in national legislation harmonised with the *acquis* on **transparency** requirements for issuers of securities, further alignment is needed regarding the publication of information on sanctions applied to market participants, as well as home/host member state issues and cooperation between member states.

On **statutory audit**, amendments to the Law on the Audit of financial statements and auditing activities were adopted in September 2022 aimed at further alignment with the EU *acquis* in this area, regarding *inter alia* auditor certification and quality control of audit services. The law has specific requirements for the statutory audit of public interest entities. The Audit Public Oversight Body, established in 2018, supervises the formation, approval and registration of statutory auditors, and is responsible for quality assurance of audit services through a system of investigations and sanctions.

Chapter 7 – Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR, copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting.

Ukraine has **some level of preparation** on intellectual property law. **Good progress** was made during the reporting period, in particular with the launch of the National Intellectual Property Authority and the adoption of the Law on copyright and related rights, which aims at legislative alignment with the EU copyright *acquis*, and the IPR enforcement.

In the coming year, Ukraine should in particular:

- continue alignment with the EU *acquis* on copyright and industrial property rights, as well as on trade secrets;
- continue improving the functioning of collective management organisations and the payment of royalties to right holders;
- further improve the IPR enforcement system, in particular by combating piracy and counterfeit products and establishing an intellectual property court and leverage the collaboration with the European Union Intellectual Property Office.

In the area of **copyright and related rights**, in December 2022, the new Law on copyright and related rights was adopted, which got further amended in March 2023, together with the collective management organisation law. Concerns remain in particular regarding the term of protection, for copyright and related rights, the distribution of a fair remuneration between performers and producers of phonograms, the reproduction right and the rights of the broadcasting organisations. Problems also persist with the enforcement of the current copyright law regime, for instance with the collective rights management, in particular with public broadcasting organisations that do not pay royalties to performers and phonogram producers.

On **industrial property rights**, the Law on **patents** from August 2020, which incorporated the EU standards of legal protection of inventions and utility models into national legislation, is not fully aligned with the EU *acquis*. Ukraine's trade marks legislation is partially aligned with the EU *acquis*. The subsequent implementing rules still need to be adopted. Ukraine's legislation also includes EU standards on the legal protection of designs.

Ukraine needs to further align its domestic legislation with the EU *acquis* on compulsory licensing and the respective Protocol amending the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights. Ukraine does not have a specific law on

trade secrets, though there are some provisions on trade secrets in the Civil Code of Ukraine.

Ukraine's Law on IPR **enforcement** is broadly aligned with the EU *acquis*. However, shortcomings remain in combating piracy and counterfeit products, as Ukraine remains one of the four main transit points for shipments into the EU of counterfeit products. The competent authorities dealing with IPR enforcement include the National Police, the Bureau of Economic Security, the State Customs Service and the Office of Prosecutor General.

Following the adoption of the IPR institutional reform in 2020, the Ukrainian National Office for Intellectual Property and Innovations is the new institution responsible for intellectual property and has been operational since November 2022. It functions as the National Intellectual Property Office and as the coordination platform for dialogue on intellectual property rights with all stakeholders. The agency has been promoting the strengthening of institutional capacity through training courses. It developed a closer collaboration with the World Intellectual Property Organisation and the European Union Intellectual Property Office, with which it signed in 2021 a Memorandum of Understanding to enhance technical cooperation. It is a self-financed agency, through fees, and currently has 500 employees.

Currently, the system of courts with jurisdiction over IPR cases includes common courts (civil jurisdiction) and commercial courts (commercial jurisdiction). The Law on judiciary and status of judges from 2016 provides for the establishment of an intellectual property court. However, the appointment of the 21 judges is pending, as the High Qualification Commission of Judges remained non-operational until 2022.

Chapter 8 – Competition policy

EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of dominant position, and also include rules on concentrations between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.

Ukraine has **some level of preparation** in competition policy. During the reporting period, there was **limited progress** in the legislative alignment with the EU *acquis*. An amendment to the Law on the protection of economic competition was voted in in August 2023, which aims at further aligning that Law with the EU *acquis*. The Law on State aid remains suspended due to martial law, but this should not stand in the way of reforms in the policy area.

In the coming year, Ukraine should in particular:

- further align the legislative framework in the area of competition and State aid with the EU *acquis*, including by modifying the law on State aid to cover under its scope services of general economic interest (SGEIs).
- compile a reliable and comprehensive inventory of State aid schemes instituted before the establishment of the authority responsible for State aid control in Ukraine.

Antitrust and mergers

On the **legislative framework**, the Law on the protection of economic competition is to a large extent aligned with the EU *acquis*. However, certain gaps still remain. For example, that law does not clearly differentiate between economic and non-economic activities, lacks a clear *de minimis* rule, does not contain exemptions from the prohibition of concerted practices, and does not define the notion of 'abuse' and of 'dominant position'. An amendment to the Law on the protection of economic competition was adopted in August 2023. The law introduces a number

of changes aiming at further aligning the Ukrainian legislation with EU regime. Those changes include the introduction of a leniency and a settlement mechanism and rules on joint and several liability of undertakings for breaches of competition law.

On the **institutional framework**, the Anti-Monopoly Committee of Ukraine (AMCU) is responsible for implementing the Law on the protection of competition. It is an operationally independent authority financed by the national budget. It does not have the right to set priorities and reject complaints on the grounds of priority, while its powers to conduct effective inspections are limited. Some fundamental rights such as access to the file and hearing are also not fully in line with the EU rules. In addition, no party can bring a case for damages and stoppage of anticompetitive conduct directly before a domestic court based on a possible breach of competition rules that affects their interests. They must first apply and get a decision from the AMCU. The amendment to the Law on the protection of economic competition, introduces amendments to the hearing process before the AMCU, increases AMCU's powers of inspection and its ability to conduct unannounced inspections and increases the salaries of its employees,

State aid

On the **legislative framework**, the current Law on State aid transposes Articles 107 and 108 of the Treaty on the Functioning of the European Union and includes a notification and standstill obligation. Following the outbreak of the Russian war against Ukraine, that law was suspended under martial law. As a result, while the Law on State aid is suspended, State aid granting bodies have no obligation to notify to the AMCU new State aid and proposals to amend the terms of State aid already granted. Furthermore, State aid granted while the Law on State aid is suspended is considered compatible aid.

On secondary legislation, Ukraine approved legislation during the reporting period on the recovery of illegal State aid and guidelines on State aid for culture and support of cultural heritage.

On the **institutional framework**, even before the suspension of the Law on State aid, the enforcement of State aid rules, in particular as regards on notifications, had been challenging, as granting bodies in the government had not consistently notified State aid measures to AMCU. As a result, AMCU was not able to compile a complete inventory of State aid schemes, instituted before AMCU was established. Moreover, the *de minimis* State aid regime is not working well due to a lack of efficient control of the respective thresholds.

Ukraine also needs to do more to improve transparency in the transactions between the State and public undertakings/ State-owned enterprises, aligning its legislation more closely with the directive on the transparency of financial relations between Member States and public undertakings.

Liberalisation

Ukrainian competition and State aid legislation is fully applicable to public undertakings and undertakings with special or exclusive rights. However, according to the Law on State aid, services of general economic interest (SGEIs) are not covered by the State aid discipline. Ukraine should therefore align the Law on State aid to cover under its scope.

Chapter 9 – Financial services

EU rules aim at ensuring fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.

Ukraine has **some level of preparation** in the area of financial services. Despite focusing on maintaining macro-economic stability, Ukraine has made **some progress** in the reporting period by starting to unwind some emergency measures, implementing the *acquis* on corporate governance in banks, conducting risk-based supervision of banks and introducing legislation to promote sustainable and digital finance.

In the coming year, Ukraine should in particular:

- prepare an asset quality assessment of the banking sector;
- strengthen the regulatory powers of the National Securities and Stock Market Commission, in line with the principles of the International Organisation of Securities Commissions;
- continue efforts in alignment with the EU *acquis*, related to the regulation of banking and insurance sectors (including bank resolution and bank deposits guarantee schemes) and the regulation of securities markets, investment funds and investment services.

On **banking and financial conglomerates**, significant reforms are envisaged under the current IMF programme. A first step is to unwind the emergency measures introduced under martial law. These are causing the most distortions and hampering effective financial system operations and oversight. Some steps have already been taken, such as resuming the count of loan days past due in June 2022, introducing a procedure under martial law in October 2022 to resolve insolvent systemic banks, and submitting a draft law in March 2023 to improve the procedure for withdrawing non-systemic banks from the market under martial law. An asset quality assessment of banks will be necessary to evaluate the health of the banking sector in Ukraine and develop an effective strategy to address non-performing loans.

During the reporting period, Ukraine proceeded with implementing the Law on improving corporate governance in banks and other operational issues of the banking system from 30 June 2021 to align with the EU capital requirement rules. The National Bank of Ukraine (NBU) developed draft regulations on the organisation of the internal liquidity adequacy assessment process and on the procedures for calculating the minimum amount of regulatory capital as well as the leverage ratio.

In 2022, the NBU conducted risk-based banking supervision in line with the guidelines of the European Banking Authority on common procedures and methodologies for the supervisory review and evaluation process and the recommendations of the Basel Committee on Banking Supervision.

On **insurance and occupational pensions**, the main rules of the new Law on insurance, which are aligned with the Solvency II Directive, will take effect on 1 January 2024. The NBU has begun to draft the implementing legislation for the Law on insurance.

As for the **financial market infrastructure**, in preparation for a return to normality, a new financial sector development strategy was adopted on 19 July 2023 to prepare for a safe and prompt unwinding of financial sector emergency measures, while restoring accounting and prudential norms.

On the **securities markets and investment services**, long-standing gaps remain in the powers of the National Securities and Stock Market Commission (NSSMC) relative to international standards. The authorities have committed to amend the NSSMC Law following technical assistance from multiple international finance institutions in order to strengthen the NSSMC mandate in line with the standards and principles of the International Organization of Securities

Commissions. A Credit Unions Law was adopted on 14 July 2023, which is largely in line with EU legislation.

On **sustainable and digital finance**, the National Bank developed its Sustainable Finance Development Policy 2025, to further integrate sustainability considerations into the financial sector of Ukraine, which foresees the integration of environmental and social risks management into financial institutions' activities and the mandatory disclosure by financial institutions of their activities' sustainability level. A new Law on payment services, which came into force on 1 August 2022, has expanded the list of entities with the power to issue electronic money. It comprises banks, electronic money institutions, branches of foreign payment institutions, postal operators, the NBU, public authorities and local self-governments. In addition, the NBU Resolution from 29 September 2022 approved the Regulation to set up the procedure for issuing and using e-money for transactions. The Regulation also establishes requirements for issuers of electronic money and puts in place restrictions on the use of electronic money. A law on virtual assets was adopted on 17 February 2022, but will enter into force only after relevant amendments to the Tax Code of Ukraine.

During the reporting period, it was agreed that Annex XVII to the EU-Ukraine Association Agreement, which covers the *acquis* on financial services, will be comprehensively updated. The aim is to obtain internal market treatment for this sector in future. Based on the agreed update of the financial services legislation, Ukraine will need to pursue further alignment with the EU *acquis*.

Chapter 28 – Consumer and health protection

EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective product. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare, and in preparing for and responding to cross-border health threats including communicable diseases.

Ukraine has **some level of preparation** in consumer and health protection. Over the reporting period, **limited progress** was made on alignment with the EU *acquis*.

In the coming year, Ukraine should in particular:

- further align national legislation with the EU consumer protection *acquis*;
- adopt a health information system strategy;
- adopt the national health security action plan to address threats of biological, chemical, environmental and unknown origin; approve and start implementing the 2023-2025 national action plan on antimicrobial resistance.

Consumer protection

On **horizontal aspects**, Ukraine's consumer legislation is partly aligned with the *acquis* on consumer rights, unfair contract terms, unfair commercial practices, price indications, package travel and linked travel arrangements, the sale of goods, digital content and services. It is also partly aligned with the *acquis* on product safety. It is not aligned with the *acquis* on representative actions and on timeshares, and does not address the latest changes to EU consumer legislation introduced by the EU Directive 2019/2161.

Ukraine's State Service on Food Safety and Consumer Protection is the central government body responsible for consumer safety and protection, market surveillance and advertising rules. As of 2020, the National Bank of Ukraine, the Office for Financial Services Consumer Rights

Protection and the National Securities and Stock Market Commission are responsible for protecting consumer rights in financial services in the areas of banking, and capital and commodity markets. To further align the legislation with the EU *acquis*, the law on protection of consumer rights was adopted in the reporting period, but has not yet entered into force. It introduced the concept of electronic trading platform (marketplace) and an electronic product comparison service (price aggregator), and authorised the State Consumer Service and internet service providers to restrict access to fraudulent trading websites.

Ukraine does not have an alternative dispute resolution system in place in line with the EU *acquis* to enable consumers to resolve disputes with traders out of court. As for out-of-court consumer dispute resolution for financial services, the Office for Financial Services Consumer Rights Protection currently fulfils certain responsibilities.

On **product safety**, the legal basis for market surveillance is the Law on state market surveillance and control of non-food products and the Law on general non-food product safety, which are partly aligned with the EU *acquis*. Ukraine's market surveillance risk assessment methodology was developed on the basis of the EU Rapid Information System 'RAPEX' guidelines⁸.

On **non-safety-related issues**, there was some progress on alignment with the *acquis* on the payments market. The Law on payment services was also amended in April 2023, strengthening requirements for advertising and information disclosure during the provision of services in the payment market.

Public health

Ukraine is implementing its 2023 public health strategy. The adoption of the Law on public health and its implementing legislation saw some progress, but they remain partly aligned with the EU *acquis*, for example in communicable and non-communicable diseases, and cross-border health threats.

On access to healthcare, entitlement to publicly financed health services is based on citizenship and permanent residence. Refugees are entitled to the same health services as Ukrainian nationals, but irregular migrants and asylum seekers are entitled to emergency care only and must pay the full cost after treatment. Certain professional categories have additional entitlements funded by the government. This fragments the public funds allocated to health and results in unequal access to healthcare. The main barriers that people face while seeking healthcare are the cost of medicines and treatment, waiting times and transport.

Despite launching the **e-health** system, including e-prescription, there continues to be fragmentation and overlaps in health data. Ukraine lacks a health information system strategy, and the legal framework needs to be completed. A lack or limited quality of disaggregated health-related data is one of the key systemic issues that affects the planning and policymaking processes as well as the implementation of health programmes.

Ukraine's legislation is partly aligned with the *acquis* on **tobacco control**. It has ratified the WHO Framework Convention on Tobacco Control and has achieved significant progress on its implementation. However, it has not yet ratified the WHO Protocol to Eliminate Illicit Trade in Tobacco Products.

On **communicable diseases and serious cross-border health threats**, Ukraine's legislation is partly aligned with the EU *acquis*. Implementing legislation still needs to be drawn up to

⁸ The RAPEX system is now called Safety Gate.

ensure effective prevention, preparedness (for example, there is no unified epidemic preparedness plan) and response plan.

Ukraine's epidemiological surveillance systems are based on key EU principles but need to be improved to ensure integration with the EU early warning and response system. A national health security action plan to help address threats of biological, chemical, environmental and unknown origin has yet to be adopted. Vaccination coverage remains significantly below the WHO global recommendations, also due to disruptions caused by the war.

The national 2023-2025 action plan on antimicrobial resistance is pending approval. There is a need to strengthen and ensure interoperability between health and veterinary sectors and food/safety sectors on antimicrobial resistance and improve overall preparedness and response planning.

The 2030 action plan on **non-communicable diseases** addresses risk factors, services and prevention activities. However, monitoring rules are not aligned with global non-communicable disease targets. The national cancer registry is harmonised with international registries, but there is no dedicated cancer screening programme for the early detection of cancer apart from six free cancer examinations in the national programme of medical guarantees (mammography, esophagogastroduodenoscopy, colonoscopy, bronchoscopy, cystoscopy and hysteroscopy). There is no monitoring in place for the early detection of cervical and breast cancer.

On **blood, tissues, cells and organs**, national legislation is partly aligned with the *acquis* on blood, with further alignment necessary for instance on blood safety. Responsibilities are shared between the Ministry of Health and various state bodies to ensure policy implementation, licensing and control functions. The traceability and reporting system for blood donations is not yet fully developed. Ukrainian legislation is not aligned with the *acquis* on cells for medically assisted reproduction. It also does not regulate inspections of assisted reproduction centres or standards of quality and safety of human organs intended for transplantation. Ukraine has launched a transplantation development programme.

The law on medicines that will enter into force 30 months after the end of martial law introduced important changes to previous legislation on medicines for human use. When in force, it will be partly aligned with the EU *acquis*. Ukraine does not yet fully adhere to international standards on the quality, safety and efficacy of medicines. It is not aligned with the *acquis* on **medicines for veterinary use** but is partly aligned with the *acquis* on **medical devices** and on *in vitro* medical devices.

National legislation is partly aligned with the *acquis* on **cross-border healthcare**. There is no automatic reimbursement of healthcare costs for treatment received abroad unless it is impossible to receive the required care from healthcare institutions in Ukraine and an application has been submitted for state funding. There is no separate legislation for healthcare provided to EU nationals.

On **nutrition and physical activity**, healthy lifestyle and disease prevention could play a more prominent role while monitoring could be strengthened.

Corruption in medical service provision and medical education and out-of-pocket payments in the public healthcare system remain a cause for concern. There is a need to strengthen mechanisms to monitor healthcare service delivery and patient compliance management. The complaint monitoring mechanism has the potential to become an effective tool for preventing and investigating corruption but is not widely known. Once operational, the e-stock system

should provide a further useful tool for improving transparency on the supply of medicines across the country.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers: digital transformation and media (Chapter 10); taxation (Chapter 16); economic and monetary policy (Chapter 17); social policy and employment (Chapter 19); enterprise and industrial policy (Chapter 20), science and research (Chapter 25); education and culture (Chapter 26); and the customs union (Chapter 29).

There is a good level of preparation in Ukraine in the area of customs union, where there was good progress in terms of alignment with the EU *acquis*. The chapter on digital transformation and media, where numerous regulatory acts focusing on implementation of main EU principles have been adopted is moderately prepared/has a good level of preparation. There is a moderate level of preparation in the chapters economic and monetary policy, and science and research. Ukraine has some level of preparation in education and culture, taxation as well as enterprise and industrial policy. Ukraine is at an early stage of preparation in social policy and employment. Ukraine has made some progress in the area of taxation, where a law introducing the OECD standard on the automatic exchange of information on financial accounts was adopted. There was limited progress in enterprise and industrial policy as well as social policy and employment. This cluster and the reforms concerned are closely linked to the ability and capacity for recovery and reconstruction. Reforms must be pursued to increase competitiveness and build a sustainable and inclusive economy.

Chapter 10 - Digital transformation and media

The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.

Ukraine **is in between moderate and a good level of preparation** in the domain of digital transformation and media. It made **good progress** in this area during the reference period.

In the coming year, Ukraine should in particular:

- achieve full alignment with EU roaming legislation;
- ensure the necessary financing and human resources for enacting the legal rules on expansion of the Regulator's competencies (both telecommunications and media regulator) and for the performance of the central executive bodies in the area of electronic communications;
- further align with the EU Directive on security of network and information systems (NIS).

On **electronic communications and information technologies**, alignment with the EU enforcement practices in the digital sector is based on core legislation, i.e. the Law on electronic communications and the Law on the national commission for the state regulation of electronic communications, radio frequency spectrum and provision of postal services ('the Law on regulator'). These two core laws are approximated with Directive (EU) 2018/1972, which establishes the European Electronic Communications Code. In particular, Article 5 of this Directive ensures that the legal status of the regulatory body in electronic communications, with its powers and independence, is fully compliant with European approaches.

The regulator, as a newly established national regulatory authority, **is a legally distinct and functionally independent institution with appropriate decision-making powers**. These include exclusive responsibilities to carry out regulatory tasks, adopt binding decisions and

issue relevant legal and normative acts. Full implementation of the two core laws implies adoption of a series of secondary regulations. During the reporting period, numerous regulatory acts have been adopted. These focus on implementation of the main EU principles, including transparency and general authorisation together with numbering and radio spectrum.

Due to **financial constraints in general**, the 2023 budget law provides the regulator with only limited financing. This makes it difficult for it to perform its functions as defined by the Law on regulator. The authority of the central executive body in the areas of electronic communications and radio frequency spectrum, the State Service of Special Communications and Information Protection of Ukraine, faces similar challenges.

In light of current security-related constraints related to the Russian war of aggression, Ukraine has not yet **implemented the acts related to the regulatory framework for radio spectrum policy**, in particular the release of the 700 MHz band from TV broadcasting for mobile communications.

Ukraine has a well-advanced **e-government** system, where people have easy access to public services. The government launched its vision for electronic public service design and delivery known as ‘The State in a Smartphone’ in 2019. It resulted in the rapid development of electronic services and has proven its resilience and adaptability throughout the war. Digital governance has increased the efficiency and transparency of the government and facilitated government-citizen dialogue. The unified web portal for electronic services, Portal Diia, enables access to the most popular electronic **public services** (120 in total). Electronic public services are also available in the Diia mobile application (25 services) as well as on other web resources of public authorities. The mobile application is used by 17.3 million users and installed on more than 32 million devices. UA should continue seeking alignment with both the European Interoperability Framework (latest revision in 2017) and the Interoperable Europe Act (2022).

After updating Appendix XVII-3 of Annex XVII to the Association Agreement/Deep and Comprehensive Free Trade Area, Ukraine has launched a process to put in place legislation relevant to EU roaming that would align Ukraine’s legislation with the **EU telecommunications acquis**. Ukraine has the prospect of joining the EU’s ‘Roam like at home’ scheme if it implements the EU roaming regulation and other relevant legislation subject to a decision granting internal market treatment.

In the area of **electronic identification and trust services**, Ukraine has a high degree of alignment with the EU requirements (eIDAS Regulation). In January 2021, the EU and Ukraine adopted a joint work plan for cooperation on electronic trust services with a view to a possible agreement based on approximation with EU legislation and standards. While Ukraine decided to legally recognise – on an experimental basis – qualified electronic signatures originating in EU Member States on 22 November 2022, the Commission published tools (Third Countries’ trusted list) on 25 January 2023 that facilitate the validation of electronic signatures or seals created in third countries, as advanced electronic signatures and seals in EU Member States. Ukraine is the first ever third country included in this list. On 1 December 2022, the Ukrainian parliament adopted the Law amending certain legislative acts on ensuring the conclusion of an agreement between Ukraine and the European Union on mutual recognition of qualified electronic trust services and implementation of the European Union legislation in the field of electronic identification. It provides for the obligatory conformity assessment of qualified trust service providers by the independent bodies according to a certification model, similar to that of the EU.

Ukrainian **open data** policy supports the reuse of open data by both the public and private sector. Ukraine has achieved a high level of transposition of the Open Data Directive. The Ministry of Digital Transformation drafted a new open data strategy in June 2022. According to the EU Open Data Maturity Report 2022, Ukraine ranks second (after France) in the overall index, and is also the best performer among the candidate countries.

Ukraine's National Security and Defence Council is implementing a national **cybersecurity strategy**. Its computer emergency response team, CERT-UA, has received international accreditations and is taking steps within overall framework of the EU-Ukraine cyber dialogue towards closer institutional cooperation with EU counterparts, including the European Union Agency for Cybersecurity and CERT-EU. Ukraine adopted the regulations to exchange on cyber incidents as of 9 February 2023 with the objective to move towards alignment with the requirements established at the EU level by the framework for high common level of cybersecurity across the EU (NIS 2 framework). Ukraine still has no 5G mobile network and does not seem for the moment to have plans to implement the EU toolbox for 5G security.

On **audiovisual policy**, Ukrainian legislation is broadly in line with the Audiovisual Media Services Directive (AVMSD). On 13 December 2022, Ukraine adopted the Law on media and on 30 of May 2023 amendments to the Law on advertising, which broadly align the national rules with the new provisions of the revised AVMSD (Directive (EU) 2018/1808). The law entered into force on 31 March 2023 and seeks to ensure the independence of media regulator. It also includes mechanisms to ensure the transparency of media ownership and freedom of reception and retransmission for both TV and radio broadcasting if their content meets the requirements of the European Convention on Transfrontier Television and of Ukrainian law. The main regulatory authority for audiovisual media services is the National Council of Ukraine on Television and Radio Broadcasting. Restrictions are in place for the retransmission of television programmes, with control over the content carried out by residents of a country recognised as an aggressor state or an occupying power, or those that systematically violate the requirements of Ukrainian legislation.

Both laws have stricter rules on retransmission of the audiovisual content of broadcasters established in the EU than the EU Audiovisual Media Services Directive. These are aimed at preventing Russian TV channels from retransmitting audiovisual content and advertising from EU Member States to Ukraine. They are considered necessary to protect Ukraine's information space in the current security climate, but will need to be addressed by the time Ukraine joins the EU.

On **the protection of minors**, content that can be harmful to the physical, mental or moral development of children and young people is regulated both for television and radio. While there are no safety-by-design or privacy-by-design principles embedded in the policy to protect children, there are examples of industry- and NGO-driven initiatives to address the issue of harmful content, including self-generated content. Awareness-raising activities are also organised as part of formal education. Media literacy has been integrated as a key component of the education system.

Chapter 16 - Taxation

EU rules on taxation cover value-added tax and excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.

Ukraine has **some level of preparation** in the area of taxation. It has ensured continuity of tax administration and made **some progress** in this policy area during the reporting period.

On 20 March 2023, Ukraine adopted the law introducing the OECD standard on the automatic exchange of information on financial accounts (Common Reporting Standard), which is due to start in 2024. On 3 November 2022, Ukraine joined the OECD Multilateral Competent Authority Agreement on the exchange of country-by-country reports.

In 2023, Ukraine should in particular:

- make progress in terms of aligning legislation on VAT and excise duties;
- prepare the introduction of the general anti-abuse rule as part of the Anti-Tax Avoidance Directive;
- ensure the implementation of the automatic exchange of tax information with EU Member States in line with the OECD Global Standards.

On indirect taxation, Ukraine's VAT law is generally aligned with the EU VAT Directive. The standard VAT rate is 20%, with reduced rates of 0%, 7% and 14% for specific operations. A preferential VAT regime is applied to transactions involving the import of goods. VAT and excise duties on fuel and the simplified taxation, suspended at the beginning of the war, were restored. The VAT refund, which had been suspended, has been restored and has been fully automated. No VAT refund arrears have been reported as of April 2023.

Excise taxation is partially aligned with EU law. Alcohol and alcoholic beverages are classified and taxed based on EU rules, except for beer and beer mixes. Excise duties on energy products have a narrower scope and lower rates compared to the EU Directive. Further alignment is needed on VAT and excise duty on goods imported by individuals from third countries.

Ukraine has a tax warehousing system for alcohol, tobacco and energy products, but it does not comply with the EU duty suspension system. The system includes premises within the country's customs territory and mobile excise warehouses for fuel or ethyl alcohol on the customs territory of Ukraine under duty suspension. Excise tax is immediately due once excisable goods have been produced or imported, with the excise suspension regime not applied. The country needs to bring its excise warehousing system in line with the EU *acquis*. The system of electronic administration of the sale of fuel and ethyl alcohol monitors and controls the movement of taxed products within the territory of Ukraine.

In terms of **direct taxation**, residents are taxed on worldwide income, whereas non-residents are taxed only on their Ukrainian-sourced income. The standard tax rate of 18% applies to various types of income, including earnings (salary), benefits, foreign income and passive income, with a few exceptions. However, corporate income tax is not fully in line with the Merger Directive, Parent-Subsidiary Directive and the Interest and Royalties Directive. The cross-border transfer of assets within the same company may be subject to corporate profit tax. Exit taxation rules similar to those in Council Directive EU 2016/1164 and in the general anti-abuse rule as part of the Anti-Tax Avoidance Directive have not been implemented.

On **administrative cooperation and mutual assistance**, Ukraine has double taxation avoidance agreements with all EU Member States. It has also signed the Convention on Mutual Administrative Assistance in Tax Matters (OECD/Council of Europe). Parliament adopted the Law on automatic exchange of information on financial accounts, aligned with the EU Directive on Administrative Cooperation (DAC 2), on 20 March 2023. The first automatic exchange of information is scheduled for 2024, covering the period from mid-2023. Ukraine's legislation on base erosion and profit shifting (BEPS) implements the OECD BEPS Action 13 on Multinational Enterprises Groups Country-by-Country Reporting, largely aligning with the

EU DAC 4 Directive. Ukraine intends to use the OECD Common Transmission System for automatic exchange of information based on the common reporting standards and country-by-country standards. However, there is no central communication office for information exchange with EU Member States yet.

On **operational capacity and computerisation**, 95% of State Tax Service personnel are operational despite the ongoing war, with some working remotely. As of 3 April 2023, 63 taxpayer centres had temporarily stopped their activities, with taxpayers offered extraterritorial services. Thanks to EU support, the IT centre of the State Tax Service has been able to continue operating. Before the war, State Tax Service staff were recruited under the Law on civil service. However, there is a need to assess training needs and base the annual training programme on this assessment.

IT reforms in tax are guided by the IT reform strategy for the public finance management system, adopted by the Cabinet of Ministers in November 2021. A dedicated IT reform strategy for the State Tax Service is currently being finalised. The State Tax Service currently operates electronic tax administration systems as well as VAT tax invoices (ERPN) and excise invoice (ERAN) registration systems. Ukraine needs to establish connections to EU IT systems such as the Excise Movement Control System, the VAT Information Exchange System based on the Mutual Assistance Directives and the Recovery Directive.

Chapter 17 – Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

Ukraine **is moderately prepared** in the area of economic and monetary policy. As the Russian full scale invasion demanded extraordinary economic policy measures, **no progress** could be made in the policy areas. The Ukrainian authorities have taken comprehensive measures aimed at maintaining macroeconomic and financial stability in wartime, which required to deviate from standard practices. The policy approached has delivered stability.

In the coming year, Ukraine should in particular:

- prepare to return to inflation targeting and the flexible exchange rate regime;
- limit monetary financing of the state budget;
- prepare to return to medium-term budgetary planning from 2024.

In terms of **monetary policy**, the strategic goal of the National Bank of Ukraine (NBU) against the backdrop of the war is to maintain macroeconomic and financial stability. The NBU has been pursuing policies aimed at maintaining price and financial stability, by maintaining an adequate level of foreign currency reserves. In the face of high uncertainty and less effective conventional market instruments, the NBU continued to implement a fixed exchange rate regime coupled with capital controls under martial law as the main anchor for stabilising expectations and ensuring price and financial stability.

Martial law allows the NBU to take several temporary policy measures. These include allowing monetary financing and state budget support by purchasing securities issued by the government on the primary market as well as imposing limits on deposit withdrawals and restrictions on the repatriation of non-resident funds, given the need to provide an adequate response to the war and ensure the uninterrupted funding of the budget. From 16 June 2023, the NBU eased some of the restrictions to transfer funds abroad, if guaranteed by International Financial

Institutions and foreign export credit agencies, and from 21 June 2023 to service and repay new loans to non-residents. The NBU has ceased monetary financing since the start of 2023 and committed to abstaining from monetary financing going forward. The NBU also adopted a strategy on gradual easing of foreign currency restrictions, transition to greater flexibility of the exchange rate and return to inflation targeting.

Overall, the legislative framework ensures the functional, institutional, personal and financial independence of the NBU and it prohibits direct and indirect monetary financing of the public sector. In 2021, legislation was adopted that further strengthened the Central Bank independence, notably the operational independence of its different functions (e.g. supervision). The law contains a provision that the NBU must perform its tasks, operate and use its instruments without any external and public interference. However, it still provides for some level of engagement with the authorities by allowing mutual consultations between the NBU and the government. The legislative framework also allows either the President of Ukraine or the Rada to unilaterally remove a member of the governing body without judicial review, which weakens the protective measures against arbitrary dismissals. Furthermore, there is still scope to further streamline the eligibility criteria and experience requirements for appointments at the Council and Executive Board.

On **economic policy**, medium-term budget planning has become difficult due to the war. This includes setting key priorities for financing, establishing spending ceilings and outlining possible fiscal risks. Furthermore, transparency has been negatively affected, with much less comprehensive budgetary information being published. Ukraine has continued to forecast economic and social developments, although it became very challenging in view of the many uncertainties. Forecasting capacities remain rather weak, and there is no independent fiscal institution to evaluate the forecasts, scrutinise the budgetary assumptions or evaluate how previous forecasts performed. The government announced a return to medium-term budgetary planning as of the 2024 budget, and there have been some tentative steps to reform the accounting framework.

The main strategic document on economic policy is the Economic Security Strategy of Ukraine for the period up to 2025, which was approved by Presidential decree in August 2021. As part of its implementation, a transparent system of continuous monitoring of economic stability has been implemented, based on 34 indicators on the state of economic security with their critical limits and target benchmarks. These indicators are similar to those defined in the EU legal framework and are used for determining the presence of macroeconomic imbalances.

Ukraine does not report **general government sector data** in line with ESA 2010, as they base on the IMF's GFS Manual 2014, which differ substantially. At this stage, GFS or excessive deficit procedure statistics are not transmitted to Eurostat. The underlying statistical framework is therefore not aligned with ESA 2010 requirements and definitions, and accounting rules and procedures are not consistently applied across general government subsectors. In addition, the publication of statistical information has been largely disrupted while martial law is imposed.

Chapter 19 – Social policy and employment

EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at EU level.

Ukraine remains at an **early stage of preparation** in social policy and employment. Over the reporting period, it made **limited progress**.

In the coming year, Ukraine should in particular:

- adopt new framework legislation in the field of labour relations and occupational health and safety to bring it in line with applicable EU directives and ensure an enabling environment for bipartite and tripartite social dialogue and strengthen the capacities of social partners;
- develop and adopt a comprehensive de-institutionalisation reform of childcare and launch its implementation, considering the situation of displaced children;
- address shortcomings and further align with EU legislation on non-discrimination in employment.

On **labour legislation**, new laws were adopted in 2022 that govern labour relations and employee rights; they contain derogations (exemptions) applicable for the duration of martial law. Pending reforms, labour relations are still guided in general by an overarching labour code from 1971 that needs to be modernised and aligned with EU legislation.

Undeclared work is widespread, with almost one in five of all employed working in informal employment in 2021.

Enforcement of legislation by the State Labour Service, Ukraine's labour inspectorate, remains constrained by legislative restrictions to the powers of labour inspectors, which are not consistent with ILO Conventions 81 and 129 on labour inspections. The State Labour Service is being reformed but remains underfunded and has a high staff turnover. Under martial law, the powers of labour inspectors are mostly limited to information and advice, as inspections have been suspended.

While alignment with EU *acquis* on **health and safety at work** remains limited, steps have been taken during the reporting period. In 2023, the Ministry of Economy approved minimum requirements for safety and health signs at work and for the health and safety of workers in explosive environments. A resolution of the Cabinet of Ministers of January 2023 established a list of hazardous chemicals prohibited for production and use at work and the Ministry of Health approved minimum requirements for health and safety of workers exposed to electromagnetic fields and the limit and working levels of industrial vibration and the procedure for assessing the level of danger of the impact of vibration on the employee. Since 2020, the State Labour Service has reviewed occupational safety at companies in all regions of Ukraine to identify the most risk-prone sectors, developed regional occupational safety profiles and set up preventive work plans. There are no reliable statistics on workplace accidents, which remain severely underreported.

On **social dialogue**, a law on collective agreements was adopted in February 2023 and will enter into force six months after the cessation or cancellation of martial law. The National Tripartite Social and Economic Council suffers from high staff turnover, understaffing and a lack of clear duties and responsibilities. Since September 2022, its rotating presidency has not been renewed, creating a period of major inactivity. The government continues to hold consultations with trade unions and employers' organisations through their joint representative bodies. Capacity of social partners remains to be strengthened.

Ukraine's **employment policy** has yet to be harmonised with the relevant EU *acquis*, in particular with the relevant guidelines issued for the EU Member States. Ukraine has no separate strategy on employment. However, the strategy on economic development of Ukraine,

which runs until 2030, includes the strategic objective of increasing employment. There is no information available to assess its implementation, considering the big severe labour market distortion caused by the war.

The State Employment Service implements the national policy on employment, labour migration and social protection against unemployment. It administers unemployment benefits and supports jobseekers and employers alike. The service is being reformed to make it more responsive to jobseekers' and employers' needs. Active labour market measures include the introduction of a state programme to provide micro-grants to individuals so they can create or develop their own business.

Employment statistics are collected in accordance with International Labour Organization (ILO) standards but not provided to Eurostat. The invasion has had a massive impact on the labour market, with vast numbers of persons being internally displaced or having fled to other countries. The employment rate (20-64) stood at 64.8% in 2021. For women the rate was 59.3%. with a low and decreasing rate of participation among women. Youth unemployment (15-24 years) was 19.1% in 2021. Informal employment was estimated at 20% of all employed in 2021. Ukraine adopted a strategy and an action plan to reduce undeclared work, but it has stopped collecting data on it since the war.

On **social protection and inclusion**, there has been some progress in administering social insurance benefits and extending their coverage, while weak targeting and the low level of support has undermined the effectiveness of Ukraine's social protection expenditure in reducing poverty and inequality. In view of the considerable number of internally displaced following the outbreak of the Russian war of aggression against Ukraine, a strategy on internal displacement covering evacuation, integration and reintegration has been put in place. There are no developments on social inclusion, access to social housing and social service provision.

In 2022, Ukraine continued to strengthen the social protection of the most vulnerable segments of the population. The continuity of several types of social payments was ensured through a special system of centralised accrual during martial law. This allowed people who live in the territory of military operations and under occupation to accrue payments that could not be made. In addition, benefits received in the past were automatically extended for the period of martial law. Assistance schemes for internally displaced persons have also been introduced.

In January 2023, Ukraine started developing a unified information system for the administration of all social payments. In a first stage, individuals will be able to apply for housing subsidies and social security benefits centrally and online.

On childcare, there has been no progress on the de-institutionalisation of the childcare system, while the impact of the Russian war of aggression against Ukraine added more urgency to a fundamental reform of the existing system, as the reform adopted in 2017 has not led to substantial progress.

The government has adopted legal changes to **non-discrimination in employment and social policy**. They oblige employers to ensure equal opportunities for employees to conclude long-term agreements and inform them about suitable vacancies. Ukrainian law now prohibits any discrimination in employment that breaches equal opportunities or restricts any employee's rights, among others on grounds of race, skin colour, sex and gender identity, sexual orientation, age, health, disability, marital status or language. In August 2022, Ukraine approved rules of procedure on penalties for non-compliance with anti-discrimination legislation. The Ukrainian Parliament Commissioner for Human Rights (ombudsperson), as the main body for combating discrimination, remains under-resourced, with limited capacity to enforce its mandate in employment and social policies.

No official statistics exist on court cases dedicated to discrimination at work. An overview of court cases demonstrates, however, that discrimination is usually not among the main reasons for disputes (which mostly focus instead on returning to work or the payment of wage arrears). Specialised civil society organisations estimate that the level of rejected appeals against discrimination is high. Ukraine is still to adopt legislation obliging employers to prove the legality of their decision, action or inaction in discrimination-related court cases, as provided for in the national human rights strategy for 2021-2023.

On equality between women and men in employment and social policy, legislation does not create any barriers or impediments for men or women to occupy any position in any profession in the labour market, neither in the public or private sector. Already in 2017, legislation that prohibited women from practising some 450 professions was abolished, with some exceptions (such as ILO Convention 45, which forbids underground work in mines). In September 2020, Ukraine acceded to the Biarritz Partnership for Gender Equality. Changes to the Law on advertising adopted in May 2023 banned also discrimination on grounds of sexual orientation in advertising as well as gender stereotyping, sexism in job listings and advertising, introducing penalties for employers. In February 2022, all jobs in the Ukrainian armed forces, including combat roles, were opened to women. However, existing legislation on female employment does not address existing imbalances and female underrepresentation in certain economic areas. Legislation obliges employers to take measures in order to prevent and protect against sexual harassment and other forms of gender-based violence, but there is a lack of direct requirements or procedures for prevention and protection.

The consistent differences in wages between men and women are largely due to occupational segregation, i.e. differences in employment preferences, with more women working in sectors with relatively high educational requirements but lower wages, primarily in the public sector. Since a substantial part of the economy is informal, official wage statistics do not accurately reflect wage differences between men and women. Ukraine has no tax-benefit system in place to create similar financial incentives to work for both parents, while unpaid care and domestic work still fall mainly on women.

In August 2022, Ukraine adopted a state strategy to ensure equal rights and opportunities for men and women for the period up to 2030. In line with the operational plan for 2022-2024, the country has committed to prepare for the ratification of ILO Convention 190 concerning the elimination of violence and harassment in the world of work. Certain parts dealing with sexual harassment and gender-based violence are included in other legislation, but are not specifically dedicated to labour relationships.

According to the Ministry of Economy of Ukraine, the gender pay gap before the fully-fledged Russian invasion in Ukraine stands at 18,6%. . In May 2022, Ukraine presented the National Strategy and Action Plan to reduce the gender pay gap, address occupational separation, gender-based discrimination and harassment at work and close legal loopholes preventing the full application of the equal pay for equal work principle.

Chapter 20 – Enterprise and industrial policy

EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).

Ukraine has **some level of preparation** in the area of enterprise and industrial policy, with **limited progress** made on alignment with the EU *acquis* during the reporting period.

In the coming year, Ukraine should in particular:

- develop mid-term priorities for SME development and take measures for improving the business environment and investment climate;
- adopt necessary legislation to align with Directive 2011/7/EU on combating late payment in commercial transactions.

On **enterprise and industrial policy principles**, in 2021 Ukraine adopted an overarching National Economic Strategy until 2030. It outlined long-term priorities for the development of Ukraine's economy and strategic measures in main sectors, including industry and entrepreneurship. Following the outbreak of the Russian war of aggression against Ukraine, the 2030 strategy has been largely overtaken by the National Recovery Plan (NRP), which specifies the urgent measures and investments needed to support the country's wartime economy and society. The NRP is a strategic document that sets out the recovery/development goals of Ukraine until 2032, focusing on stimulating resilience, recovery, modernisation and growth. It stresses the need to align Ukraine's recovery and modernisation with the EU principles of green transition and digital transformation, prioritising private investment and nationwide entrepreneurship and SMEs as an important pillar of the new economic model.

The reconstruction of industry will have to be accompanied with measures directed towards improving the business environment, reducing the informal sector, and rolling back the state presence in the economy.

While Ukraine's SME Strategy and Action Plan expired in 2020, it included the strategic framework for SMEs in alignment with the Small Business Act principles. In the OECD's SME Policy Index 2020, Ukraine registered significant progress since measurements started in 2016. The next assessment is scheduled for 2024. As per the 2020 Index recommendations, Ukraine should ensure the sustainability of its institutional and regulatory framework for SME policy, step up deregulation efforts and ensure the creation of a level playing field for SMEs. In addition, streamlining support for SME greening and internationalisation and providing a range of business development services will help improve the competitiveness of the Ukrainian industry.

A number of SME digitalisation and deregulation measures have been initiated to improve the **regulatory and operational environment** for SMEs. Regulatory impact assessments are regularly conducted and include an SME test. The Unified State Electronic System of Permit Documents (eLicense) is being created to digitalise administrative services in the field of licensing, and the ePermit system is also set to be developed by the end of 2023.

Ukraine has used the same definition for SMEs as the EU since 2012. It is enshrined in the Commercial Code of Ukraine and widely applied in regulating economic activity.

On **enterprise and industry policy instruments**, the Ukrainian legislation is not aligned with EU legislation on the rules of Directive on combating late payment in commercial transactions. There is no dedicated legal basis to combat late payment in commercial transactions.

Due to the absence of a current stand-alone SME strategy, the government agencies have been operating on an *ad hoc*, reactive and short-term basis during both the COVID-19 pandemic and the war. Ukraine has implemented separate programmes to support SMEs during the war. These cover aspects such as business relocation, financing and simplification of taxation. On entrepreneurship education and business support, the national Diia.Business support activities, including the national multidimensional portal and a network of offline centres, have been increasingly important. The Diia.Business portal contains free educational courses on various aspects of starting and managing business. It also contains online services such as business

registration, choosing a taxation system, obtaining licences in the sphere of economic activity and public procurement. Digital competence is included as a key competence in the national education curricula. Female entrepreneurship is supported by several tools and women-specific programmes promoted on Diia.Business.

Ukraine signed an association agreements for participation in the EU's Horizon Europe and Creative Europe programmes and signed an affiliation agreement for the Single Market Programme on 3 February 2023, which has meanwhile been ratified. Ukraine's business matchmaking and integration into EU and global value chains are supported by eight organisation members of the Enterprise Europe Network consortium in Ukraine, five organisations that administer the Erasmus for Young Entrepreneurs programme and about 40 clusters that participate in the Ukrainian Cluster Alliance and have access to the European Cluster Collaboration Platform instruments.

As regards **sector policies**, the updated Partnership Roadmap for 2023–2024 in the area of raw materials was endorsed on 19 May 2023. Good progress of implementation of the initial Partnership Roadmap 2021-22 was reported despite the war conditions.

Chapter 25 – Science and research

The EU provides significant support for research and innovation. All Member States can participate in the EU's research and innovation programmes and benefit from them, especially where there is scientific excellence and solid investment in research and innovation.

Ukraine is **moderately prepared** in the area of science and research. It participates in the EU research and innovation (R&I) programmes and seeks greater integration into the European Research Area and the New European Innovation Agenda. Overall, **limited progress** was made towards alignment with the EU *acquis* during the reporting period.

In the coming year, Ukraine should in particular:

- intensify effort to integrate into Horizon Europe, by taking steps to establish an office in Ukraine, appointing national contact points and taking part in the relevant governance structures;
- adopt the strategy for scientific and technological development;
- develop regional smart specialisation strategies.

Ukraine has taken steps to modernise its R&I policy following the recommendations of the Horizon 2020 Policy Support Facility. The country has set up two national advisory councils (for science and technology development and for innovation) and the National Research Foundation.

Russia's war of aggression against Ukraine is aggravating the long-term trend of under-investment in R&I by destroying infrastructure and human capital. 35% of research infrastructure had been damaged or destroyed by March 2023 and 25% of the scientific workforce had left the country. In addition, public investment in science and innovation has been cut to a minimum. As of 2020, Ukraine's research spending shrunk to less than half of its 2003 level. In 2021, Ukraine's research spending as a share of GDP stood at 0.29% of GDP, which is less than half of its 2003 level.

The Ukraine Start-up Fund was set up to strengthen Ukraine's innovation capacity and business collaboration. There is currently no national technology transfer roadmap. According to the European Innovation Scoreboard 2022, Ukraine is regarded as an emerging innovator,

performing at 31% of the EU average. On innovation the performance gap with the EU is increasing.

The country has a legal basis for the design of smart specialisation strategies and their inclusion in overarching regional development strategies has been obligatory since 2021. While the actual development of strategies has been interrupted by the war, several Ukrainian regions expressed interest in restarting the process in 2023.

On cooperation with the EU, Ukraine is revising the roadmap for integration into the European Research Area and has been making progress on some of its priorities such as gender equality, open science (the National Open Science Plan was adopted in October 2022) and reforming the research assessment system. However, Ukraine's participation in European Research Area governance structures is still limited. In relation to the New European Innovation Agenda, Ukraine has developed a strategy for the development of the innovation sector and has been invited to join the European Innovation Council Forum and the Coalition of the Willing to exchange on innovation policies and initiatives.

Horizon Europe and Euratom remain the cornerstones of support for Ukraine's R&I sector. By August 2023, 79 grants had been signed totalling EUR 22.3 million. In addition, Ukraine benefits from dedicated initiatives under the Marie Skłodowska-Curie Actions programme, the European Innovation Council, the EU Cities Mission and in the areas of research infrastructure. The opening of the Horizon Europe office in Kyiv will help make the most of the available opportunities. Ukraine should also swiftly appoint the Horizon Europe national contact points (NCPs) to strengthen participation in the programme.

Ukraine has 39 intergovernmental agreements for R&I cooperation with 35 countries. In 2022, Ukraine cooperated with eight partner countries via 79 joint international research projects.

Chapter 26 – Education and culture

The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policy through the 'open method of coordination'. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

Ukraine has **some level of preparation** in the area of education and culture. The education system and youth policy are broadly aligned with EU objectives. Ukraine's cultural policy reflects the general priorities of the New European Agenda for Culture. Ukraine has a good level of cooperation with its European partners on sport. The country is broadly aligned with EU policy on training and qualifications. **Some progress** has been achieved in all these areas.

In the coming year, Ukraine should in particular:

- develop a plan for a relevant statistical data collection, analysis and sharing mechanism for education and training;
- start implementing a plan to optimise the network of education institutions;
- adopt legislation to modernise and regulate professional education (vocational education and training).

Education and training statistics are not widely available, and data is collected and published with a considerable time lag. According to World Bank data, public spending on education amounted to 5.4% in 2020 (the EU MS average was 5% of GDP).

The **network of education institutions**, including higher education institutions, needs to be optimised to respond to the demographic changes in Ukraine and improve the quality of education. The Russian war of aggression poses major challenges, including large-scale destruction of education facilities. This severely hampers access to education in the affected areas. Digital learning centres have allowed some students to resume their studies, but learning outcomes and the psychological state of students and teachers have suffered greatly.

Ukraine has adopted a set of laws and policies to provide education principles and standards in accordance with EU standards. The New Ukrainian School reform aims at introducing content education based on key competencies, including green and digital. The new standards in primary and basic secondary education define 11 key competencies that correspond to the EU key competencies for lifelong learning. The New Ukrainian School is being rolled out with some delays in terms of teacher training and the printing of new textbooks.

The Law on education establishes the structure of the **education system** and gives a significant role to the Ukrainian National Qualifications Framework, lifelong learning and education based on key competencies. In February 2023, the Commission published a report on the comparison between the European Qualifications Framework and the Ukrainian qualifications framework. The report demonstrates how Ukrainian qualifications compare with the European ones and support the recognition of Ukrainian qualifications and can help further studies and employment. Ukraine became a member of the Advisory Group of the European Qualifications Framework and can start preparing for the referencing to the European Qualifications Framework.

An Arrangement for Cooperation on Education between the European Commission and the Ministry of Education and Science of Ukraine was signed in June 2023. Both parties agreed to strengthen and further develop cooperation and dialogue in this field. The Commission has also opened up participation in the Eurydice Network to the Ministry of Education and Science of Ukraine to get a deeper understanding of the respective education systems and their cooperation in education.

Regarding the issue of national minorities in education, where Ukraine needs to fully implement the recommendation of the Council of Europe's Venice Commission on the education law, implement those on the State language law and address the remaining recommendations of the Venice Commission Opinion of June 2023 and the follow-up Opinion of October 2023, this will continue to be monitored as part of Chapter 23 on judiciary and fundamental rights.

The **VET system** still operates under a law from 1998 that needs modernisation to among others merge VET and pre-tertiary levels of education into one joint professional education system. Meanwhile, the development of the VET sector is guided by a dedicated strategy and concept with the aim of making VET more attractive and relevant. Work-based learning plays a significant role (70%) in dual VET programmes. However, the involvement of businesses remains low, and the quality of training, materials and technical equipment of VET institutions does not fully meet the requirements of employers and students.

Validation of non-formal and informal learning is well established and implemented. The National Agency for Qualifications accredits qualification centres that assess professional qualifications independently, including the validation of non-formal and informal learning.

On **higher education**, Ukraine is a member of the Bologna Process and has ratified the Lisbon Recognition Convention. It has made progress on the key European Higher Education Area commitments, effectively engaging in EU higher education policy and transnational cooperation. At the same time, the implementation of the Strategy for the Development of

Higher Education in Ukraine for 2021-2031 has been slow due to the disruption and lack of resources caused by the war. In May 2023, it made some progress in improving the mechanism of quality assurance of higher education. Ukraine participates in the international dimension of the Erasmus+ programme. Around 30 higher education institutions from Ukraine have joined European Universities Alliances in 2023, as associated partners.

In July 2023, Ukraine nominated its representatives to the European Education Area Working Groups 2021-2025. It is also in the process of joining the Eurydice Network.

Youth policy is governed by the law on basic principles of youth policy, the strategy on the development of youth policy in Ukraine until 2030 and the state-targeted social programme Youth of Ukraine for 2021-2025. The Ukrainian Volunteer Service has established an effective national volunteer platform. However, activities on youth employment partnerships, youth participation, skills development of disadvantaged young people and youth entrepreneurship for the digital and green economy need to be implemented in a more visible way.

Ukraine's approach to **cultural policy** broadly reflects the general priorities of the New European Agenda for Culture. At the strategic level, Ukrainian cultural policy focuses on three strands: (1) the creation of conditions for the active involvement of Ukrainian actors into pan-European cultural processes, (2) the promotion of European values, and (3) the strengthening of culture ties with the EU Member States. Its strategy for the development of culture is due for revision in 2025. The law on culture has been amended to include rules on the digitalisation of cultural heritage assets' registers. The strategic elements are further translated into three concrete policy priorities: (1) designing and implementing a new approach for a public model of cultural infrastructure, (2) safeguarding cultural heritage, and (3) fostering networking among the internationalisation of Ukrainian cultural and creative sectors, which includes the association to Creative Europe. The European Capital of Culture is an additional priority.

On **sport**, Ukraine has continued to cooperate with European partners, including in the European Week of Sport Beyond Borders and in the Council of Europe's sport partnership.

Chapter 29 – Customs union

All EU Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementation and enforcement capacity, and access to the common computerised customs systems.

Ukraine has **a good level of preparation** in the area of the customs union. Despite the ongoing military aggression, Ukraine has made **good progress** in the customs union area in the reporting period, especially in terms of alignment with the EU *acquis*. Ukraine is connected to the EU customs information system and is using the new computerised transit system (NCTS). Ukraine has been a contracting party of the Convention on a Common Transit Procedure, which is 100% based on the Union transit system, since 1 October 2022.

In the coming year, Ukraine should in particular:

- make progress in areas related to customs procedures, customs debt and the application of guarantees as well as simplification of customs formalities, and with the development of a new Customs Code;
- ensure the timely implementation of NCTS Phase 5 and expand the use of the common transit procedure as well as the authorised economic operator (AEO) framework;
- adopt legislation criminalising large-scale smuggling of all goods and build up administrative capacity to implement this.

Ukraine's Customs Code, adopted in 2012, largely aligns with the Union Customs Code, including amendments to transit, AEOs and intellectual property rights. In 2022, the Customs Code was amended twice to simplify customs formalities, decision-making procedures, and enable accession to the common transit system. The government adopted and implemented a law aligning the classification of goods with the harmonised system and combined EU nomenclature in October 2022 .

Further efforts are needed to raise the usage of the national AEO programme and finalise the related IT system for mutual recognition with the EU AEO programme.

Further alignment of the Customs Code with the Union Customs Code is needed, particularly in the areas of customs procedures, simplification of customs formalities, pre-departure information and the enforcement of intellectual property rights.

The IT system for registering traders' liabilities needs to be updated.

The pre-war simplifications for customs clearance, extended until November 2023, should be lifted to promote the use of NCTS and grant benefits to compliant AEOs, while strengthening risk-based customs controls and improving inland controls. Returning operative intelligence rights to the State Customs Service (SCS) is necessary to improve its effectiveness.

Ukraine became a contracting party of the Convention on a Common Transit Procedure and the Convention on the Simplification of Formalities in Trade in Goods on 1 October 2022, but the number of common transit movements remains modest.

Despite the ongoing war and suspension of operations at several regional customs offices and border crossing points along the eastern border, the SCS **has largely maintained its operational and administrative capacity**. However, a comprehensive reform is necessary to transform it into a modern, efficient, transparent and corruption-free institution. This includes recruiting stable and full-fledged leadership through transparent and merit-based selection. Improving human resources management with an appropriate training framework is crucial, alongside strengthening integrity and anti-corruption measures.

The SCS IT infrastructure needs a significant upgrade as existing systems for customs clearance and risk management are outdated and non-compliant with security requirements. While a strategic plan for digitalisation of the SCS was adopted in 2022 and is being implemented, the ongoing war limits financial resources and makes IT reform dependent on external funding. A long-term national strategic plan for digital development of SCS until 2026, based on the multi-annual EU customs strategic plan, should be finalised and adopted. A plan for the implementation of EU-related IT systems needs to be developed.

Criminalisation of large-scale smuggling and accession to the Protocol to Eliminate Illicit Trade in Tobacco Products, along with empowering the SCS to investigate cases of smuggling, are needed. Strengthening intellectual property rights will require the government to establish a legal framework and develop necessary IT tools. Developing risk management for post-clearance control and customs audit, as well as introducing risk-based customs valuation, needs to be addressed.

CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

This cluster covers: transport policy (Chapter 14); energy (Chapter 15); trans-European networks (Chapter 21); and environment and climate change (Chapter 27).

Ukraine has a good level of preparation on energy and some level of preparation in the areas of transport, trans-European networks and overall in the chapter on environment and climate change.

During the reporting period, the country has made some progress on energy. Good progress has been made on environment and climate, with more progress on the environment than on climate change. Limited progress was recorded on transport and some on Trans-European networks. Ukraine signed a road transport agreement in June 2022 with the EU to liberalise bilateral and transit road transport. However, overall legislative alignment and institutional reforms in the transport sector remain slow. In the energy sector, Ukraine adopted important legislation including its long-pending law on wholesale energy market integrity and transparency. Measures taken under martial law, which led to a decrease in transparency and independence of energy stakeholders, will need to be reversed. Regarding Trans-European networks, energy and transport institutions continue to show extraordinary resilience and capability for emergency repairs to the damaged networks. In chapter environment and climate change, Ukraine's legislative alignment with EU *acquis* and strategic planning increased, including through a framework law on waste management, flood risk management plans and a water strategy until 2050. Ukraine's weak administrative capacity in the field of environment and climate is a key bottleneck, also for the implementation and enforcement of rules on environmental impact assessments. This cluster and the related reforms are intricately linked to Ukraine's reconstruction during and after the war.

Chapter 14 – Transport

The EU has common rules on technical and safety standards, security, social standards, State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

Ukraine has **some level of preparation** in the area of transport policy, with **limited progress** achieved during the reporting period. Progress was severely hampered by Russia's continuing military aggression against Ukraine.

In the coming year, Ukraine should in particular:

- further align and effectively implement of the EU rail and road *acquis* and set up the appropriate administrative structures for rail transport, in particular the regulatory body;
- strengthen its administrative capacity to enforce measures on road safety and establish inspection and investigation bodies for rail and inland waterways transport.

In the area of **transport**, Ukraine is implementing the EU *acquis* priority transport rules under the Association Agreement. These aim to facilitate the restructuring and modernisation of Ukraine's transport sector and gradual approximation with operating EU and international standards and policies. In this context, Ukraine's transport sector should gradually become more sustainable, safe and efficient. Despite progress in some areas, the speed of legal and institutional adjustments and reforms remains very slow, being further affected by Russia's military aggression. The implementation of the National Transport Strategy 2030, which serves as a framework for the modernisation of the transport sector, and its dedicated action plan for 2021-2024 should be resumed as soon as possible.

The level of alignment of the Ukrainian public services legislation on rail and road transport with the EU *acquis* is low and must be prioritised. In rail and waterborne transport, independent accident investigation bodies have not been established.

In 2022, Ukraine was granted observer status in the Transport Community Treaty as a robust basis for further transport market integration with the EU and is cooperating pro-actively with the treaty's structures. Closer association with the Transport Community can support Ukraine on its European path, as the Transport Community plays an important role supporting the enlargement process through the implementation of the relevant EU transport *acquis*.

In the area of **road transport**, Ukraine has partially implemented the rules on tachographs. Rules on access to the international road transport market and on passenger transport are in place. On the European Electronic Toll Service/Eurovignette, there are no tolls in Ukraine and road charges are not collected. On social aspects, national rules are aligned with EU rules on driving and rest times, but a number of other rules on rest periods have not been implemented. Ukrainian legislation on testing the roadworthiness of vehicles is partially aligned with EU rules.

No progress has been made in completing important regulatory reforms and adopting legislation during the reporting period. This includes regulation of the road transport market on wheeled transport safety and social aspects of road transport. The road safety situation in Ukraine has worsened since Russia's full scale invasion. The road safety strategy up to 2024 should be implemented as far as possible.

A road transport agreement was signed in June 2022 to liberalise bilateral and transit road transport between the EU and Ukraine for an initial period of 1 year, extended up to 2024. The agreement also provides for the recognition of Ukrainian driving licences and certificates of professional competence. Ukraine has also signed the Interbus Protocol on international regular and special regular carriage of passengers by coach and bus. However, Ukraine has yet to ratify this protocol.

The implementation of **rail transport** reform was suspended with the introduction of martial law in February 2022. The war has resulted in changes to logistics routes following the full and then partial closure of Ukrainian Black Sea ports. It has demonstrated the importance of reliable and resilient land connections with the EU and the vital role that rail transport plays in the current context. The draft railway law has not yet been adopted.

Ukrainian Railways (JSC Ukrzaliznytsia) remains the sole integrated railway undertaking that manages infrastructure and provides rail transport services, with no financial and organisational separation between infrastructure management and operations. The Law on natural monopolies aims to regulate access to infrastructure. In practice, however, tariffs and conditions for accessing the infrastructure are not regulated. The State Service of Ukraine for Transport Safety, supervised by the Ministry for Communities, Territories and Infrastructure, issues licences to wagon operators that transport passengers or dangerous goods. However, it does not issue safety certificates.

On maritime transport, no progress has been made during the reporting period in adopting legislation that aligns with the EU *acquis*. The legislative framework is not aligned with the *acquis* on a Community vessel traffic monitoring and information system. It is currently impossible to implement the technical framework as the country does not exercise full control over its coastline due to the war. Ukraine has not ratified the 2006 Maritime Labour Convention from the International Labour Organization. Its legislation is not fully aligned with the EU Directive on working time and the EU Directive on working time enforcement. A maritime administration has been created and the body is operational. However, its capacities have to be significantly strengthened in order to enforce the reforms and carry out international obligations incumbent on a port or coastal state. On digital freight transport, the scope of Ukraine's legislation partially aligns with EU legislation. Ukraine still needs to implement legislation that aligns with the EU Port Services Regulation. It should, as a flag state, make continued efforts and take necessary measures to improve the quality of its fleet. Ukraine also participates in the Black and Caspian Sea (BCSEA II) technical assistance project implemented by the European Maritime Safety Agency (EMSA).

The 2020 Law on **inland waterways transport** establishes a legal, regulatory and institutional set-up to ensure the safety of navigation. Further legislation on the functioning of the market, access to the profession, river information systems and dangerous goods still needs to be adopted and implemented. The government has taken steps to establish a dedicated executive body (‘Administration of Navigation’) for inland waterways transport matters. Ukraine is a member of the EU Strategy for the Danube Region and an active Member State of the Danube Commission. Furthermore, it has bilateral agreements with several Danube riparian states on the mutual recognition of documents. Still, Ukraine should continue to work on fulfilling the preconditions for recognition of crew navigation certificates in the EU, in accordance with Directive (EU) 2017/2397.

Ukraine airspace is closed for civil **aviation** due to the war, which makes it impossible for Ukrainian and foreign airlines to operate and has led to the suspension of air navigation services by the Ukrainian State Air Traffic Services Enterprise. However, the State Aviation Administration of Ukraine has so far maintained an appropriate level of oversight over the safety of air carriers registered in Ukraine. Ukraine has made significant progress in aligning with EU rules on aviation since 2017 and signed the EU-Ukraine Common Aviation Area Agreement in October 2021. An action plan on the implementation of the Common Aviation Area Agreement was approved in July 2022.

Ukraine has started to develop its policy, legal and regulatory framework **on intermodal transport**. However, progress has been hampered by the war. The Law on multimodal transport clarifies and simplifies the procedures and responsibilities for the use of several modes of transport. It does so by approximating Ukrainian legislation with the Directive on the establishment of common rules for certain types of combined transport of goods between Member States.

More progress is needed to fully align Ukraine’s legislation with EU rules **on passenger rights** in all modes of transport, in particular for bus and coach passengers and the rights of people with reduced mobility. EU legislation on passenger rights in rail transport has been partially implemented.

Chapter 15 – Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy, nuclear safety, radiation protection and nuclear safeguards.

Ukraine has a **good level of preparation** in the area of energy. Ukraine achieved **some progress** during the reporting period, despite the fact that the energy sector operated under emergency conditions due to Russian attacks on Ukraine’s energy infrastructure. Legislative alignment continued including on wholesale energy market integrity and transparency, renewables, gas transmission system operator and gas storage certification. However, measures taken under martial law led to a decrease in transparency and independence of stakeholders in the energy sector.

In the coming period, Ukraine should in particular:

→ advance green energy transition and green reconstruction: adopt an ambitious national energy and climate plan (NECP) in line with the 2030 Energy Community energy and climate targets; adopt and implement the electricity integration package; continue improving energy efficiency including in the residential sector through regulatory measures and via the Energy Efficiency Fund; implement policy measures to encourage investments

in renewable energy production; launch reform of the district heating sector, and introduce mandatory energy efficiency criteria for public procurement;

- take steps to achieve cost reflective energy pricing, in particular by gradually phasing out public service obligations and replacing them with targeted support for vulnerable energy consumers;
- improve the independent and effective functioning of the energy regulator, resulting in a track record of fair and transparent decision-making to enable the energy markets to function properly.

In April 2023, Ukraine adopted a new energy strategy until 2050. The document has not been made available as it remains classified by the Ukrainian government. Ukraine's recovery plan from July 2022 sets out the government's intentions to increase the share of renewable energy both in gas and electricity in the generation mix and develop the green hydrogen industry. Before Russia's full-scale invasion, Ukraine had developed a draft NECP. The new document will have to be drafted taking into account the impact of the war on Ukraine's energy infrastructure and overall consequences for its energy system, which needs to become more resilient, decentralised, efficient, and based on renewables. The NECP should set out concrete policy and measures and become a guiding document for post-war reconstruction in line with Energy Community 2030 targets, taking due account of recommendations from the Energy Community Secretariat.

On security of supply, Ukraine relies mostly on domestic production and limited imports from the EU as regards natural gas. As for electricity, the capacity for electricity imports has been steadily increased, reaching 1 200 MW in June 2023 for the Ukraine/Moldova control block.

Ukraine is not yet implementing the Oil Stocks Directive. The deadline under the Energy Community Treaty for alignment passed on 1 January 2023. In December 2022, Ukraine adopted a gas storage certification law, and in April 2023 the gas storage operator Ukrtransgaz was certified in a compliant manner.

Ukraine's gas and electricity transmission system operators (TSOs) have observer status in ENTSO-E and ENTSOG, the European associations for the cooperation of TSOs. Ukrenergo, Ukraine's electricity TSO, is implementing measures to achieve full ENTSO-E membership. On gas supplies, Ukraine participates in Aggregate EU, the EU's joint gas purchase platform. The country has agreements with Hungary, Poland and Slovakia on firm capacity for gas imports to Ukraine.

On the internal energy market, Ukraine's primary legislation is compliant with the third EU energy package. Ukraine has yet to align with and implement the new electricity integration package adopted in the Energy Community in December 2022. For electricity, a day-ahead and intraday market is operational under price caps. Ukraine has not yet designated a nominated electricity market operator. The electricity and gas TSOs and the gas storage operator are unbundled and certified. The electricity and gas distribution system operators are also unbundled. However, interventions by authorities and companies in the cooperate governance of TSOs and in the market continue, which constitute a challenge. The corporate governance of the gas TSO LLC Gas TSO of Ukraine proved non-functional. The governance reform of the gas TSO started with legislation adopted in August 2023.

The independence of the National Energy and Utilities Regulatory Commission, Ukraine's national energy regulator, and trust in the institution has yet to be fully established, in line with Ukraine's obligations under the Energy Community. This is critical for private investment and reconstruction in the energy sector. During the reporting period, NEURC largely focused on

maintaining low and stable energy prices for the population during the war. To this end, public service obligations were extended by Cabinet of Ministers' resolutions to ensure the social protection of household consumers of gas and electricity. As a result, the financial position of the state-owned energy companies that implement public service obligations – Naftogaz for gas, Energoatom, Guaranteed Buyer and Ukrenergo for electricity – has suffered greatly as household tariffs were far below the cost recovery level. These tailored public service obligations need to be gradually phased out and replaced by more sustainable solutions that address energy poverty and the vulnerability of end consumers. In May 2023, NEURC slightly increased household electricity tariffs.

After the Ukrainian and Moldovan electricity grids were synchronised with the Continental European Network in March 2022 as an emergency measure, Ukraine started exporting electricity to the EU market. Exports stopped after massive Russian air attacks on electricity infrastructure from October 2022 onwards. To limit the extent of scheduled blackouts caused by military attacks, Ukraine imported electricity from the EU during the winter months, resuming limited exports in April 2023. The volume of the electricity market fell significantly as many industrial consumers had to stop production because of the war.

In May 2023, parliament adopted legislation on wholesale energy market integrity and transparency (REMIT Regulation), in line with Ukraine's obligations under the Energy Community. The REMIT law also introduced amendments regarding cross-border capacity allocation. Agreements with EU neighbouring countries on cross-border capacity allocation are still pending. So far, a 50:50 split of congestion rent was agreed with Slovakia. Joint auctions for cross-border trading in electricity by Ukrenergo on the borders with Romania and Moldova and via JAO, the Joint Allocation Office, on the borders with Poland, the Slovakia and Hungary have yet to take place.

In the area of **hydrocarbons**, parliament adopted a law to simplify permitting procedures for subsoil projects in December 2022.

On **renewable energy**, much of Ukraine's installed capacity – which amounted to 9.6 GW in 2021 – has suffered from damage or is in regions with armed conflict. Implementing a functional market-based support scheme for renewable energy sources (RES) in accordance with Directive 2018/2001 remains a key priority for Ukraine, including for attracting much needed private investment. Ukraine's current target for 2030 is a 27% share of RES in gross final energy consumption. In its NECP, Ukraine should set new ambitious annual targets for RES until 2030.

In July 2023, parliament adopted legislative amendments, allowing renewable producers to sell electricity directly on the day-ahead, intraday, bilateral and balancing markets. Prosumers can install RES facilities of up to 30 kW solar and wind and up to 50 kW for combined wind/solar systems. It offers two compensation options for prosumers: a feed-in tariff and net billing based on hourly wholesale market price. In June 2023, Ukraine adopted legislation setting the framework for guarantees of origin; a functioning national electronic registry has yet to be established.

On **energy efficiency**, Ukraine's energy efficiency law is largely aligned with the EU Energy Efficiency Directive. Rules on local energy planning and the deployment of energy management systems by state and municipal authorities consider good practices from the EU. Energy audits are mandatory for large companies. However, they are not yet supplemented by penalties for breaches, which may hinder their enforcement, or by incentives. Measures in Ukraine's 2030 national energy efficiency action plan, adopted in 2021, need to be updated, and its long-term strategy for the renovation of buildings adopted. Priority investments in

energy efficiency for the transmission and distribution of electricity and gas need to be identified.

Despite Russia's war of aggression, Ukraine continues to align with EU energy efficiency legislation. During the reporting period, Ukraine adopted four out of 26 legal acts that implement its framework law on energy efficiency. In March 2023, it signed a law on high efficiency cogeneration, although still without any support mechanism for combined heat and power based on useful heat demand to incentivise investments. Additional policy and support measures are needed to promote efficient heating and cooling, including the reform and modernisation of municipal district heating systems, wider use of renewable energy sources as well as waste heat from industry.

Ukraine's law on the energy efficiency of buildings is largely aligned with the EU *acquis*. A few remaining compliance issues require further attention. These include inspections of engineering systems, differentiation between buildings certification and energy audits for buildings and introducing requirements on certifying buildings when sold or rented out. In July 2022, Ukraine adopted a new law to create conditions for the comprehensive thermal modernisation of buildings. The law on commercial metering of thermal energy and water supply is to a large extent aligned with the *acquis* on heat metering, and Ukraine has equipped 83% of buildings connected to district heating with accurate heat meters. However, individual metering and consumption-based billing is still uncommon. Ukraine has a high level of alignment with the EU regulations and Directive on Energy Labelling and the Directive on Eco-design. At the beginning of 2023, Ukraine adopted 29 technical regulations on eco-design and 16 on energy labelling. To ensure effective implementation, the organisational and technical capacity of the state market surveillance body needs be strengthened. Mandatory energy efficiency criteria for public procurement still need to be introduced.

In 2018, Ukraine set up the Energy Efficiency Fund with transparent corporate governance and monitoring/verification systems to support renovations of residential buildings. So far, it has been the only policy measure that applies compliant measuring and verification of energy savings to end-user consumption. In 2022, the fund introduced a new restoration programme to support the rehabilitation of residential buildings non-structurally damaged by war.

On **nuclear energy, nuclear safety and radiation protection**, Ukraine is party to all international conventions concluded under the auspices of the International Atomic Energy Agency, including the Convention on Early Notification of a Nuclear Accident, and the Convention on Nuclear Safety. Commitments and obligations resulting from international treaties, conventions and other agreements that fall under the responsibility of the State Nuclear Regulatory Inspectorate of Ukraine (SNRIU) are implemented and enforced to the extent possible taking into account the ongoing Russian war of aggression against Ukraine and the forceful illegal seizure by Russian forces of the Zaporizhzhia nuclear power plant.

The nuclear safety regulator's capacity for independent licensing and inspection is considered sufficient in principle. With assistance from the State Scientific and Technical Centre on Nuclear and Radiation Safety, SNRIU can fulfil its responsibilities. However, its decisions are *de facto* not applied at the illegally seized Zaporizhzhia NPP. Further capacity building at SNRIU is ongoing with international support. The regulator cooperates actively with the European Nuclear Safety Regulators Group.

In February 2023, parliament adopted a law on the reorganisation of its state enterprise for nuclear energy. It provides for turning Energoatom into a joint stock company of the public sector and includes the appointment of an independent supervisory board between December 2023 and March 2024, in line with Council Directive 204/87/Euratom. Energoatom operates

15 nuclear units at four sites with a total capacity of 13.83 MW. The Zaporizhzhia nuclear power plant, the largest one in Europe, has been illegally seized by Russia in March 2022. This is posing numerous safety threats and leaves Ukraine with 6 GW less base load electricity production. Memoranda of understanding have been signed with Westinghouse, with the construction of nine new nuclear power units envisaged in Ukraine using AP1000 technology (pressurised water reactor with two cooling loops).

Ukraine has a certain level of alignment with Euratom nuclear safety legislation. Gaps exist in the field of radiation protection of personnel, the population and the environment and on radioactive waste and spent fuel management. Ukraine's approximation process is experiencing delays, partly due to the ongoing Russian aggression and is fragmented. Alignment of Ukrainian legislation with Council Directive 2014/87/Euratom and Council Directive 2013/59/Euratom and Ukraine's institutional framework needs to be completed.

Ukraine has a regulatory framework on radioactive waste that requires further development. The country still lacks several planning documents in the areas of radioactive waste and spent nuclear fuel management as well as a law on the management of uranium legacy sites. The State Agency of Ukraine for Exclusion Zone Management is the central executive body responsible for building and managing radioactive waste management infrastructure. It manages the Radioactive Waste Management Fund. Its resources are insufficient to finance all necessary infrastructure projects in this area.

On **nuclear safeguards**, Ukraine would need to start adapting the existing systems of accountancy and control of nuclear materials in order to accommodate for the safeguards provisions (Chapter 7) of the Euratom Treaty.

Chapter 21 – Trans-European networks

The EU promotes Trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.

Ukraine has **some level of preparation** in the area of Trans-European Networks (TENs), with **some progress** achieved during the reporting period. The development of new infrastructure and networks was substantially slowed down by the Russian war of aggression against Ukraine.

In the coming year, Ukraine should in particular:

- carry out emergency repairs and plan upgrades on critical infrastructure; taking into account the need for reconstruction in areas badly affected by the war, and ensure better connections with EU Member States, in particular through more efficient TEN-T rail and road border crossing points as well as electricity interconnections;
- further align with and implement the EU TEN-T and TEN-E related regulatory framework.
- Develop administrative capacities and scale up project preparation in order to ensure that transport and energy infrastructure projects can be implemented in line with EU standards.

On the **Trans-European transport network (TEN-T)**, there are currently two TEN-T core network corridors that reach the Ukrainian border in Chop: The Mediterranean corridor and the Rhine-Danube corridor. In June 2022, the EU and Ukraine signed a High-Level Understanding on the indicative TEN-T maps, making important adaptations to the indicative TEN-T network in Ukraine, namely the inclusion of the inland waterways of the Dnipro River and Southern Buh and adjustments to the rail and road network.

Ukraine has been associated to the Connecting Europe Facility in June 2023.

The Indicative TEN-T Investment Action Plan identified 39 priority projects in Ukraine that cover all transport modes: road, rail, aviation, ports and inland waterways. When the Russian war of aggression against Ukraine started, less than 10% of the projects identified had feasibility studies and only a few of these were in a more advanced stage of preparation or implementation. The limited capacity to prioritise, prepare and implement projects and limited fiscal space remain critical bottlenecks in Ukraine.

During the reporting period, Ukrainian efforts were mostly focused on emergency repairs to the damaged transport network, restoration of lifeline connections and the implementation of quick-win solutions to improve connections with Danube ports and EU Member States as part of the ‘Solidarity Lanes’ initiative. While Ukraine’s fiscal and institutional capacities remain severely constrained by the war, transport institutions continue to show remarkable resilience and capability to undertake rapid emergency repairs to the damaged transport network.

There is an urgent need to develop administrative capacities and scale up project preparation for rebuilding and developing transport networks. Project implementation units within government services and local government bodies should be strengthened. Investments in the transport network need to be designed and implemented in line with environmental and social standards and based on cost-benefit analysis following EU best practices. Ukraine’s own domestic standards need amendments to align with the EU *acquis*, thus fostering interoperability with the transport network in the EU and contributing to the improvement of road safety.

Ukraine has yet to fully align with and implement the EU TEN-T *acquis*, in particular on technical standards needed to ensure the safety and interoperability of networks. Decarbonisation and digitalisation of the transport sector remain challenging tasks, especially in the current circumstances. Further alignment and improvement of the public procurement and environmental assessment standards and alignment with State aid rules is necessary.

Ukraine is including the **Trans-European energy network (TEN-E)** guidelines in its legislative framework, with technical assistance funded by the EU. Ukraine’s alignment with Regulation (EU) 347/2013 and designation of a national authority are still pending. A large part of Ukraine’s internal electricity transmission infrastructure had been damaged since February 2022; repairs are taking place constantly. Ukraine identified some priority projects to strengthen its electricity and gas grids and build new interconnectors, for example the rehabilitation of the 400 kV Mukacheve (Ukraine) – V.Kapusany (Slovakia) line. In spring 2023, reconstruction works started on the Bar compressor station.

Chapter 27 – Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

Ukraine has **some level of preparation** in the area of the environment and climate change. **Good progress** was made in this chapter, despite Russia's war of aggression. On the environment, legislation was adopted aiming at further alignment on horizontal issues, water quality, waste management, chemicals and noise. On climate, where progress was limited, Ukraine continues its work on a national climate law and a National Energy and Climate Plan.

In the coming year, Ukraine should in particular:

→ Ensure cross-sectoral mainstreaming of environment and climate action in the reconstruction plans of the country, identify green reconstruction strategy for key sectors

and prioritise relevant EU legislation and standards in its National Programme for the Adoption of the *Acquis* (NPAA);

- Adopt primary and secondary legislation to continue the reforms initiated in water and waste management *acquis*. Adopt the law on environmental control and the legislation harmonising with the industrial emissions *acquis*;
- Adopt a climate law and initiate the update of its long-term low emissions strategy consistent with the EU 2030 framework.

Environment

Ukraine has taken several notable steps to align with EU **horizontal legislation** on environment despite the difficulties posed by the ongoing Russian war of aggression. Taken in this context, the steps undertaken by Ukraine are all the more significant, especially in view of the massive environmental destruction suffered by Ukraine, and their relevance for the country's post-war recovery which will, ultimately, depend on the implementation and enforcement track record after the war. Ukraine. Ukraine ratified two amendments to the Espoo Convention in July 2022 and signed a bilateral agreement with Romania on implementation of this Convention in November 2022. During the reporting period, Ukraine adopted laws on the national pollutant release and transfer register (September 2022) and on the state environmental monitoring system.

The capacity of public administration to deliver on cross-sectoral mainstreaming of environment and climate action in relation to reconstruction of the country as well as on implementation and enforcement of already adopted EU *acquis*, needs to be strengthened. Ukraine needs to significantly strengthen administrative and inspection capacities in the environment and climate sector. The implementation and enforcement of EIA and SEA legislation deteriorated due to martial law. SEAs and EIAs must be carried out in line with the Espoo Convention and the adopted EU *acquis* including for hydropower development programmes and projects. Access by civil society to environmental information and participation in decision-making needs to be ensured. Ukrainian legislation addresses disciplinary, civil, administrative and criminal liability for environmental offences, but full alignment with and implementation of the relevant EU *acquis* is yet to be achieved.

On **air quality**, work on further alignment with two ambient air quality directives continues. In August 2022, procedures were adopted for the development of action plans to improve air quality, followed by the adoption of methodological recommendations in April 2023 on their content and procedures. Under the United Nations Economic Commission for Europe (UNECE) Air Convention, Ukraine submitted the Nomenclature for Reporting and Informative Inventory Reports in 2022 and 2023. In March 2023, legislative amendments to the state monitoring system, including on air quality, were adopted. Further work is needed on air quality information collection, processing, reporting and dissemination procedures as well as monitoring and control. Relevant investments should be planned for this purpose. On sulphur in fuels, systemic compliance monitoring of the products concerned is required. Alignment with the Directive on the control of volatile organic compound emissions resulting from the storage of petrol and petrol vapour recovery has yet to be fully achieved.

On **waste management**, a framework law was adopted in 2022, which enters into force in July 2023. On sewage sludge, general issues related to water drainage and sewage treatment were addressed with a new law in January 2023, but full compliance with the directive is yet to be achieved. A law on limiting the use of plastic bags was adopted in 2021, but additional efforts are needed on enforcement and information dissemination to the general public.

On **water quality**, river basin management plans are being developed as well as standards to assess the ecological status of rivers, lakes, transitional waters and coastal waters using four out of five biological quality parameters of the Water Framework Directive. In October 2022, the government approved flood risk management plans to implement the transposed Floods Directive. A water strategy to address water use and the protection and reproduction of water resources until 2050 was approved in December 2022. Its action plan also includes the designation of nitrate vulnerable zones by December 2023 and several indicators on wastewater discharges for the Directive on urban wastewater treatment. In January 2023 a Law on water drainage and sewage treatment addressed some of its elements. The regular national annual report on the quality of drinking water and state of drinking water supply for 2021 was published at the end of 2022. Drinking water quality is addressed in Ukrainian legislation and in its water strategy, but compliance with EU requirements needs to be further assessed. Implementation of the Directive on technical specifications for chemical analysis and monitoring of water status continues. Administrative capacity in the water sector is insufficient, also due to lack of funding.

On **nature protection**, a law on the protection of forests was adopted in June 2022. The government approved changes in forest reproduction rules, prohibiting the use of invasive alien species, in December 2022. It also approved the list of invasive tree species in May 2023. An action plan on the implementation of a strategy on biosafety and biological protection for 2022-2025, which also covers measures on invasive alien species, was adopted in July 2022. Ukraine is a party to the Nagoya Protocol on access to genetic resources since May 2022. Further action is needed to protect biodiversity, including on the *acquis* on wild birds, habitats, zoos, leg hold traps, access to genetic resources and seals. A strategy on biodiversity protection and an action plan on its implementation need to be developed also taking into account the Kunming Montreal Global Biodiversity Framework. Capacities for setting up and managing Natura 2000 sites need to be set up, and already adopted legislation needs to be implemented. Ukrainian legislation is partially aligned with the EU Regulation on timber and with the EU Regulation on forest law enforcement governance and trade. However, there is a high risk of non-compliance. The independence and capacity for monitoring and control of licences, felling and the sale of forest products need to be strengthened. The Parliament of Ukraine ratified the Nagoya-Kuala Lumpur Supplementary Protocol under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity on 10 June 2023.

Ukraine has some level of preparation on **industrial pollution and risk management**. A legal framework covering these areas exists in Ukraine, but efforts are needed to further align with the EU *acquis*, including by adopting missing primary legislation. In May 2023, the Parliament adopted in first reading a draft law on integrated environmental permitting and best available techniques. The existing national limits for the emission of pollutants and discharge do not meet emission levels associated with best available techniques set out in the Industrial Emissions Directive, including for around 220 large combustion plants. Mandatory automated pollutant emission control system procedures were introduced in March 2023 for new equipment. However, they exclude the most polluting equipment from the Soviet era, and the rules will only enter into force several years after the end of martial law. Ukraine reported its emissions data for 2021 to the European Environment Agency in accordance with the Large Combustion Plants Directive. On industrial accidents, Ukraine joined the UNECE Convention on the Transboundary Effects of Industrial Accidents in 2022. Ukraine's legislation will now need to be updated to meet the Convention's requirements and the EU *acquis*. In August 2022, legal amendments were adopted to align with the Seveso III Directive dealing with onshore major accident hazards. In September 2022, the government adopted a resolution on the

identification of high-risk facilities based on the principles of the Directive. Reporting procedures on safety measures for high-risk entities were drawn up in February 2023.

Ukraine is encouraged to start administrative preparations for alignment with the new EU environmental *acquis* stemming from the European Green Deal in the areas of circular economy, biodiversity protection and zero pollution. Further work and administrative measures are needed to implement the EU Eco-Management and Audit Scheme and EU Ecolabel Regulations as well as adapt environmental standards and promote green public procurement.

In the area of **chemicals**, Ukraine adopted a law in December 2022 to address import and export issues. More efforts are needed to bring the legal framework in compliance with the EU *acquis*. Ukraine adopted the law on joining the Minamata Convention on Mercury in May 2023. In September 2022, a law on the public health system was adopted, prohibiting the production and use of asbestos. In July 2022, the government postponed the entry into force of the technical regulation to ban cosmetics testing on animals by one year. No progress has been made on biocides.

On **noise pollution**, a law on the public health system, adopted in September 2022, partially addresses the requirements of Directive 2002/49/EC. Full transposition is pending.

On **civil protection**, on 20 April 2023, Ukraine and the EU signed an agreement on the participation of Ukraine in the Union Civil Protection Mechanism (UCPM). Ukraine will become a Participating State in the UCPM retroactively from 1 January 2023, once it informs the Commission of the conclusion of its ratification procedure. As a Participating State, Ukraine will be able to not only receive but also to offer assistance via the UCPM to other countries affected by disasters. Ukraine will have access to more funding and will benefit from the full range of tools under the UCPM for structured cooperation in civil protection prevention and preparedness with the EU. Ukraine has already shown strong solidarity with other countries affected by disasters. Ukraine provided bilateral assistance to Türkiye in response to the earthquakes in February 2023 and to Slovenia in response to the floods in August 2023.

Ukraine has a well-structured civil protection system at national, regional and local level. The State Emergency Service of Ukraine coordinates response efforts. Since the beginning of the war in 2022, it has effectively coordinated, together with a wide range of stakeholders across the Ukrainian government, the delivery of unprecedented in-kind assistance to Ukraine through the UCPM. The country has a 24/7 operational duty service, which cooperates closely with the European Commission's Emergency Response Coordination Centre. To facilitate cooperation, the number of English-speaking staff could be further increased. Roles and responsibilities within the civil protection system would benefit from further clarification. The Ukrainian civil protection system has a well-documented history of disaster risk management, based on robust tactical capacities and a solid legal and institutional framework. It could be further improved by strengthening disaster prevention and preparedness measures. A national disaster risk assessment is updated periodically but is not based on a nationally approved methodology. Ukraine has not been fully mapped for specific hazards; its Early Warning System could be further strengthened. Increased synergies and cooperation should be established between the State Emergency Service of Ukraine and the authorities in charge with industrial pollution, risk management, industrial accidents, onshore major accident hazards covered under the Seveso III Directive to put forward cross-sectorial preventive measures as part of the national disaster risk management assessments.

Climate change

On climate change, Ukraine has continued work on a framework climate law to make climate commitments legally binding and to establish a climate governance architecture.

Ukraine updated its nationally determined contribution (NDC) in July 2021, including a commitment to reduce greenhouse gas emissions by 65% by 2030 compared to 1990. The commitment to reach net-zero emissions by 2060, which is included in the updated NDC, has not translated into a long-term low-emission development strategy yet. A strategy and action plan to implement its NDC is not yet in place, and an updated long-term low emission development strategy is needed. A national adaptation strategy was adopted in 2021 as well as an operational plan for its implementation covering 2022-2024.

A Contracting Party to the Energy Community, Ukraine has obligations connected to the Decarbonisation Roadmap. Connected to this, the country is currently preparing a National Energy and Climate Plan with support provided through the Energy Community; the NECP is expected to articulate Ukraine's medium-term vision for decarbonisation and resilience with needs and opportunities for rebuilding areas affected by Russia's war of aggression in a greener way.

Also related to the Energy Community's Decarbonisation Roadmap, a law on monitoring, reporting and verification of greenhouse gas emissions was adopted in 2019 and entered into force in 2020, as a first step towards emission trading, followed by a number of secondary legislation acts. As the martial law is in place, the monitoring, reporting and verification system is not fully operational. Ukraine needs to urgently step up on implementing the Energy Community's Decarbonisation Roadmap and in particular prepare for the Emissions Trading System (ETS).

Ukraine has a law on ozone-depleting substances and fluorinated gases adopted in 2019.

Administrative capacity remains weak in terms of both human and financial resources and needs to be urgently enhanced. Lack of administrative capacity hinders the alignment and implementation of EU legislation, including at local level. Ukraine needs to do more to consistently mainstream climate considerations in all dimensions of public policy in a whole-of-government approach.

It will need to align the future national climate strategy and climate law with the EU 2030 framework for climate and energy policies, notably certain pieces of legislation under the Fit for 55 package adopted during the reporting period.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

This cluster covers agriculture and rural development (Chapter 11); food safety, veterinary and phytosanitary policy (Chapter 12); fisheries and aquaculture (Chapter 13); regional policy and coordination of structural instruments (Chapter 22); and financial and budgetary provisions (Chapter 33).

Ukraine is moderately prepared as regards food safety and veterinary (SPS) and phytosanitary policy, has some level of preparation as regards regional policy and coordination of structural instruments and in fisheries and aquaculture and is at an early stage in the other areas - agriculture and rural development and financial and budgetary provisions. Ukraine has made some progress in four areas, namely agriculture and rural development, SPS and phytosanitary policy, fisheries and aquaculture and financial and budgetary provisions, primarily through legislative and policy alignment and through launching a national agrarian register. Progress was limited in regional policy and coordination of structural instruments.

Chapter 11 – Agriculture and rural development

The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.

Ukraine remains at an **early stage of preparation** in the area of agriculture and rural development. **Some progress** was made, notably in the adoption of legislation aligning with the EU *acquis* and the launch of the State Agrarian Registry aimed at registering farms. The implementation of other horizontal CAP issues and the improvement of administrative capacity was limited.

In the coming year, Ukraine should in particular:

- finalise its national strategy for agriculture and rural development for 2023-2030 complementing the sector recovery action plan, and start implementing it;
- continue aligning its legislation with the EU *acquis* on agriculture and rural development focusing on the requirements stemming from the Association Agreement and strengthen the administrative capacity for evidence-based policy development;
- monitor and extend the registration of farms in the State Agrarian Registry and systematically use it for all financial support programmes, take preparatory steps for establishing an EU-compliant paying agency and farm accountancy data network.

On **horizontal issues**, the Ministry of Agrarian Policy and Food (MAPF) is in charge of agriculture and rural development. The government has yet to appoint a body responsible for the management and control of government expenditure on agriculture, separate from the managing authority for programming. The establishment of the administrative and control system required by the EU *acquis* should be accelerated. An integrated administration and control system (IACS) should be set up. In August 2022, Ukraine established a State Agrarian Registry, an automated information system for collecting, processing and providing information about producers of agricultural products and their agricultural activities. The Ukrainian State Fund for Farm Support supports farms including through interest-free loans and payments per hectare and heads of livestock. However, it is not yet an EU-compliant paying agency. Improved integration and data quality of registries, in particular the Land Parcel Identification System (LPIS) is necessary. Ukraine is encouraged to bring support measures in line with EU *acquis*. A farm accountancy data network (FADN) needs to be established. Non-state advisory services of various legal forms are allowed in Ukraine. Government support was provided before the war to registered advisers. Ukraine has started to establish an Agricultural Knowledge and Innovation System.

On **common market organisation** the Ukrainian legal framework has yet to be aligned with the EU *acquis*. Work has focused on legal acts that regulate marketing standards for certain products, and standards for further products are being developed. The law on the association of agricultural producers is pending parliamentary adoption and aligns only partially with the EU *acquis*.

In the wine sector, Ukraine started to establish a vineyard register and new viticulture zoning of wine growing areas in line with EU *acquis*. Common market organisation for wine shall be regulated through the Law on grapes and viticulture, which remains to be adopted.

On **rural development**, Ukraine's draft national strategy for agriculture and rural development for 2023-2030 remains to be finalised, including environmental standards, climate resilience and bioenergy. It aims to complement the sector recovery action plan. Rural development is implemented on the basis of assistance to support small and medium-sized businesses in rural areas. A partial credit guarantee fund for small farmers was set up as a nonbanking financial institution and its management board was established in May 2023. It remains to become operational. A scheme launched in February 2023 supports investments by small farms and their integration into functional agricultural value chains.

On **quality policy**, the 2020 law on the protection of geographical indications (GIs) makes it possible to register GIs in line with the EU system. Two laws were adopted in September and December 2022, which further regulate this sector. Protected GIs are registered in a publicly available state register. Ukraine will have to build its administrative capacity to ensure the protection and control of GIs.

In the area of **organic farming** preparations are underway for alignment with the EU *acquis*. Certification of organic production is mainly carried out by international certification bodies with Ukraine having launched the accreditation process of two Ukrainian certification bodies. Actions to enhance monitoring and control are important. Ukraine's policy objective is to reach 3% of total agricultural land certified as organic by 2030.

Chapter 12 – Food safety, veterinary and phytosanitary policy

EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with the quality of seeds, plant protection material, the protection against harmful organisms and animal nutrition.

Ukraine remains **moderately prepared** on this chapter. **Some progress** was made, in particular in the adoption of legislation aligned with the EU *acquis* in all sectors covered by the chapter. Implementation of the legislation should be carefully monitored and administrative capacities and disease surveillance stepped up.

In the coming year, Ukraine should in particular:

- continue to implement and update the strategy for aligning with and implementing the EU *acquis* to meet the requirements of the Association agreement, with a focus on the animal health and phytosanitary measures;
- accelerate EU market integration through a project to pilot the EU's trade control and expert system (TRACES) and subsequently extend its use to the whole country;
- enhance food safety through the reform of food safety bodies (State Service of Ukraine on Food Safety and Consumer Protection, State Agency for Animal Identification and Registration, authorised laboratories), strengthening food safety controls and implementing robust disease surveillance and vaccination.

With 242 EU legal acts to be approximated, the sanitary (food safety and animal health) and phytosanitary (plant health) sector is the single most comprehensive area in the EU-Ukraine Association Agreement. In June 2023, Ukraine informed to have concluded the alignment with 81 EU acts, while work on another 75 was ongoing. Phytosanitary primary legislation is still lacking.

On **general food safety**, the Ministry of Agrarian Policy and Food and the Ministry of Health have competence in the area of food safety, veterinary and phytosanitary policy. The Ministry of Economy is also involved in parts related to its competences. A single body, the State Service

of Ukraine on Food Safety and Consumer Protection (SSUFSCP), is responsible for national food safety control. It is also responsible for risk-based national controls through a network of sub-national bodies at regional (Oblast) and sub-regional level. As a result of an in-depth functional review, the SSUFSCP's central office revised its structure in December 2022. Its functionality should further improve by assuming all obligatory sanitary and phytosanitary duties.

The Law on the public health system adopted in October 2022 and to be implemented from October 2023 introduces a comprehensive 'One Health' approach, which also provides for information exchange on infectious diseases common to animals and humans. The government prepared a general strategy and joint action plan for cooperation between the food safety, animal and human health authorities in March 2023.

On **veterinary policy**, legislative alignment with the EU *acquis* advanced. The government adopted legislation including on animal welfare, veterinary medicinal products and disease surveillance. Regionalisation and zoning procedures for certain notifiable diseases have been considered satisfactory in audits by the European Commission. Ukraine is invited to implement zoning decisions taken within the EU. The systems for animal disease notification and management of information on outbreaks need to be upgraded to become fully functional. Preparations started to use the EU's trade control and export control system (TRACES) within one year. The animal movement control and registration system was extended to sheep, goats, pigs and equines to provide for more effective animal health measures. Official controls to enforce animal registration and identification, including controls of markets, are yet to be improved and aligned with EU legislation.

As for the **placing of food, feed and animal by-products on the market**, Ukraine's official food and feed control system saw the adoption of further legislation. Structural and institutional reforms based on EU standards took place through the creation of a risk assessment unit in the SSUFSCP and standard operational procedures were agreed. The multiannual national control plan 2022-2026 was approved. A risk analysis, assessment and management system is in place, with food production facilities participating in it. On export, as of 23 March 2023, 427 Ukrainian businesses had obtained the right to export their products to the EU. Ukraine regularly updated its food safety monitoring plan. Food safety databases are to be further integrated and administrative capacities need to be strengthened at all levels. The control of goods during the import process also follows a risk-based approach. Ukraine fully participates in the Commission's rapid alert system for food and feed (RASFF), but is not a member of the network. Official controls of imports and the handling of animal by-products not intended for human consumption remain to be fully aligned with the EU *acquis*.

On **food safety rules and specific rules for feed**, legislative changes provided for the establishment of a national institution for the registration of veterinary medicines and feed additives and for the implementation of the hazard analysis and critical control points system in feed and feed additive production facilities. Risk-oriented feed control was introduced.

Some progress was made on **phytosanitary policy**. Ukraine established a comprehensive system for the regulation and monitoring of plant protection products, pesticide use, and the quality and certification of seeds through the Law on plant protection products (January 2023) and the Law on seeds and planting material (December 2022). Relevant producers, importers, exporters and distributors are registered in a single register. Adoption of the draft framework Law on state regulation in the field of plant protection remains to be concluded. Substantial work is still needed to implement integrated pest management principles in a harmonised manner as well as increase the number of inspectors and their administrative capacity.

Authorised laboratories perform official laboratory testing for veterinary, sanitary and phytosanitary controls. Most of these are accredited to ISO/IEC 17025. Laboratory capacity, including staffing, equipment and accredited methods, is generally satisfactory, while their organisation and the structure of the laboratory network is to be adjusted to EU standards. National reference laboratories remain to be designated and provide to improve testing methods, train staff, participate in proficiency testing programmes and provide contingency capacity.

On **genetically modified organisms (GMOs)**, the relevant authority's control powers are limited. A legal framework for the regulation of genetic engineering activities, GMO registration and a system of government control of GMOs and penalties based on the nine EU legal acts that establish the legal framework is yet to be adopted.

Chapter 13 – Fisheries and aquaculture

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

Ukraine has **some level of preparation** in the area of fisheries and aquaculture. **Some progress** was made, including through the adoption of legislation aligned with the EU *acquis* and by adopting a national sector strategy. Development of the legislation should be accelerated, and administrative capacities substantially strengthened, notably to enforce controls and inspection. Ukraine continues to be a reliable partner in international fora.

In the coming year, Ukraine should in particular:

- implement the national strategy for the fisheries and aquaculture sectors development until 2030 according to its action plan, including the alignment of the national legislation with the EU *acquis* and adopt EU common fisheries policy objectives and principles, including for resource management, inspections and controls, and to fight illegal, unreported and unregulated (IUU) fishing;
- develop administrative and institutional capacity for the management and control of fishing activities and launch the establishment of an independent fisheries control agency based on EU Member States' best practices;
- become a fully-fledged member of the General Fisheries Commission for the Mediterranean (GFCM).

Ukraine's new strategy for fisheries and aquaculture development until 2030 was adopted in May 2023. The Strategy outlines the development of the sectors till 2030 in line with the Common Fisheries Policy general rules and principles linked to the sustainable exploitation of fishery resources. Based on an assessment of the state of implementation of EU legal acts in April 2023, Ukraine prepared a national plan for full approximation with the EU *acquis* in the fisheries sector. The Ministry of Agrarian Policy and Food is responsible for establishing fisheries policy and drafting legislation, while the State Agency of Melioration and Fisheries is responsible for policy implementation.

On **resource management**, Ukraine amended its legislation in March 2023 for the governance of fisheries, conservation and rational use of aquatic biological resources and aquaculture, with certain parts of the fisheries management system adapted to the EU *acquis*. Ukraine will need to develop necessary administrative and scientific capacity to systematically collect data on

fisheries and adopt mechanisms to achieve a balance between fishing capacity and fishing opportunities as well as to take measures to assess and reduce the environmental impact of fishing activities.

On **fleet management**, the country has no separate fleet register for fishing vessels. Fishing is based on a permit issued to businesses through open auctions and vessels are registered either in the state shipping register of Ukraine or the ship book of Ukraine. Ukraine needs to harmonise its fleet registers with the EU fishing fleet register.

Inspection and control activities are limited, and catch from illegal, unreported and unregulated (IUU) fishing reportedly enters the fish market. The current lack of effective inspection and control hampers Ukraine's capacity to efficiently tackle IUU fishing. Work on the legislation aligned with the EU *acquis* to step up the fight against IUU fishing is however underway. A new law, adopted in March and that entered into force in July 2023 includes improved controls of fishing activities and of the origin of aquatic biological resources and for the implementation of a unified electronic management system for fishery products, similar to the rules in the EU common fisheries policy. Legislation is being developed to ensure the traceability of aquatic bioresources for the sustainable management of aquatic biological resources, to prevent IUU fishing and promote conservation of fish stocks. A dedicated public body for fisheries control will need to be created in line with best EU practices. Improvements will be needed around control data, as well as in standards, strategies and risk assessment for inspection. Electronic monitoring capacity of the fishing fleet should be improved, including on fishing in the high seas. The overall sanctioning system should be dissuasive, proportionate and effective.

Ukraine has no specific **structural measures** for fisheries and aquaculture. A planned reform aims to resolve conflicts on water use, property and tax policies. Ukraine has the largest inland water basin in Europe. This creates favourable conditions for inland fisheries and aquaculture development. The development of marine aquaculture is still at an experimental stage, while organic aquaculture has not been addressed yet. The State strategy until 2030 places high priority on developing it. Ukraine needs to improve the implementation of its legislation specific to aquaculture in line with the EU *acquis* and implement it. There are some **State aid measures** applicable to fisheries or for the development of aquaculture, including for the partial reimbursement of constructing production facilities or equipment costs.

On **market policy**, there are standards that aim to align with the EU *acquis* on veterinary requirements, hygiene and consumer information for food of animal origin. Specific market rules, similar to the ones provided in the EU common market organisation regulation for fishery and aquaculture products, are to be developed. No specialised legal acts regulate the creation of registered fisheries producer associations.

On **international agreements**, EU-Ukraine cooperation on fisheries and aquaculture is set out in the Association Agreement, including the management and conservation of fishery resources and cooperation with regional fisheries management organisations. Due to the ongoing war of aggression, the agreement between Ukraine and the Russian Federation on issues of fishing in the Sea of Azov was terminated in October 2022, and the exchange of information was suspended. As for the regional cooperation on conservation and management of fisheries resources, Ukraine is a cooperating non-contracting party to the General Fisheries Commission for the Mediterranean (GFCM), being the regional fisheries management organisation working to ensure the conservation and the sustainable use of living marine resources in the Mediterranean and in the Black Sea. Ukraine is committed to becoming a fully-fledged member of GFCM: Ukraine participates as a founding member in the Common Maritime Agenda for the Black Sea, and actively cooperates under the auspices of the Northwest Atlantic Fisheries

Organization, the Central Asian and Caucasus Regional Fisheries and Aquaculture Commission and the Commission for the Conservation of Antarctic Marine Living Resources. Ukraine is very active under the Common Maritime Agenda, the EU sea-basin strategy for the development of a sustainable blue economy in the Black Sea.

Chapter 22 – Regional policy and coordination of structural instruments

Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through “shared management” between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU acquis elements such as environmental or public procurement legislation.

Ukraine has **some level of preparation** in the area of regional policy and coordination of structural instruments. Overall, **limited progress** was made over the reporting period, with more notable progress in implementing territorial cooperation programmes with Member States.

In the coming year, Ukraine should in particular:

- update the State Strategy of Regional Development and modernise the State Fund for Regional Development to align them with the recovery and reconstruction process, principles of multi-level governance and a territorially based regional policy.
- adopt necessary measures to bring into practice the law on principles of regional policy, in particular given the varying impact of the war on Ukrainian regions; and strengthen the capacity of regional and local administrations to prepare related development projects;
- strengthen the coordination framework within regional policy to ensure systematic and inclusive engagement of regional and local stakeholders, a coordinating role for the Ministry for Restoration, and an adequate regional angle for the Agency of Restoration.

While a general framework for state regional policy and increased public funding for regional development were put in place alongside decentralisation reform, Russia's invasion has affected all regions, albeit with significant differences. The territorial disparities, which existed before 2022, have therefore widened considerably.

In terms of the **legislative framework**, the law on principles of state regional policy was amended to establish a framework for the recovery of war-affected regions, including a three-level strategic planning system (national, regional and local development strategies). The law defines four functional types of territory: (i) recovery territories; (ii) regional growth poles; (3) territories with special conditions for development; and (iv) territories of sustainable development. This framework should now be implemented by first developing the qualification criteria and a list of territories. Similarly, various local strategic documents that are required (such as a local development strategy, recovery and development plan, comprehensive spatial development plan) should be clarified, interconnected and linked with adequate financing lines. While the law currently focuses on Ukraine's regional development, it will need to be progressively aligned with EU regional policy, including on NUTS (Nomenclature of Territorial Units for Statistics) territorial classification.

Overall, a robust conceptual framework of organisation for the regional policy in Ukraine should be developed and aligned with the recovery and reconstruction process. Accordingly, Ukraine should update, in consultation with relevant stakeholders, the State Strategy of

Regional Development 2021-2027, taking into account the different regional development needs due to the impact of the war.

In terms of the **institutional framework** at central level, the Ministry for Restoration of Ukraine was established by merging the Ministry of Communities and Territories Development with the Ministry of Infrastructure, which resulted in high staff turnover. Ukraine should build capacity in the new Ministry, ensuring adequate staffing for regional development and strong coordination with other key ministries, in particular the Ministry of Finance.

The Secretariat of the Cabinet of Ministers of Ukraine performs the tasks of the national authority of Ukraine for Interreg programmes. It should continue its efforts to disseminate information about Interreg programmes in Ukraine, especially among local and regional authorities to support developing projects with possible new beneficiaries from Ukraine.

The State Agency for Restoration and Infrastructure Development was set up, also with regional offices, to enable implementation of the rapid recovery and post-war reconstruction projects.

At regional level, the key role in developing regional programmes lies with regional (oblast) administrations, a number of which were turned into military administrations. This risks excluding local stakeholders from decision-making. Ukraine has been gradually restoring civil administrations once the security situation in the liberated territories permits it. The delineation of competences between central, regional and local tiers of government, especially in the domains relevant for recovery, should also be clarified.

Regional development agencies aim to support the socio-economic development of regions and communities and attract investments in 22 regions. The capacity to perform their mission remains limited due to an unclear mandate, high staff rotation and poor funding.

On administrative capacity, a formal coordination framework involving authorities at central and sub-national level needs to be set up to prepare for the effective programming and management of EU funds. Regional and local stakeholders should be engaged in a more systematic way in designing, implementing and monitoring these processes.

On digitalisation, the Digital Restoration Ecosystem for Accountable Management was set up to provide a single digital pipeline for all reconstruction projects, including at local level. The system allows anyone to monitor project performance and use this information to create reports.

Regional development is funded by the State Fund for Regional Development (UAH 4.5 billion, down 50% in 2023 compared with the pre-war amount in 2021). The Fund for the Liquidation of the Consequences of Armed Aggression (UAH 35.5 billion) may also be used for regional and local projects. **Programming** based on these funds should be based on priorities, adequate quality of project proposals, cost-benefit analysis and close alignment between the strategic planning of public investment and the budget. To this end, capacities of sub-state administrations should be increased, and the availability of statistics at local level improved to enable evidence-based decisions to be taken.

Ukraine entered into five **Interreg programmes** with EU neighbours and held the Presidency of the EU Strategy for the Danube Region in 2022. This helped it gain experience in European territorial cooperation and shared management, including programming, sound financial management, project selection and contracting for instance.

On financial management and control systems, the country needs to establish medium-term budget planning. The link between policy and budget at national and local level should be

strengthened. The legal basis for the system of **monitoring and evaluation** of regional development is complex and fragmented.

The internal and external **audit functions** are in place thanks to the Accounting Chamber of Ukraine and the State Audit Service and it is important to strengthen their capacities. However, the Chamber has no mandate to audit local budgets, other than resources transferred from the national budget. This poses also a risk to the audit of Ukrainian beneficiaries receiving support from Interreg programmes which are implemented under shared management in a similar way to the EU cohesion policy. Internal audits of local authorities and *ex ante* procurement verification are missing.

The participation of Ukrainian regions in peer-to-peer recovery initiatives with EU counterparts may facilitate further integration of Ukrainian sub-national authorities into EU networks.

Chapter 33 – Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.

Preparations under this chapter are at an **early stage**. There was **limited progress** in the areas covered by the chapter.

In the coming year, Ukraine should:

→ further strengthen the administrative capacity and coordination mechanism among key stakeholders in the own resource system.

On **traditional own resources**, Ukraine has implemented most of the fundamental principles in the policy areas that affect the own resources system. The 2019 Customs Code aligns with the Union Customs Code in most of its rules, in particular on transit, authorised economic operators and intellectual property rights. However, customs legislation is not fully aligned with the EU *acquis*, while administrative capacity in the IT sector is under strength.

Ukraine applies a single **VAT** system that is largely, but not fully aligned with the European system. VAT is levied on imports and enforced, where necessary, as outlined in the Tax Code.

Ukraine currently lacks a mid-term revenue strategy, which is to be developed under the IMF programme by the end of 2023.

Mechanisms to **prevent and combat tax and customs fraud** are generally in place. The Bureau of Economic Security is responsible for investigating and prosecuting financial crime, including tax and customs fraud. However, its performance has been unsatisfactory so far. The State Audit Service functions and the anti-fraud focal point for the European Anti-Fraud Office, and reports on cases of fraud.

National accounts and **gross national income** (GNI) data in Ukraine partially comply with European System of Accounts 2010 standards, and include an estimation of the non-observed economy (17.7% of GNI for 2020). However, Ukraine does not submit the data to Eurostat.

On **administrative infrastructure**, the current level of human and administrative resources is insufficient to ensure the full and accurate application of EU rules on payments into the EU budget upon membership.

CLUSTER 6: EXTERNAL RELATIONS

This cluster covers: external relations (Chapter 30); and foreign, security and defence policy (Chapter 31).

Regarding external relations, Ukraine has a good level of preparation. It made limited progress on trade policy in the reporting period. It stepped up its engagement with global partners and African Union partners in 2022 and extended humanitarian assistance to Türkiye following 2023 earthquake. Ukraine is invited to remain compliant with the WTO and Association Agreement rules and assess the need for new bilateral agreements in the context of its candidate status and forthcoming accession.

As regards chapter 31, Ukraine has made good progress, ensuring a high level of alignment with relevant EU decisions and declarations of the EU's common foreign and security policy (93% in 2022, 89 % alignment between January and August 2023). Ukraine enhanced the cooperation with EU on the security and defence policy issues and jointly worked on combating hybrid threats. Ukraine has not yet ratified the Rome Statute of the International Criminal Court.

Chapter 30 – External relations

The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules on humanitarian aid and development policy.

Ukraine has a **good level of preparation** in the area of external relations showing a significant convergence with the EU. Ukraine has matured in its capacity of WTO Member since 2008. **Limited progress** was made during the reporting period.

In the coming year, Ukraine should in particular:

- ensure that its trade policy is in compliance with World Trade Organization (WTO) and Association Agreement rules;
- before any new bilateral trade agreement, assess its impact, in light of candidate status and forthcoming accession.

On **common commercial policy**, Ukraine has been a member of the WTO since 2008. Since 2016, trade relations with the EU have been regulated by the EU-Ukraine Association Agreement, which established the Deep and Comprehensive Free Trade Area.

Ukraine has notified to the WTO preferential **bilateral trade agreements** with 17 countries, eight of which do not have a preferential trade agreement with the EU. It signed a preferential trade agreement with Türkiye in 2022, with ratification pending, and is negotiating and discussing preferential trade agreements with several partners (in particular the United Arab Emirates). In relation to this, Ukraine should continue to coordinate closely with the EU on international trade negotiations, in particular to ensure that, when it joins the EU, its commitments are compatible with those of the EU.

Ukraine has 66 bilateral investment treaties in force, 21 of which are with EU Member States. It has also signed seven treaties that have not yet entered into force. Ukraine continued benefiting from a generalised system of preferences (tariff system) granted by several countries, including the United States.

Ukraine has had a solid legal framework in place on export controls of goods and technologies, including on dual use, since 2003. It adopted and maintained a consolidated list of **dual-use goods** and technologies based on Council Regulation (EC) No 428/2009. Applications for

obtaining export permits for dual-use goods and technologies are subject to expert reviews, with the modalities set up by the law.

Ukraine has a legal framework in place to provide **humanitarian aid** to other countries and relies on the state budget reserve fund to provide this aid. It provided considerable humanitarian and civil protection support (through the State Emergency Service) to Türkiye following the Türkiye-Syria earthquake in February 2023.

On **development policy**, Ukraine stepped up engagement with global partners and African Union partners in 2022. This followed the appointment of a Special Representative for the Middle East and Africa in 2021. In November 2022, in connection with the UN and Türkiye-brokered Black Sea Grain Initiative, which allows for commercial food and fertiliser exports from key Ukrainian ports in the Black Sea, President Zelenskyy launched the Grain from Ukraine programme at an international summit on food security in Kyiv. The initiative seeks to address global food insecurity through (donated or internationally funded) deliveries of Ukrainian grain and foodstuffs to developing countries. Under the initiative, 625 000 tonnes of wheat have been delivered to African countries since December 2022.

Chapter 31 – Foreign, security & defence policy

Member States must be able to conduct political dialogue under EU foreign, security and defence policy, align with EU statements, take part in EU actions, and apply agreed sanctions and restrictive measures.

Ukraine has **a good level of preparation** in the area of foreign, security and defence policy. **Good progress** is demonstrated by continued unprecedented political dialogue with the EU at all levels and significantly enhanced security and military cooperation with the EU and its Member States. Ukraine has also demonstrated progress in the overall alignment with Statements by the High Representative on behalf of the EU and Council Decisions. In the coming year, Ukraine should in particular:

- work towards the ratification of the Rome Statute of the International Criminal Court (ICC) and its related instruments,
- further maximise alignment with Statements by the High Representative on behalf of the EU and EU sanctions (Official EU Council positions and actions in the area of CFSP);
- pursue and further enhance political dialogue on foreign and security policy with the EU.

Against the backdrop of Russia's unprovoked and unjustified war of aggression against Ukraine, the country continued to take steps to further integrate into the EU in the area of foreign and security policy. Ukraine continued **political dialogue** at an unprecedented level and frequency with the EU and the EU Member States.

The institutional framework enables Ukraine's participation in the **common foreign and security policy (CFSP)** and **common security and defence policy (CSDP)**. The CFSP-related issues fall under the competences of the Ministry of Foreign Affairs, which has good capacity to handle EU affairs. Ukraine's Ministry of Foreign Affairs established a position of 'political director'.

Ukraine has a good record of **alignment with CFSP** (statements by the High Representative on behalf of the EU and Council Decisions). For the calendar year 2022 Ukraine reached 93% alignment and 89 % alignment between January and August 2023. This represents a clear political intention to align with CFSP.

On restrictive measures, Ukraine aligns with EU restrictive measures against Russia. Regarding EU restrictive measures not related to Russia's war of aggression, Ukraine has not aligned with a number of measures, e.g., related to the political and security situation in the Eastern Mediterranean, Africa, Middle East and Asia. Ukraine has mechanisms in place to ensure effective implementation of EU sanctions. Authorities should strengthen the related national legislation and continue to improve their capacity to implement and enforce the sanctions.

Ukraine intensified its diplomatic engagement with global partners through food security-oriented agreements as well as high level political engagement and dialogue. This approach is in line with the EU's own outreach to global partners aimed at addressing global consequences of Russia's aggression, countering Russian disinformation narratives, and supporting President Zelenskyy's Peace Formula.

Ukraine's cooperation with **international organisations** is strong and constructive, including with the UN, the Council of Europe, the OSCE and the Organisation for Black Sea Economic Cooperation. Accession to NATO is reflected in the Ukrainian Constitution as a central goal and the main foreign policy objective. Ukraine formally applied for NATO membership on 30 September 2022. Ukraine stepped-up collaboration and coordination at all levels with both the EU and NATO in the framework of EU-NATO cooperation in the field of capacity building for partners.

Ukraine has not yet ratified the **Rome Statute of the International Criminal Court** and its related instruments, although it has already accepted the jurisdiction of the Court twice, including through legislative acts adopted in 2022 in the context of evident war crimes committed as part of Russia's war of aggression.

On non-proliferation, Ukraine is party to and has ratified the main non-proliferation agreements. Ukraine complied with its international obligations under international **export control regimes** throughout the reporting period. Ukraine participates in the Wassenaar, Missile Technology Control Regime, Nuclear Suppliers Group and Australia Group) and Zangger Committee. Ukraine continued to submit reports on international transfers of certain categories of military goods to the UN Register of Conventional Arms, the OSCE as well as the Wassenaar Arrangement.

Ukraine signed the Arms Trade Treaty in 2014 and continues procedural preparations for its ratification. Ukraine has put in place additional preventive measures in this regard, and it is setting up a unified firearms registry. Ukraine's legislation provides for multiple measures to counter illegal arms trafficking and ensure arms control.

In July 2022 the Parliament established the Temporary Special Commission to monitor the receipt and use of international equipment and technical assistance (in particular, weapons) during martial law. EU and Ukraine established the **internal security dialogue**.

As regards **security measures** (classified information), the EU and Ukraine have an arrangement to exchange classified information.

On common security and defence policy, Ukraine has continued to seek its involvement in EU defence initiatives and civil and military crisis management, including Permanent Structured Cooperation (PESCO) and the European Defence Fund (EDF). Given the context, military and security cooperation between Ukraine and the EU and its Member States was significantly enhanced in particular within the framework of the European Peace Facility (EPF) and through the EU Military Assistance Mission in support of Ukraine (EUMAM Ukraine)

The EU and Ukraine continue to cooperate in the area of countering **disinformation and cyber threats**. The establishment of a dedicated cybersecurity dialogue in 2021 and its second iteration in 2022 were key to enhance the EU-Ukraine cyber cooperation with the aim to bolster cyber resilience and advance responsible state behaviour in cyberspace. Both sides also built up a unique cooperation aimed at tackling disinformation. Ukraine has been a contributing country to the NATO Cooperative Cyber Defence Centre of Excellence since March 2022.

ANNEX 1 - RELATIONS BETWEEN THE EU AND UKRAINE

After the start of Russia's war of aggression against Ukraine, Ukraine applied for EU membership on 28 February 2022 and was granted European perspective and **candidate country status** in June 2022. The European Council granted **European perspective** and candidate status to Ukraine in June 2022, on the understanding that seven steps identified in the Commission's opinion on the membership application, are taken.

The EU and Ukraine signed an **Association Agreement (AA)**, including a **Deep and Comprehensive Free Trade Area (DCFTA)** in 2014, which fully entered into force in 2017. The AA / DCFTA is the key legal instrument serving as the basis of EU-Ukraine bilateral relations and provides the foundations for political association and economic integration between the European Union and Ukraine. Overall, Ukraine continued to broadly implement its obligations under the Association Agreement. Under the DCFTA Ukraine has committed to align its legislation to EU single market rules. While important progress has been achieved, Ukraine is behind schedule in some of these commitments. In some areas, effective enforcement by independent and transparent institutions remains challenging. The DCFTA comes with a commitment to comply with its provisions, as well as those under WTO such as ruling of a bilateral arbitration panel of December 2020, in respect of which Ukraine has still to comply with Article 35 of the Agreement and eliminate the wood export ban introduced in 2015.

Regular political and economic **dialogue** between the EU and Ukraine has continued through the AA/DCFTA structures. Regular subcommittee meetings were held throughout the period. The Association Committee did, however, not meet during the reporting period whereas the 7th EU-Ukraine Association Committee in Trade Configuration took place on 25-26 October 2022; the Association Council was held on 5 September 2022 in Brussels and the 24th EU-Ukraine Summit took place on 3 February 2023, in Kyiv.

Trade relations with the EU intensified after the entry into force of the DCFTA. With the application of autonomous trade measures since June 2022, the EU has unilaterally removed all outstanding tariffs under the DCFTA. Such measure was renewed for another year in May 2023.

In light of Ukraine's candidate country status, the EU and Ukraine agreed a Priority Action Plan in February 2023. Once fully implemented, Ukraine will see increased its access to the EU internal market, paving the way towards full accession in the future.

The EU has been living up to its commitment to support the implementation of the **Solidarity Lanes** initiative with new logistics corridors between Ukraine and the EU now firmly established through rail, road and inland waterways covering trade both directions. Solidarity lanes have become the lifeline for Ukraine.

Citizens of Ukraine enjoy **visa-free travel** to the Schengen area as of 11 June 2017. An agreement on readmission between the European Union and Ukraine is in force since 2007.

Regarding **bilateral financial assistance**, since the Russian invasion, the EU, Member States and the European Financial Institutions, stepped up their support in a Team Europe approach, mobilising EUR 59 billion for Ukraine's overall economic, social and financial resilience in the form of emergency macro-financial assistance, budget support, emergency assistance, crisis response and humanitarian aid. This includes EUR 2.3 billion in grants from the NDICI Global Europe instrument (2022 and 2023), EUR 25.2 billion of macro-financial assistance (concessional loans) as well as military assistance of EUR 25.2 billion, including EUR 5.6 billion under the European Peace Facility and bilateral EU Member States contributions.

Together with the resources made available to help Member States cater for needs of Ukrainians fleeing the war in the EU (EUR 17 billion), the overall support to Ukraine and Ukrainians amounts to EUR 82.6 billion. This includes, amongst other, around 100 000 tons of in-kind assistance under the Union Civil Protection Mechanism (UCPM), turning this into the largest and most complex UCPM operation to date. The EU has provided support for medical evacuations of, to date, more than 2770 severely ill Ukrainian patients as well as mental health and psychosocial support to Ukrainians via the International Federation of the Red Cross, funded by the EU4Health Programme.

Ukraine has been participating in the **Eastern Partnership** (EaP) since its launch in 2009. This overarching framework has further boosted regional relations with the EU. Ukraine benefits from regional programmes financed from NDICI-Global Europe. Ukraine also benefits from investments through the **Neighbourhood Investment Platform** (NIP). Before and during Russia's war of aggression, the EU has worked hand in hand with financial institutions to support Ukraine. The **Economic Investment Plan**, which was set up already before the war, will serve as an important vehicle of the reconstruction of Ukraine. The plan will continue to mobilise investments in grants, loans and guarantees and leverage additional public and private investments for Ukraine in sectors covered by the flagship initiatives such as support to SMEs, economic transition for rural areas, improving connectivity by upgrading border crossing points, digital transition and sustainable energy.

Ukraine participates in several **Union programmes**: Horizon Europe, EURATOM Research and Training Programme, Digital Europe, Fiscalis, Customs, Creative Europe, EU4Health, LIFE, Single Market Programme, Union Civil Protection Mechanism, and Connecting Europe Facility. Organisations and individuals from Ukraine can also benefit from certain actions of the Erasmus+ and European Solidarity Corps programmes. Ukraine is participating in several Interreg programmes and is a member of the EU macro-regional Strategy for the Danube region.

In 2014, the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) was created. Following the Russian aggression, the EU established the EU Military Assistance Mission (EUMAM Ukraine) on EU soil in support of Ukraine in October 2022.

STATISTICAL DATA (as of 31/08/2023)
Ukraine

Basic data	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		45 783 s	42 415 s	42 217 s	41 984 s	41 733 s	41 419 s
Total area of the country (km ²)	1) 2)	603 548 w	603 549 w	603 549 w	603 549 w	603 549 w	603 549 w
National accounts	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million national currency)	3)	1 120 585 w	2 981 227 w	3 560 302 w	3 977 198 w	4 222 026 w	5 450 849 w
Gross domestic product (GDP) (million euro)	3)	106 389 w	99 361 w	110 765 w	137 373 w	137 133 w	168 710 w
GDP (euro per capita)	3)	2 319 w	2 339 w	2 620 w	3 269 w	3 285 w	4 077 w
GDP per capita (in purchasing power standards (PPS))		:	:	:	:	:	:
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		:	:	:	:	:	:
Real GDP growth rate: change on previous year of GDP volume (%)	3)	4.1 w	2.4 w	3.5 w	3.2 w	- 3.8 w	3.4 w
Employment growth (national accounts data), relative to the previous year (%)	4)	0 sw	- 1 sw	1 sw	1 sw	- 4 sw	- 2 sw
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)	3)	4 w	3 w	2 w	2 w	0 w	6 w
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)	3)	8.4 w	12.1 w	12.0 w	10.4 w	10.8 w	12.7 w
Industry (%)	3)	25.3 w	25.0 w	24.8 w	23.2 w	20.9 w	23.8 w
Construction (%)	3)	3.7 w	2.6 w	2.7 w	3.1 w	3.3 w	3.2 w
Services (%)	3)	62.6 w	60.3 w	60.5 w	63.3 w	65.0 w	60.3 w
Final consumption expenditure, as a share of GDP (%)	3)	84.4 w	87.8 w	90.2 w	93.2 w	92.6 w	86.8 w
Gross fixed capital formation, as a share of GDP (%)	3)	18.1 w	15.8 w	17.7 w	17.6 w	13.4 w	13.2 w
Changes in inventories, as a share of GDP (%)	3)	0.3 w	4.2 w	0.9 w	- 2.7 w	- 4.5 w	1.2 w
Exports of goods and services, relative to GDP (%)	3)	46.5 w	48.1 w	45.2 w	41.2 w	38.8 w	40.7 w
Imports of goods and services, relative to GDP (%)	3)	49.3 w	55.9 w	54.0 w	49.3 w	40.3 w	41.9 w
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:
Business	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)	5) 6) 7)	125.1 w	105.4 w	108.7 w	108.0 w	102.7 w	105.0 w
Number of active enterprises (number)	8)	:	1 598 025 w	1 618 543 w	1 706 428 w	1 729 058 w	1 719 536 w
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:

Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)	8)	:	61.6 sw	63.0 sw	63.9 sw	64.0 sw	64.3 sw
Value added by SMEs (in the non-financial business economy) (EUR million)		:	31 486 sw	33 936 sw	47 334 sw	48 221 sw	:
Total value added (in the non-financial business economy) (EUR million)		:	66 678 w	68 917 w	90 454 w	86 283 w	:

Inflation rate and house prices	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)	9) 10)	9.4 w	14.4 w	10.9 w	7.9 w	2.7 w	9.4 w
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		- 2 272.3 w	- 3 046.9 w	- 5 464.2 w	- 3 696.3 w	4 735.0 w	- 2 815.8 w
Balance of payments current account: trade balance (million euro)		- 7 230.5 w	- 8 465.8 w	- 10 848.4 w	- 12 770.8 w	- 5 867.8 w	- 5 689.0 w
Balance of payments current account: net services (million euro)		4 230.4 w	804.6 w	1 143.0 w	1 567.6 w	3 845.7 w	3 368.9 w
Balance of payments current account: net balance for primary income (million euro)		- 1 513.6 w	1 404.2 w	1 148.7 w	1 710.2 w	3 174.1 w	- 4 407.1 w
Balance of payments current account: net balance for secondary income (million euro)		2 241.4 w	3 210.1 w	3 092.5 w	5 796.7 w	3 583.0 w	3 911.4 w
Net balance for primary and secondary income: of which government transfers (million euro)		:	:	:	:	:	:
**3 year backward moving average of the current account balance relative to GDP (%)		:	:	:	:	:	:
**Five year change in share of world exports of goods and services (%)		:	:	:	:	:	:
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)	11) 12) 13)	4 338.9 w	3 054.6 w	4 111.9 w	4 619.8 w	- 50.8 w	6 351.5 w
Foreign direct investment (FDI) abroad (million euro)	11) 13)	554.5 w	249.1 w	- 107.5 w	751.7 w	19.3 w	- 167.3 w
of which FDI of the reporting economy in the EU-27 countries (million euro)	14) 11) 13)	527.1 w	25.7 w	- 133.1 w	485.2 w	- 39.4 w	- 149.5 w
Foreign direct investment (FDI) in the reporting economy (million euro)	11) 12) 13)	4 893.4 w	3 303.7 w	4 004.4 w	5 371.4 w	- 31.5 w	6 184.2 w
of which FDI of the EU-27 countries in the reporting economy (million euro)	14) 11) 12) 13)	3 948.2 w	1 745.4 w	2 727.4 w	4 149.3 w	- 731.1 w	4 599.3 w
**Net international investment position, relative to GDP (%)	12) 15)	- 24.8 w	- 29.5 w	- 20.2 w	- 17.9 w	- 14.1 w	- 12.0 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)	16)	1.1 sw	0.9 sw	0.7 sw	0.6 sw	0.7 sw	1.0 sw

Public finance	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)	17) 18)	- 6.3 w	- 1.2 w	- 1.9 w	- 1.9 pw	- 5.4 w	- 3.3 w
General government gross debt relative to GDP (%)	19) 18)	38.6 w	71.8 w	60.9 w	50.2 w	60.4 w	49.0 w
Total government revenues, as a percentage of GDP (%)	17) 18)	40.2 w	40.3 w	39.5 w	39.4 w	39.6 w	37.0 w
Total government expenditure, as a percentage of GDP (%)	17) 18)	46.5 w	41.5 w	41.5 w	41.2 w	45.0 w	40.3 w

Financial indicators	Note	2010	2017	2018	2019	2020	2021
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Gross external debt of the whole economy, relative to GDP (%)	20) 21)	83.1 sw	97.4 sw	90.4 sw	79.4 sw	74.6 sw	67.8 sw
Gross external debt of the whole economy, relative to total exports (%)	20) 11)	178.7 w	202.5 w	199.6 w	192.2 w	192.4 w	165.6 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	22) 23)	27 417.9 w	17 961.6 w	21 166.7 w	29 144.0 w	30 226.3 w	41 433.7 w
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	22) 24)	56 448.8 w	36 081.3 w	40 164.2 w	54 319.2 w	53 177.5 w	66 928.6 w
Money supply: M3 (M2 plus marketable instruments, million euro)	22) 25)	56 546.3 w	36 090.3 w	40 286.0 w	54 436.1 w	53 253.6 w	66 985.2 w
Total credit by monetary financial institutions to residents (consolidated) (million euro)		:	:	:	:	:	:
**Annual change in financial sector liabilities (%)		:	:	:	:	:	:
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	:	:	:	:	:
Interest rates: day-to-day money rate, per annum (%)		1.72 w	11.60 w	16.30 w	15.00 w	7.10 w	6.78 w
Lending interest rate (one year), per annum (%)	26)	11.62 w	15.90 w	19.20 w	18.35 w	7.89 w	7.67 w
Deposit interest rate (one year), per annum (%)	27)	3.20 w	12.13 w	15.64 w	15.18 w	7.22 w	6.95 w
Euro exchange rates: average of period (1 euro = ... national currency)		10.533 w	30.004 w	32.143 w	28.952 w	30.790 w	32.310 w
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)	28)	135.4 w	86.5 w	85.4 w	94.6 w	93.2 w	91.5 w
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)	28)	- 0.3 sw	- 0.2 sw	- 0.1 sw	0.0 sw	0.1 sw	0.1 sw
Value of reserve assets (including gold) (million euro)	20) 11)	26 036.1 w	15 760.9 w	18 177.1 w	22 682.2 w	23 711.1 w	27 294.4 w

External trade in goods	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		45 525 sw	43 912 sw	48 423 sw	54 310 sw	47 490 w	72 843 w
Value of exports: all goods, all partners (million euro)		38 277 sw	38 298 sw	40 080 sw	44 712 sw	43 053 w	68 072 w
Trade balance: all goods, all partners (million euro)	29)	- 7 247 sw	- 5 614 sw	- 8 343 sw	- 9 599 sw	- 4 438 sw	:
Terms of trade (export price index / import price index * 100) (number)	30)	106.7 sw	101.7 sw	99.6 sw	99.9 sw	105.0 sw	118.9 sw
Share of exports to EU-27 countries in value of total exports (%)		:	:	:	:	:	:
Share of imports from EU-27 countries in value of total imports (%)		:	:	:	:	:	:

Demography	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		- 4.4	- 5.0	- 6.0	- 6.5	- 7.8	- 10.7 e
Infant mortality rate deaths of children under one year of age (per thousand live births)		9.2	7.7	7.1	7.1	6.8	7.2
Life expectancy at birth: male (years)		65.2	68.3	68.1	68.4	:	:
Life expectancy at birth: female (years)		75.3	78.0	78.0	78.3	:	:

Labour market	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)	3) 31)	72.2 w	70.9 w	71.8 w	72.9 w	72.0 w	71.9 w
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)	3)	66.4 w	64.2 w	65.6 w	66.9 w	65.2 w	64.8 w
Male employment rate for persons aged 20–64 (%)	3)	71.1 w	69.4 w	70.5 w	72.7 w	70.8 w	70.8 w
Female employment rate for persons aged 20–64 (%)	3)	62.1 w	59.4 w	61.0 w	61.6 w	60.0 w	59.3 w

Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)	3)	40.4 w	38.2 w	39.5 w	41.9 w	42.1 w	41.1 w
Employment by main sectors							
Agriculture, forestry and fisheries (%)	32) 3)	20.2 w	15.4 w	14.9 w	13.9 w	14.1 w	14.1 w
Industry (%)	32) 3)	19.1 w	17.7 w	17.8 w	17.8 w	17.8 w	18.2 w
Construction (%)	32) 3)	6.4 w	6.6 w	6.5 w	7.1 w	7.0 w	7.0 w
Services (%)	32) 3)	54.3 w	60.3 w	60.8 w	61.2 w	61.1 w	60.7 w
People employed in the public sector as a share of total employment, persons aged 20–64 (%)		:	:	:	:	:	:
People employed in the private sector as a share of total employment, persons aged 20–64 (%)		:	:	:	:	:	:
Unemployment rate: proportion of the labour force that is unemployed (%)	32) 3) 33)	8.1 w	9.5 w	8.8 w	8.2 w	9.5 w	9.8 w
Male unemployment rate (%)	32) 3) 33)	9.3 w	11.1 w	10.0 w	8.5 w	9.8 w	9.5 w
Female unemployment rate (%)	32) 3) 33)	6.8 w	7.7 w	7.4 w	7.9 w	9.1 w	10.1 w
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)	3)	17.4 w	18.9 w	17.9 w	15.4 w	19.3 w	19.1 w
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)	32) 3) 33)	1.8 w	2.5 w	1.9 w	1.0 w	2.0 w	2.4 w
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)	3)	8.4 w	12.8 w	14.2 w	13.9 w	16.3 w	15.3 w
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)	3)	6.0 w	7.5 w	7.2 w	6.5 w	7.4 w	8.5 w

Social cohesion	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)	34) 3)	2 239 bw	7 104 w	8 865 w	10 497 w	11 591 w	14 014 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		:	119 w	134 w	147 w	158 w	175 w
GINI coefficient	35) 36) 3)	25 w	23 w	24 w	25 w	25 w	24 w
Poverty gap		:	:	:	:	:	:
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		:	:	:	:	:	:

Standard of living	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		147.9 sw	:	:	:	:	:
Number of mobile phone subscriptions relative to population size (number per thousand population)	3) 37)	1 182.5 w	1 314.4 w	1 279.5 w	w	w	w
Mobile broadband penetration (per 100 inhabitants)	3) 37)	:	41.3 w	47.5 w	w	w	w
Fixed broadband penetration (per 100 inhabitants)	3) 37)	7 w	12 w	13 w	w	w	w

Infrastructure	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km ²)	1) 38)	35.9 sw	32.8 sw	32.7 sw	32.8 sw	32.8 sw	32.7 sw
Length of motorways (kilometres)	39)	15 w	15 w	15 w	15 w	15 w	15 w

Innovation and research	Note	2010	2017	2018	2019	2020	2021
Public expenditure on education relative to GDP (%)	3)	6.6 sw	5.4 sw	5.3 sw	5.4 sw	5.4 sw	:
*Gross domestic expenditure on R&D relative to GDP (%)	3) 40)	0.80 sw	0.45 sw	0.47 sw	0.43 sw	0.40 sw	0.29 sw
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)	3) 41)	0.30 w	0.20 w	0.20 w	0.20 w	0.20 w	0.10 w
Percentage of households who have internet access at home (%)	36) 42) 39)	20.2 w	59.8 w	61.5 w	65.8 w	79.2 w	82.7 w

Environment	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)	43)	43.7 ew	37.1 ew	40.3 ew	39.4 ew	34.7 ew	w
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		:	:	:	:	:	:
Electricity generated from renewable sources relative to gross electricity consumption (%)	3)	7.2 ew	9.2 sw	10.3 w	9.4 w	11.5 w	10.6 w
Road share of inland freight transport (based on tonne-km) (%)	39) 44)	29.8 w	38.1 w	42.7 w	41.4 w	42.3 w	w

Energy	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		77 526	58 890	60 886	60 355	57 121	:
Primary production of crude oil (thousand TOE)		3 590	2 208	2 341	2 478	2 476	:
Primary production of solid fuels (thousand TOE)		32 142	13 517	14 338	14 186	12 690	:
Primary production of gas (thousand TOE)		15 436	15 471	16 487	16 261	15 856	:
Net imports of all energy products (thousand TOE)		41 906 s	33 167 s	32 347 s	32 976 s	29 487 s	:
Gross inland energy consumption (thousand TOE)		132 795	89 768	93 851	89 641	86 583	:
Gross electricity generation (GWh)	3)	188 828	155 990	159 796	154 012	148 264	150 042 w

Agriculture	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)	6)	100.0 w	132.7 w	143.6 w	145.7 w	130.9 w	152.4 w
Utilised agricultural area (thousand hectares)		41 275.6 w	41 274.3 w	41 259.9 w	41 138.4 w	41 144.2 w	41 144.2 w
Livestock numbers: live bovine animals (thousand heads, end of period)		4 494.4 w	3 530.8 w	3 332.9 w	3 092.0 w	2 874.0 w	2 644.0 w
Livestock numbers: live swine (thousand heads, end of period)		7 960.4 w	6 109.9 w	6 025.3 w	5 727.4 w	5 876.2 w	5 608.8 w
Livestock numbers: live sheep and live goats (thousand heads, end of period)	3)	1 731.7 sw	1 309.3 sw	1 268.6 sw	1 204.5 sw	1 140.4 sw	:
Raw milk available on farms (thousand tonnes)		11 248.5 w	10 280.5 w	10 064.0 w	9 663.2 w	9 263.6 w	8 713.9 w
Harvested crop production: cereals (including rice) (thousand tonnes)	3)	38 678.6 sw	60 677.8 sw	69 101.9 sw	74 425.2 sw	64 333.4 sw	:
Harvested crop production: sugar beet (thousand tonnes)		13 749.2 w	14 881.6 w	13 967.7 w	10 204.5 w	9 150.2 w	10 853.9 w
Harvested crop production: vegetables (thousand tonnes)		8 246.7 w	9 369.4 w	9 543.0 w	9 801.9 w	9 747.5 w	10 038.3 w

Source: Eurostat and/or the statistical authorities in Ukraine

: = not available

b = break in series

e = estimated value

p = provisional

s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) Data of the State Service on Geodesy, Cartography and Cadastre of Ukraine.
- 2) Data are given according to the new Classification of Land Types.
- 3) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 4) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
Persons aged 15-70 years.
- 5) Adjustment for the effect of calendar days of the dynamic series of indices to the average monthly value of the base. (2016) year is carried out using the DEMETRA+ program, using the TRAMO/SEATS method activity.
- 6) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 7) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 8) The information for 2021 include of data reports of enterprises, which were submitted on initiative.
- 9) Consumer price inflation
- 10) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 11) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 12) Since year 2020 the National bank of Ukraine have improved the foreign direct investment compilation, in context of which non-financial corporations' reinvested earnings have been incorporated in FDI flows and stocks data. Therefore, BoP, IIP, FDI data for 2015- 2019 were revised.
- 13) Since year 2021 the National bank of Ukraine have improved the foreign direct investment compilation, in context of which loans between fellow enterprises have been incorporated in FDI flows and stocks data. Therefore, BoP, IIP, FDI data for 2015- 2020 were revised.
- 14) FDI Data were recalculated taking into account EU-27 Member States, excluding the United Kingdom.
- 15) Data were recalculated taking into account GDP revised
- 16) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 17) Modified cash data (Government finance statistics manual 2014).
- 18) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 19) State and state guaranteed debt.
- 20) Assets and debt converted from US dollars to euro using cross rates at the end of the reporting year.

- 21) Assets and debt converted from US dollars to euro using cross rates at the end of the reporting year.
Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 22) Converted into euro using the annual exchange rates at the end of period.
- 23) Monetary aggregate M1 includes: certain liabilities of resident deposit-taking corporations vis-a-vis resident sectors of the economy except general government and other deposit-taking corporations; currency in circulation outside the deposit-taking corporations; and transferable deposits in national currency.
- 24) M2 comprises M1 and transferable deposits in foreign currency and other deposits.
- 25) M3 comprises M2 and securities other than shares.
- 26) Average weighted interest rate on all instruments of National bank's refinancing.
- 27) Distribution of deposit certificates of the National Bank of Ukraine.
- 28) Nominal effective exchange rate index of the hryvnia (2015=100), 39 countries.
- 29) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 30) Index based on the previous year
- 31) Fixing from 2019 economically active population - labour force.
- 32) Persons aged 15-70 years.
- 33) Persons aged 15 years and over.
- 34) Data refer to enterprises and their independent divisions with 10 or more employees. Data from before 2010 should not be compared with data from 2010 onwards.
- 35) Since 2011 the calculation of indicators of population and households analysed by level of material well-being uses an equivalence scale: a coefficient of 1 is assigned to the first member of the household and 0.7 to all others. Basic indicators back to 2007 have been recalculated taking into account this equivalence scale.
- 36) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 37) The State Statistics Service of Ukraine does not have this information. This information is collected by the National Commission on the State Regulation in the sphere of Communications and Informatization.
- 38) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
Data of the State Service on Geodesy, Cartography and Cadastre of Ukraine.
Data are given according to the new Classification of Land Types.
- 39) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied.
- 40) Data for 2014-2021 exclude the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and the parts of the Donetsk and Luhansk regions which are temporarily occupied. The information for 2021 is formed on the basis of data reports of enterprises, which were submitted on initiative.
- 41) The information for 2021 is formed on the basis of data reports of enterprises, which were submitted on initiative.
- 42) Share of persons who used the internet at home.
- 43) Data for 2021 disseminate in 25.04.2023.
- 44) Data are not available - according to subitem 1 of item 1 of Ukraine's law on protection of interests of entities that submit reporting and other documents during the period of martial law or state of war, dated on March 03, 2022 by № 2115 - IX



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Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions**

2023 Communication on EU Enlargement policy

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1. INTRODUCTION

1.1. CONTEXT

The first Inter-Governmental Conference on accession negotiations with Albania took place on 19 July 2022. The first step in the accession negotiations process, the analytical examination of the EU *acquis* or the ‘screening’, was launched on the same date and has progressed smoothly. Albania has continued to implement the Stabilisation and Association Agreement and the meetings of the joint bodies under the agreement have taken place at regular intervals.

The EU accession negotiation process with Albania is conducted in line with the revised enlargement methodology, and the requirements set out in the Negotiating Framework, which put an even stronger focus on the fundamentals of the accession process.

The Albanian authorities’ political commitment to the strategic goal of EU integration and their ambition to move forward in the accession negotiations based on continuing progress on reforms have been consistently stated as the country’s key priority. This commitment has been maintained despite the challenge of addressing the economic and social consequences of the triple shock of the 2019 earthquake, the COVID-19 pandemic and Russia’s war of aggression against Ukraine. The ongoing accession negotiation process now needs to translate into an acceleration of EU-related reforms.

Albania has maintained its record of full alignment with the EU’s common foreign and security policy during the reporting period. As a non-permanent member since January 2022, Albania has been actively engaged in the UN Security Council as a co-penholder of resolutions condemning Russia’s war of aggression against Ukraine, aligning with the EU position when co-sponsoring and voting on UN resolutions on Russia’s invasion of Ukraine and its humanitarian impact, and also when voting on the suspension of Russia from the Human Rights Council. Albania’s stance is a strong signal of its strategic choice of EU accession and of its role as a reliable partner.

1.2. SUMMARY OF THE REPORT¹

As regards **political criteria**, regular local elections on 14 May 2023 were conducted in a generally calm manner. Observers assessed them as well-administered, competitive and with the participation of key political actors. Concerns relate to the misuse of state resources, claims of pressure on public sector workers and voters, and allegations of vote buying. A low turnout of only 38.2% was registered. The political scene continued to be marked by political polarisation, against the background of persistent deep divisions within the largest opposition party. Parliamentary oversight of the executive remained limited. In March 2023, amendments were adopted with a large majority that strengthen the consultative role of Parliament in the accession negotiations process. Delays and politicisation of the appointments of the Ombudsperson and of the new Anti-Discrimination Commissioner weaken these independent institutions. Under the coordination of the chief negotiator and the newly reformed EU negotiation structures, Albanian institutions have mobilised significant

¹ This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of Albania, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law.

The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

resources to engage actively in the screening process and to prepare for the next steps of the accession negotiations. While putting EU-related reforms at the centre of its legislative and policy planning, the government needs to refrain from measures that are not in line with EU standards. The government also needs to engage in stronger public communication on the EU accession process. While civil society is generally free, shortcomings negatively impact the ability of civil society organisations to contribute to policy processes. The role of civil society, including in the EU accession negotiation process, needs to be strengthened.

Albania remains moderately prepared in the area of **public administration**. The new strategies on public administration reform and public financial management reform have yet to be prepared and adopted. The reorganisation of roles and responsibilities within the Office of the Prime Minister is still ongoing. Provisions on merit-based recruitment in the Civil Service Law are not consistently applied, especially at senior management level. Significant efforts were made on the digitisation of public services, but it remains crucial to ensure equitable access to services for citizens with limited digital skills or limited access to IT equipment. Increased attention is also required on digital security and protection of personal data, especially following the cyberattacks in 2022 and a number of data leaks.

Albania has a moderate level of preparation on the **functioning of the judiciary**. The implementation of the justice reform continued, resulting in good progress overall. The appointments to the Constitutional Court have been completed with all nine judges now in office, of whom eight with full nine-year mandate. The Specialised Structure against Corruption and Organised Crime (SPAK) achieved further results, and a new Chief Special Prosecutor was elected in December 2022 after a sound process. The efficiency of the judicial system and access to justice continued to be affected by the long timescale of proceedings, increased workload and high backlog of cases, which remains particularly high in appeal and first instance courts. Progress was made in addressing judicial vacancies through the swearing-in of 40 new magistrates in October 2023. The temporary evaluation of all judges and prosecutors (**the vetting process**) has continued to advance at a satisfactory pace. By 6 October, 57% of the vetting dossiers processed had resulted in dismissals, resignations or termination of mandate. In June 2023, the Special Court of First Instance against Corruption and Organised Crime sentenced the former Head of the Constitutional Court to 6 months in prison for false declaration and concealment during the vetting process. Albania must ensure that criminal procedures are systematically initiated against judges and prosecutors whose vetting process revealed criminal elements. The case management system and the judicial training system need improvement to further increase efficiency and professionalism across the sector. Positive actions have been taken towards increasing the relevance of the continuous training programme in the reporting period. Some progress was made on the case management system, particularly with the establishment of the interoperability working group and the adoption of the interoperability framework setting the basis for the roll-out of the system.

Albania has some level of preparation in the **fight against corruption**. Despite some progress and continued efforts in fighting corruption, it remains an area of serious concern. SPAK bodies have conducted investigations in a number of high-level cases, ordering several arrests and convictions in a number of high level cases. Overall, corruption is prevalent in many areas of public and business life and preventive measures continue to have a limited impact, particularly in vulnerable sectors. Increasing the number of final convictions at a high-level remains an important priority to further tackle the culture of impunity. Further efforts are needed to ensure due judicial follow-up in vetting cases where there are indications of criminal offences. The institutional capacity of the Anti-Corruption

Directorate-General in the Ministry of Justice needs to be further strengthened and the composition of the Ethics Commission needs to be revised. The sectors most vulnerable to corruption require targeted risk assessments and dedicated actions.

Albania has some level of preparation in the **fight against organised crime**, with a continued good level of cooperation with EU Members States and EU agencies. More efforts need to be made in the fight against illicit drugs, including through an increase in the capacities of the law enforcement authorities. Following the adoption of a law on cannabis production for medical and industrial purposes, Albania needs to ensure that mechanisms are in place to effectively prevent cannabis from being diverted to unintended use. Progress that has been achieved with the seizure and confiscation of assets linked to organised crime must continue. Efforts also need to continue to ensure an increase in the number of prosecutions and final convictions, especially in high-level cases, and to establish the asset recovery office. Countering cybercrime, money laundering and preventing and combatting trafficking in human beings remain areas in which additional results are needed. All forms of child sexual abuse online should be criminalised and prosecuted. Progress was made on the implementation of the Moneyval recommendations, and of the Financial Action Task Force (FATF) Action Plan. Albania remained on the FATF list of jurisdictions under increased monitoring due to its draft Voluntary Tax Compliance (VTC) law (including a criminal amnesty). Following the draft law's withdrawal, in June 2023 FATF decided to propose an on-site visit, which took place in August and led to Albania's delisting in October 2023. Nevertheless, Albania should ensure that any future VTC law (including potential criminal amnesties) complies with the EU *acquis* and international standards. The track record on money-laundering and high-level corruption cases remains insufficient, and financial investigations need to be further developed.

On **fundamental rights**, efforts at implementation of the legal and policy framework need to be intensified. Progress was made on the use of alternatives to detention. There was some progress on the rights of persons with disabilities, as concerns biopsychosocial assessment. The process of first registration of property and other transitional processes need to advance in full transparency, including by tackling corruption. On the protection of national minorities, the adoption of the remaining implementing legislation did not advance. Furthermore, Albania needs to put in place strong legal and institutional safeguards to prevent further breaches of personal data.

Albania is in between some and moderate level of preparation in the area of **freedom of expression**. Limited progress was made. The intersection of business and political interests, the lack of transparency of sources of finance, the concentration of media ownership, intimidation and precarious working conditions continued to hamper media independence, pluralism and the quality of journalism. The atmosphere of verbal and physical attacks, smear campaigns and intimidation lawsuits against journalists has not improved.

The application of gender-responsive budgeting continued to improve. Since January 2022, the Albanian government has implemented a range of measures aimed at supporting families, women and girls, and vulnerable groups, as a response to the crisis caused by the COVID-19 pandemic and Russia's war of aggression against Ukraine. The economic assistance to victims of domestic violence has been increased significantly. The implementation of the law on gender equality and of the national strategy for gender needs to be further intensified.

The legal framework on **migration** is largely aligned with the EU *acquis* but needs updating in line with developments on the EU side. Albania has contributed to the management of the mixed migration flows towards the EU by cooperating to implement the EU Action Plan on the Western Balkans. It concluded a revised Frontex Status Agreement in September. In

2022, there was a 34% reduction in the number of irregular migrants entering Albania compared with 2021. No progress was made in referrals and access to asylum procedures and shortcomings in the return procedures remain. Albania should take concrete steps to address the needs of unaccompanied minors and align its visa policy with that of the EU. Although the number of asylum applications lodged by Albanian nationals in EU Member States and Schengen-associated countries remains lower than the pre-pandemic level, it increased again in 2022. Continuous and sustained efforts are still needed to address this phenomenon.

On the economic criteria, Albania has between a moderately and good level of preparation on **developing a functioning market economy** and made some progress in addressing last year's recommendations. The economy showed resilience and GDP growth remained strong in 2022, despite the economic fallout from Russia's war of aggression against Ukraine. Albania is at level of preparation **to cope with competitive pressure and market forces within the EU** and made some progress on structural reforms in the energy market, transport infrastructure, the digitalisation of the economy and education outcomes, though significant gaps with regional and European levels remain.

On **public procurement**, Albania is moderately prepared and has made some progress, in particular through an increased use of the most economically advantageous tender award criteria. On **statistics**, Albania is moderately prepared, and made some progress in further aligning with standards of the European System of National and Regional Accounts (ESA 2010) and in steps to strengthen the role of the Institute of Statistics. Albania is moderately prepared in the area of **financial control** where some progress was made, in particular with the updates to the legal framework on internal control and internal audit and the implementation of the policy document on the strengthening of public internal financial control, and continued to target internal audits on arrears.

Albania is moderately prepared in most areas of the **internal market**, namely free movement of goods, services and capital, financial services, and competition policy. The same applies to company law and intellectual property law. Some progress was made on intellectual property rights and on free movement of family members of EU citizens as well as on financial services. However, no progress was made on competition policy, where the State aid Commission still lacks operational independence. Preparations are at an early stage on consumer and health protection, where the country made limited progress. Some progress was also made on free movement of capital, which led to the country's removal from the FATF list of jurisdictions under increased monitoring.

Albania has achieved a moderate level of preparation in many areas linked to **competitiveness and inclusive growth**, namely taxation, enterprise and industrial policy, social policy and employment, education and culture and the customs union. The same holds true for the digital transformation and media, where the country made good progress, including by joining the Digital Europe programme in June 2023. Albania has some level of preparation in the fields of science and research. The country reached a moderate to good level of preparation in economic and monetary policy, as the governance and monetary policy of the Bank of Albania were appropriate and effective in dealing with the crisis caused by Russia's war of aggression against Ukraine; more efforts are required regarding its independence. With limited progress made on the customs union, more efforts are also required in pursuing the fight against smuggling, corruption and imports of counterfeit products.

As regards the **green agenda and sustainable connectivity**, Albania has some level of preparation in the areas of transport, trans-European networks, environment and climate change, and it has a moderate to good level on energy. Progress is noted on the reform of the

day-ahead and intra-day electricity markets, on renewable energy auctions and in developing transport and regional energy networks. Further efforts are needed on renewable energy and on energy efficiency. Albania ratified its participation in the Union Civil Protection Mechanism and is active in it. On the environment and climate, further efforts are needed on water and waste management, environmental law enforcement and nature protection. This cluster and the reforms concerned have significant links to Albania's economic reform programme, the Commission's economic and investment plan and the green agenda for the Western Balkans. Albania needs to address strategic investment planning, and the implementation and monitoring capacity of infrastructure projects.

Albania has some level of preparation in most areas linked to **resources, agriculture and regional policy and cohesion**, namely agriculture and rural development, veterinary and phytosanitary policy, and financial and budgetary provisions. There is a moderate level of preparation in fisheries and aquaculture as well as on regional policy. Some progress was observed in most areas covered, notably with adoption of the Law on wine and regarding administrative capacities for the instrument for pre-accession assistance for rural development programme (IPARD III). Further efforts are needed in regional policy particularly on administrative capacity and coordination between central, local and municipal levels and on financial and budgetary provisions.

Albania has a good level of preparation as regards **external relations, foreign security and defence**. On external relations, Albania made some progress, further aligning its legislation with the EU *acquis* on preventing trade in certain goods that could be used for capital punishment and torture. As regards the EU common foreign and security policy, Albania maintained full alignment with all relevant EU decisions and declarations during the reporting period. As a non-permanent member of the UN Security Council since January 2022, Albania continues to be actively engaged in promoting and defending the rules-based international order as well as Women, Peace and Security.

1.3. STATE OF PLAY OF THE ACCESSION NEGOTIATIONS

Following the Inter-Governmental Conference on accession negotiations with Albania that took place on 19 July 2022, the Commission immediately launched the **screening** process, which is progressing smoothly. All sessions on Cluster 1 (Fundamentals), Cluster 2 (Internal Market), Cluster 3 (Competitiveness and Inclusive Growth) and Cluster 4 (Green Agenda and Sustainable Connectivity) have taken place. Explanatory sessions on Cluster 5 (Resources, Agriculture and Cohesion) and Cluster 6 (External Relations) have been completed and bilateral sessions on these are ongoing. The remaining screening meetings are scheduled until November 2023.

2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

2.1.1 Democracy

The reporting period was marked by the start of the EU accession negotiations process, including the beginning of the screening. The political scene continued to be marked by political polarisation, against the background of persistent deep divisions within the largest opposition party. This has continued to negatively affect the Parliament's key functions of holding the executive accountable through effective scrutiny and of serving as a forum for constructive political debate, as well as its responsibility to elect in a timely manner the heads of key independent institutions such as the Ombudsperson.

The Parliament nonetheless succeeded in adopting, with a large cross-party majority, legislative amendments to strengthen its role in the EU integration process. This was a welcome development. On 14 May 2023, Albania held local elections with the participation of the country's key political actors, in contrast to the largely boycotted 2019 elections.

Elections

Local elections were conducted in a generally calm manner, including on the day of the vote. According to the findings and conclusions of the election observation mission of the OSCE's Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the local elections were well-administered, competitive and held with the participation of the country's key political forces. There are concerns about the misuse of public resources at both national and local levels, claims of pressure on voters and public sector workers, and allegations of vote buying. All of these need to be duly investigated. Despite the establishment of the ad hoc committee on electoral reform in February 2022, no progress was made neither on the adoption of any text nor in addressing the outstanding recommendations of the OSCE/ODIHR and the Venice Commission. This requires constructive and inclusive political dialogue from all sides.

Albania held regular local elections on 14 May 2023 in all of its municipalities. Elections were assessed by observers as well-administered, competitive and with the participation of key political forces, as also noted by the OSCE/ODIHR. The election day was generally peaceful. Vote counting was assessed to be mostly positive, though inconsistencies were noted. The Central Election Commission created a digital platform for the disclosure of the political parties' campaign financing.

Some 40 electoral subjects registered, fielding a total of 144 mayoral candidates, of which only 15 were women, and 23 763 municipal councillor candidates. Legal provisions require that half of the candidates for municipal councils should be women, however this was fully respected in only 10% of municipalities. Electronic voting and counting was implemented in three municipalities, representing 401 out of 5 212 polling stations. As in the previous elections, voters were identified by biometric signature in all polling stations, with technical glitches reported in some 10% of these. These elections registered a low turnout of 38.2%. The participation of young people was particularly low: among 122 545 first-time voters, only 16 628 (13%) cast a vote. A large proportion of the electorate resides outside Albania and are unable to vote from their place of residence, given that the electoral code does not provide for voting from outside the country in local elections.

During the election campaign contestants could campaign freely, but issues of importance for local communities barely featured in the campaigns. The election observation mission deployed by the OSCE/ODIHR pointed out concerns about the misuse of state resources, claims of pressure on public sector workers and voters, and allegations of vote buying. According to the findings of the election observation mission, a level playing field between candidates was not guaranteed due to a narrow and formalistic interpretation of the electoral code's provisions.

Although diverse, the media environment is characterised by systemic problems, including concentration of media ownership and the control exerted by intertwined business and political interests, which impacts on media freedom. This environment, combined with rules on media coverage of elections, favours the main parties. On misuse of state resources, the OSCE/ODIHR referred to the government's decisions, adopted in the weeks before the elections, to provide a bonus to pensioners and to increase the salaries of various categories of public sector employees, and to the fact that on several occasions the leadership of the

central government said that future support to municipalities would depend on the election results.

On 15 June, the Electoral College ruled that the election of the mayor in the municipality of Rrogozhine should take place again, following irregularities in one polling station set up in the town's prison. By-elections were held in Kukes on 24 September, following the dismissal of the mayor.

Parliament's ad hoc committee on electoral reform, set up in February 2022, has not produced any results. The term of the committee was extended in September 2023. Despite the efforts of the Central Election Commission to advance the implementation of out-of-country voting, the required legislative changes are still pending. In December 2022, the Constitutional Court ordered Parliament to close the legal gap within one year. Electoral reform, addressing OSCE/ODIHR and Venice Commission recommendations, should not be further delayed.

Parliament

Parliamentary activity continued to be affected by political polarisation, against the background of persistent deep divisions within the largest opposition party. Parliament nonetheless succeeded in adopting with a large cross-party majority legislative amendments to strengthen its role in the EU integration process, which was a welcome development.

Parliamentary debates and proceedings continued to be negatively affected by harsh political rhetoric, personal attacks and disruptive behaviour in the plenary hall. Disputes between the majority and the opposition, in particular over the Prime Minister's refusal to attend most interpellations requested by the opposition, caused a temporary disruption in the normal functioning of Parliament. The Ethics Secretariat imposed several disciplinary measures, resulting in the unprecedented expulsion of 23 opposition MPs within a month. Higher ethical standards in Assembly proceedings are needed to foster a more constructive political dialogue between the opposition and the majority.

During the reporting period, seven MPs were replaced, five from the Democratic Party and two from the ruling Socialists, due to them running as mayoral candidates in the local elections. Reorganisation of Parliament's standing committees and other bodies was not carried out, because of the conflict within the opposition and attempts to control its caucus.

Parliamentary activity was suspended during the electoral campaign for the 2023 local elections. This suspension was not warranted by the law.

Parliament's **oversight** of the executive remained limited. MPs filed three requests for interpellations and one motion with debate with the Prime Minister. The Prime Minister attended one in person. Other interpellations were held with members of the Council of Ministers. Parliamentary oversight of the work of independent institutions remains limited to considering their annual reports and to a digital tool to monitor the follow-up of the recommendations of these institutions.

During the reporting period, the opposition asked for two committees of inquiry to be set up, but the majority rejected both requests, in spite of the fact that the opposition's right to initiate such committees is guaranteed by the Constitution. The majority's argument in both cases was that a revision of the law on committees of inquiry is under consideration. The current law, however, remains in force.

In March 2023, amendments were adopted with a large majority to the 2015 Law on Parliament's role in EU integration, strengthening the consultative role of Parliament in the

accession negotiations process. During the reporting period, the National Council of European Integration met on a regular basis to take stock of Albania's EU integration process.

Parliamentary proceedings continued to be live-streamed on social media. In an effort to increase transparency, the Parliament created a new website, which is still incomplete and only partly accessible. A working group on transparency standards was set up in 2021 and consultations have taken place with civil society and the media. However, these standards under the principle of open government still need to be consulted upon, agreed, and adopted. Parliamentary documentation, such as legal acts and minutes of plenary sessions and committee meetings, should be published in a more timely and user-friendly manner, clearly indicating the amendments made during each step of the legislative procedure. Public consultation with civil society and interest groups remained formal.

The Assembly faced considerable difficulties in fulfilling its duty to elect the Ombudsperson. A year after the post became vacant, Parliament made another call for candidates in March 2023 and interview candidate in July. Parliament is still to elect a new Anti-Discrimination Commissioner. Delays and the politicisation of these appointment processes weaken these independent institutions.

Governance

Following the first Inter-Governmental Conference that opened the EU accession negotiations with Albania in July 2022, the government has renewed its overall political commitment to the country's EU path. Under the coordination of the chief negotiator and the newly reformed EU negotiation structures, Albanian institutions have mobilised significant resources to engage actively in the screening process, which is proceeding smoothly, and to prepare for the next steps in the accession negotiations.

The opening of accession negotiations needs to translate into an acceleration of specific EU-related reforms. While putting EU-related reforms at the centre of its legislative and policy planning, the government needs to refrain from measures that are not in line with EU standards. The government also needs to engage in stronger public communication on the EU accession process. Following the first Inter-Governmental Conference on accession negotiations in July 2022, the government appointed a new Chief Negotiator, at Minister of State level, and with increased resources. The resulting administrative reorganisation took place during the reporting period. Under the new set up, the Chief Negotiator is responsible for the overall steer, strategic planning and coordination of EU-related matters, together with the State Agency for Strategic Programming and Assistance Coordination, whose Director-General coordinates the National Instrument for Pre-Accession Assistance, and the Ministry for Europe and Foreign Affairs.

Significant progress was made in ensuring coordination on EU integration and EU assistance between State Agency for Strategic Programming and Assistance Coordination (SASPC,) line ministries, and the Central Finance and Contracts Unit and local government units. This now needs to be further consolidated. Improved cooperation, as well as recruitment and training of technical stakeholders in the responsible national bodies, would help ensure the successful implementation of the Instrument for Pre-Accession Assistance programmes, including the Western Balkans Investment Framework, Cross Border Cooperation and IPARD.

Under the coordination of the Chief Negotiator, Albanian institutions have participated in the screening process organised by the Commission, which is proceeding smoothly.

Building on the experience of the screening process, Albania will need to continue to strengthen its EU negotiating structures and coordination between subordinated bodies and line ministries, while further developing expertise on the EU *acquis* across the public administration.

In early 2023, the government adopted the new national plan for European integration for 2023-2025, and the 2022-2030 national strategy for development and European integration, which defines the vision, priorities and sectoral strategic objectives for the upcoming period (*see section 2.1.2. Public Administration Reform*).

In September 2023, a government reshuffle took place leading to the replacement of seven ministers.

The **territorial administrative reform** remains to be further consolidated as part of the wider decentralisation agenda. The annual monitoring report for 2022 on the implementation of the decentralisation and local governance strategy was published in June 2023. A systematic and timely monitoring of this process, and of the mechanisms to carry it out, needs to be ensured.

The new 2023-2030 cross-cutting strategy on decentralisation and local governance, which aims to consolidate the decentralisation process, was adopted in April 2023. The drafting process was based on a series of consultations that included 61 municipalities, central institutions, local government associations, civil society, the private sector, academia, researchers and development partners, which helped to capture and address the priority needs.

Parliament's ad hoc committee on the country's territorial and administrative divisions, which met between February and October 2022, did not lead to legislative or policy decisions, due to a lack of political agreement between the ruling majority and the opposition.

Despite some efforts to address legal and institutional gaps, conflicting and overlapping legal provisions and policies - which regulate the various sectors involving the exercise of functions by the local government units (LGUs) - and the division of responsibilities between local, regional and central government remain areas of concern. There is still a need to streamline the legal framework on the functions of LGUs and further consolidate the implementation of new functions.

Local government units still lack sufficient financial resources and administrative capacity to perform all their devolved responsibilities in a fully satisfactory manner and to exercise their greater policymaking powers effectively. The LGUs' fiscal autonomy remains at risk, as most of their budget depends on national transfers. The delivery of quality public services at local level remains limited.

Progress has been made to reduce the she salary gap between the central and local government levels. However, in order this effort must continue for small LGUs, in order to attract and retain qualified staff, ensuring equalisation based on the principle of equal pay for equal positions.

On gender equality, 18 municipalities signed the European Charter for Equality of Women and Men in Local Life , and 5 municipalities have developed and approved local gender action plans. Despite these positive developments, efforts are required to systematically reflect women's needs, rights and entitlements in the legal and policy frameworks at local level. Women representation in local governments continues facing challenges that hinder their meaningful participation.

On transparency, some improvement has been noted: for example, the Consultative Council

has adopted an integrity index methodology and 21 LGUs have developed and approved local integrity plans. Further efforts are needed to expand integrity plans to all LGUs and to ensure that the existing integrity plans are fully implemented and adequately monitored.

The Consultative Council continues to operate as the main forum for institutional dialogue and coordination between central and local governments. Further efforts are needed to engage LGUs and the associations of local government in the early phases of legislative initiatives, and to intensify cooperation and coordination between local and central government. Appropriate levels of representation needs to be ensured.

The network of EU integration local coordinators has strengthened the LGUs' involvement in the EU accession process. The engagement of elected bodies of local governments and municipal administration in the EU integration process needs to be strengthened, especially in the context of the EU accession negotiations.

Civil society

The role of civil society, including in the EU accession negotiation process, should be further strengthened. The structures in place for consulting civil society need to be reinforced and become fully operational. There has been no progress in implementing the roadmap on an enabling environment for civil society. The amendments made to the 2014 VAT Law that allow for tax exemptions instead of tax refunds have not been implemented yet.

An empowered civil society is a key component of any democratic system and Albania's legal and regulatory framework on the right to freedom of assembly and association is in line with international standards. Preparations began in 2022 to set up the national electronic register of non-profit organisations, in line with the 2021 law. It is envisaged that the electronic register will be operational at the end of 2023 (*see also Chapter 24 on FATF recommendations*). In the meantime, civil society organisations (CSOs) continue to register at Tirana District Court as per the old law of 2001 and its lengthy registration process.

There has been no progress in the implementation of the roadmap on an enabling environment for civil society, which remains very dependent on donor support. Additional efforts and resources are required to advance its implementation and to improve the roadmap's reporting and monitoring mechanisms. The revision of the Law on voluntarism is still pending.

The legal framework on public consultation is generally in line with European standards. The Parliament's platform still needs to achieve full operability and consultations on draft legislation should be carried out regularly. In addition, the scope of the Law on public consultation still needs to be extended to cover implementing legislation (*see also the Section on public administration reform*).

The role of civil society in the EU accession negotiation process needs to be strengthened to ensure the meaningful participation and consultation of CSOs in policy-making processes. The structures in place to consult civil society at governmental level need to be strengthened and become fully operational. The Partnership Platform on European Integration, set up in 2019, is partly operational.

The ability of the National Council for Civil Society to voice the priorities of CSOs in policy-making processes remains weak. An update of the Law on the National Council is still pending. The public funding of the Agency for the Support of Civil Society remains insufficient to sustain CSOs' activities, in particular in social services.

Limited progress continued in the field of VAT refund, with implementation of the

instructions on VAT reimbursement for CSO beneficiaries of EU funding and other donor grants. However, the process remains lengthy and cumbersome. In 2022, amendments were made to the 2014 VAT Law to allow tax exemptions for CSOs, however implementation has not started yet. Albania still does not have tax incentives in place for individual donations and only marginal tax incentives for corporate donations.

Better coordination and meaningful representation of interest groups should be ensured at all levels as the landscape remains fragmented, dependent on donors and concentrated in the main cities, although grassroots initiatives are active on some community-based issues.

2.1.2. Public administration reform

Albania remains **moderately prepared** in the area of public administration reform. It made **limited progress** in delivering on last year's recommendations.

A new national strategy for development and European integration for 2023-2030 was adopted in February 2023. Preparations for the new strategies on public administration reform (PAR) and public financial management (PFM) have started but they still have to be adopted. The new 2022-2026 digital agenda was adopted in June 2022. The new 2023-2030 decentralisation strategy was adopted in April 2023. Implementation of the ongoing 2015-2022 PAR and 2014-2022 PFM strategies continued. The centre of government entities under the Prime Minister's Office have evolved, but the new structure still needs to settle in. A more consistent legislative framework with clear criteria for the creation of subordinated entities still needs to be created. Provisions on merit-based recruitment in the civil service law are not consistently implemented, especially for senior level positions. A salary reform was initiated in 2023 but the reform does not yet fully address the complexity of the salary structure or the limited role of performance. Progress on the implementation of the automated payroll system stalled. Significant efforts were made on digitisation of service delivery through the e-Albania platform. This was accompanied by a closure of front office contact centres in 2022, which raised concerns over access to services to vulnerable and digitally less-apt citizens. A restitution of some contact centres is under consideration, together with other ongoing efforts to improve the user experience of the portal online. Further efforts are needed to ensure equitable access to services for people with limited digital skills or limited access to IT equipment. Increased attention is required to digital security and protection of personal data. The Commission's 2022 recommendations remain mostly valid. In the coming year, Albania should, in particular:

- put in place a legislative framework that properly regulates the typology and criteria for establishing subordinated bodies and clarifies lines of accountability;
- adopt and start implementing the new public administration and public financial management strategies, and review the effectiveness of the current monitoring structures;
- consistently and effectively implement the provisions on merit-based recruitment, promotion and dismissal in the civil service law at all levels, especially at senior level; continue the reform of the salary system for civil servants and re-initiate the automation of the payroll system.

Strategic framework for public administration reform

Good governance is addressed in the newly adopted national strategy for development and European integration for 2023-2030. The government maintained regular monitoring of the implementation of the 2015-2022 **PAR strategy** and the 2014-2022 **PFM strategy**. Preparations of new PAR and PFM strategies for 2023-2030 have started. The new 2022-

2026 digital agenda was adopted in June 2022. The new 2023-2030 strategy on decentralisation and local governance was adopted in April 2023.

The Minister of State for Services and Standards was appointed as the overall coordinator for good governance in June 2022, ensuring a clear political mandate for the coordination of reforms. This post was abolished in the September 2023 during the government reshuffle. There is not yet clarity on the new structure to be put in place. An Integrated Policy Management Group (IPMG) for PAR is in place, but not very active. A new government decree from July 2023 should streamline the IPMG structure. Some of the technical groups under it are more actively used for coordination of PAR initiatives. The **financial sustainability** of reforms needs to be improved through better reviewing of overall financial resources as, currently, the implementation of reforms depends heavily on funding from external donors.

Policy development and coordination

The legal basis and the institutional set-up for consistent **policy making** are partially in place. An extensive **policy coordination structure** exists through the Strategic Planning Committee (SPC), chaired by the Prime Minister, and the Integrated Policy Management Group. The SPC has met regularly and steered the policymaking process. The IPMG's activity has varied between sectors and should be improved. The SPC and IPMG structures are now operating in cooperation and under the facilitation work of the Agency for Strategic Programming and Aid Coordination – SASPAC set up in mid-2021.

A new national strategy for development and European integration was adopted in February 2023, with some delay, and will now cover the period up to 2030. It serves as an overarching reference document for the integrated planning system. In addition, the new 2023-2025 national plan on European integration was adopted in March 2023.

An integrated planning system - including links to budgeting - is in place, but its application has been uneven. The use of the developed support systems on planning and external fund management has been very limited. The support system for budget planning has been more actively used, including for the preparation of the mid-term budget planning. Consistency between policy planning and budgeting needs to be further improved by making full use of the systems that have been developed, including after a review of their functionality.

SASPAC is now staffed and assumed its mandate to manage policy and project coordination between the Government of Albania and donors, including independent fiscal institutions. Further efforts are needed to strengthen the administrative capacity of line ministries and the Prime Minister's Office and to increase the accountability of management (*see Chapter 32 – Financial Control*). The rulebook of the Prime Minister's Office still needs to be adopted.

Administrative capacity for **inclusive and evidence-based policymaking and legislative development** needs to be further strengthened. Progress was reported on increasing the use of regulatory impact assessments, with practical training for the entities involved but further efforts are necessary to improve their quality. On **public consultation**, a regulatory framework is in place. The electronic web portal is operational and has been updated. However, the proportion of legal acts that undergo online public consultations remains very low. Implementing legislation is yet to be subjected to public consultations. In 2022, 48 acts were subject to consultation, out of a total of 866 adopted acts. The quality control of consultations needs to be strengthened and proper follow-up ensured, and further efforts are needed to encourage stakeholders, in particular civil society, to participate.

Public scrutiny of government work needs to be further improved. Parliamentary oversight of the government's performance, including subordinated agencies, needs to be strengthened. Regulatory and institutional monitoring, and the reporting framework for government performance, are still fragmented. The harmonisation of reporting practices would be facilitated by using the Integrated Planning System Information System. Communication to citizens about ongoing reform efforts needs to be improved.

Public financial management

The 2014-2022 PFM strategy expired in December 2022 and a new strategy is in preparation, with adoption expected still in 2023. The new strategy should be developed through an inclusive process. The Ministry of Finance and Economy (MoFE) which is the leading institution for the PFM reforms regularly reports on the implementation of the PFM strategy.

The **Law on organic budget** has been systematically implemented in line with the budget calendar for 2022. In recent years, including in 2022, budget revisions have been made primarily through normative acts, often lacking transparency, and confirmed *ex post* by Parliament. Uncertain economic conditions have justified this to some extent, but a return to more regular budget revision procedures seems appropriate. An independent oversight body with a mandate to assess the fiscal risks and monitor the compliance with the existing fiscal rules remains to be established. The quality of the medium-term budget programme has improved, but efforts should continue to consistently improve revenue estimates and strengthen sector ceilings to support policy implementation by the line ministries. Initial efforts on gender-responsive budgeting should be maintained and expanded.

Budget transparency remains satisfactory overall with the publication of all key budget documents. However, further improvement in the quality and format of the documents is still needed including publishing of audit reports online in a timely manner.

Public service and human resources management

Progress on **merit-based recruitment, promotion and dismissal** needs to be consolidated by applying consistent standards across the public administration and across all levels.

Greater legal compliance is needed in recruitment procedures. Recruitment from a pool of talent is the standard approach, and has well-established procedures, but it is not fully applied yet. The merit principle needs to be complied with for both senior and entry-level positions. The administration manages to fill most vacant posts, with 830 out of 855 vacant positions open for external recruitment filled in 2022. From January to September 2023, 303 positions were filled out of the 585 vacant posts announced. Across the public administration, job descriptions are not yet fully in line with the categories set out in the civil service law. Of the 830 recruited staff in 2022, 66% were women and 34% - men. Of the 303 recruited staff from January to September 2023, 66% were women and 34% - men.

In 2022, there were 19 **dismissals** from the civil service, a significantly lower number than in previous years (346 in 2021, 619 in 2020) and the authorities have declared that these dismissals were in compliance with the civil service law. The government reports that the rate of execution of final court decisions on dismissals and reinstatements improved from 79.5% in 2021 to 81.5% in 2022. The long time it takes to enforce reinstatement decisions has a significant cost for the government, so the focus should remain on improving reactivity.

The **human resources management** information system continues to be filled with the necessary data, although at a slow pace. It does not yet cover the entire public sector, it is not completely up-to-date and it still needs to be extended to the local level.

On **salary reform**, two new laws and the package of implementing legislation were adopted in May 2023. These increased salaries for holders of political mandates, influencing also salaries in constitutional bodies. It also introduces a number of changes to the salary structure of the civil service, including a higher weighing of seniority and a broader range of salary classes. The resulting salary increases will be introduced in two phases in 2023 and 2024. Earlier in 2022 and 2023, a number of other decisions had been taken which impacted salaries, including increase of public sector salaries in key sectors and increase of the minimum salary. The comprehensive **salary reform** has not been finalised yet and the new measures do not address all outstanding issues. The salary system remains complex and not fully transparent. The most recent reform provides some new limited incentives for career progression but performance incentives are not yet applied. Reform of the remuneration system should be linked to the process of harmonising job descriptions. Automation of the payroll calculation stalled in 2022, ascribed to the inability of the IT system in place to perform this function and the complexity of the current remuneration system. Greater efforts are required to make it possible to calculate the payroll automatically and to link it to the treasury.

The Albanian School of Public Administration (ASPA) continued to adapt its training programmes for **professional development**, with a stronger focus on EU integration. Training was provided to 5 397 people in 2022. Efforts to improve the physical and digital infrastructure of ASPA are still needed.

Accountability of the administration

The legal framework for the organisation of the central administration does not provide a comprehensive and consistent foundation for the establishment and accountability of subordinated institutions and autonomous agencies. This has resulted in the ad hoc setting up of some new agencies. The law should set out a clear typology and criteria for creating subordinated bodies and, as well as clarify responsibilities and reporting lines. Workflow and decision-making processes in the public administration should be more transparent. The legal framework for ensuring managerial accountability needs to be improved.

The citizens' right to good administration needs to be further strengthened. The rate of implementation of the Ombudsperson's recommendations continues to hover in the 50-60% range. Of the 249 recommendation in 2022, 17% were fully and 36%, partially implemented, leading to a combined score of 53%, (50% in 2021). Of the 30 recommendations issues between January and April 2023, 17% were fully and 17% partially implemented, leading to a combined score of 34%. Parliament should strengthen its cooperation with the Ombudsperson and address the problem of the lack of responsiveness of public administration bodies.

On **transparency and access to information**, the Commissioner for the right to information reports that a high number of institutions (391) have published transparency programmes and an increasing number of government entities have established an electronic register of information requests. The Commissioner received an increased number of complaints (992) about the administration's failure to provide information, often resolved after his intervention. The revision of the Law on access to information should be completed to ensure managerial responsibility for non-compliance with its provisions. Albania ratified the Council of Europe Convention on Access to Official Documents in 2022. The Law on open data and interoperability, aiming at aligning national legislation with EU Directive 2019/1024 on open data and the reuse of public sector information, entered into force in April 2023.

A legislative framework is in place for the **right to administrative justice**. The capacity of the administrative court system and, in particular the appeal courts, to deal with cases is limited, which led to an increased backlog in 2022. Legislation is in place to protect the **right of citizens to seek compensation** and is applied in practice in judicial cases. However, there is no mechanism for the regular monitoring and analysis of administrative and judicial practice in such matters, and the government does not gather data on payments made in public liability cases and the reasons for them. Nevertheless, the enforcement of administrative court decisions by the executive remains problematic, with a low level of voluntary compliance, which results in the need to use bailiffs.

In November 2021, Parliament adopted the Law on co-governance, giving substantial powers on mediation and dealing with grievances to the Agency for Dialogue and Co-governance. The structure of the organisation was accordingly adjusted by a government decision in 2022. The agency reports directly to the Prime Minister. It can conduct inspections on public institutions, based on citizens' complaints, and apply administrative sanctions or propose disciplinary measures or mediation. Complaints are received via the 'Albania we want' platform. A separate platform exists to denounce corruption. A significant number of complaints are received and treated, but some concerns remain on whether the agency's role may discourage the use of more formal and independent appeal and complaint channels.

Service delivery to people and businesses

The institutional and legal frameworks to ensure a user-oriented administration are in place. The new 2022-2026 digital agenda was adopted in June 2022. Alignment with the revised European Interoperability Framework is still pending. Alignment with new legislation, such as the Interoperable Europe Act, should be ensured.

During the reporting period, the government continued its push to expand online service delivery, primarily through the e-Albania platform. The number of online services increased to 1 227, estimated to be around 95% of all public services. The government is planning to reorganise the portal to improve its user-friendliness. The number of registered users has increased to 2.8 million though only about 1.5 million of those are active users. On 1 May 2022, the government decided at short notice to close the 'front desks' (ADISA centres), delivering central government services, with a view to moving towards 100% online service delivery. The aim of this measure is to improve the quality of services and reduce corruption. The rapid shift has raised questions about the quality and accessibility of services for people with limited digital skills, limited digital access, or persons with a disability and this issue still needs to be addressed. The government has recently announced its intention to reinstate some form of contact centres. A good number of municipalities have one-stop-shop centres to provide municipal services, which in the past were often combined with an ADISA centre. On accessibility for persons with disabilities, Albania needs to align with Directive 2016/2102 on the accessibility of the websites and mobile applications of public sector bodies.

In 2022, the provision of digital services was temporarily suspended after a number of cyber-attacks on government systems, albeit not on the e-Albania platform itself. A number of data leaks from some public systems have also occurred. Therefore, digital security, as well as data protection provisions, need to be strengthened. The National Agency for Information Society is improving its risk assessment capacity and business continuity infrastructure. On data protection, Albania should upgrade its regulatory framework to align with EU standards.

The Code of administrative procedures provides the legislative framework to **simplify administrative procedures** in line with international standards. The process of legal

harmonisation with the code needs to be completed. In April 2023, the government adopted a new Policy Document on Standards of Public Services, which aims to improve service standards.

2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS

2.2.1. Chapter 23: Judiciary and fundamental rights

The EU's founding values include the rule of law and respect for human rights. An effective (independent, high quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is the respect for fundamental rights in law and in practice.

Albania is **in between some and moderate level of preparation** in aligning with the EU *acquis* and European standards in the area of the judiciary and fundamental rights. **Some progress** was made in the reporting period.

Functioning of the judiciary

Albania is **moderately prepared** on the functioning of the judiciary. **Good progress** was made during the reporting period, with the continued implementation of the justice reform. The vetting process for judges and prosecutors has advanced with overall good results, although the pace of proceedings in appeal needs to be stepped up in light of the revised constitutional deadline, with due regard to the quality of the process. By 6 October, 57% of the vetting dossiers processed resulted in dismissals, resignations or termination of mandate. Albanian institutions need to ensure systematic judicial follow-up on vetting cases where criminal offences have been indicated. The efficiency of the judicial system and access to justice continued to be affected by the length of proceedings, the increased workload and the large backlog of cases, which remains significant. Progress was made in addressing judicial vacancies through the appointment of a significant number – 40 – of new magistrates, sworn in office at the High Judicial Council in October 2023. Implementation of the new judicial map has started; however, this process needs to be consistent with the legal framework and principles of access to justice. The Specialised Structure for Anti-Corruption and Organised Crime (SPAK) achieved further results, and conducted investigations in several high-level cases, which include the involvement of two former ministers. A new Chief Special Prosecutor was elected in December 2022 after a sound process. Some positive actions have been taken towards increasing the relevance of the continuous training programme in the reporting period, however further significant progress is needed on last year's recommendation regarding the judicial training system. Progress was made on the case management system, particularly with the establishment of the inter-operability working group and the adoption of the interoperability framework setting the basis for the roll-out of the system.

Recommendations for the coming year:

- further advance the process of re-evaluating judges and prosecutors (vetting) and speed up procedures, in particular on appeal, with due regard to the quality of the process;
- consolidate efforts to improve the efficiency of all courts and prosecution services and reduce the backlog of cases, including by filling open vacancies, improving the functioning of the courts and streamlining/simplification of judicial proceedings, further decisive action to set up a modern integrated case management system and to create a robust implementation and communication plan for the new judicial map that ensures

respect of the right to access justice and of the applicable legal framework, in particular on transfers and promotions;

→ continue to strengthen the capacity and independence of the judicial system and its self-governing institutions, while making quality and efficiency improvements at the School of Magistrates, including by revising the admission examination in line with European standards.

The comprehensive transitional re-evaluation (vetting) of all judges and prosecutors continued to advance at a steady pace. The International Monitoring Operation, deployed under the *aegis* of the European Commission, continued to exercise independent oversight of the process.

By 6 October 2023, the vetting institutions had completed 689 vetting cases at first instance amounting to 84% of the total. Of these, 537 decisions are final. In total, around 805 professionals were due to undergo scrutiny. Overall, 57% of the vetting dossiers processed so far have resulted in dismissal or termination due to the assessee resigning or reaching retirement age. The outcome of decisions of the first instance vetting body, the Independent Qualifications Commission and, where applicable, of the Appeal Chamber, resulted in 257 dismissals (mostly for issues relating to unjustified assets); 278 confirmations in office; 152 decisions to terminate the vetting proceedings; and 2 suspension decisions, with the obligation to undergo training. The International Monitoring Operation has continued to oversee the vetting process and has issued opinions on first-instance assessments, including 33 recommendations for appeal, and 8 dissenting or concurring opinions after the final decisions. The vetting institution of public commissioners has followed all recommendations for appeal. In the same period, the Appeal Chamber processed 208 cases.

In June 2023, the Special Court of First Instance against Corruption and Organized Crime sentenced the former Head of the Constitutional Court to 6 months in prison, commuted to one year of probation, for false declaration and concealment during the vetting process. Trial is ongoing against three former High Court judges, and the Special Court of First Instance against Corruption and Organized Crime has confirmed the request of the Special Prosecutor's Office regarding the confiscation of assets in one of the three cases. The vetting institutions are expected to systematically refer cases to prosecution services where there are indications of criminal offences. So far, 34 cases have been referred to prosecution in cases of termination of the vetting process due to resignation, which represents about 10% of the number of resignations and dismissals. Prosecution services are encouraged to proactively initiate criminal proceedings against judges and prosecutors whose vetting process revealed criminal elements.

It is important that all state institutions and judicial authorities, including the self-governing bodies of the judiciary, respect the independence and exclusive jurisdiction of the vetting bodies, and refrain from acts that could contradict the final vetting decisions.

Strategic documents

The Ministry of Justice reports regularly on the implementation of the 2021-2025 cross-sector justice strategy and its action plan. All judicial institutions, including the Constitutional Court, have developed plans to align their activities with the cross-sector strategy.

A specific set of indicators is included in the justice strategy and its action plan to make it easier to track its implementation. There is a need to improve the reporting capacities of the relevant units in all institutions, standardise reporting methods, provide more frequent specialised training of staff on analytical skills, and ensure the accuracy of statistical data at

all levels. Albania needs to ensure effective cooperation between justice institutions, the allocation of sufficient resources and the efficient and systemic functioning of the justice sector in the context of implementing the justice strategy and its action plan.

Specialised bodies

SPAK, comprising the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI), continued to be fully operational. The High Prosecutorial Council (HPC) elected a new Chief Special Prosecutor in December 2022 after a sound process. The capacity of the recruitment bodies (SPO, NBI and the Courts for High-Level Corruption and Organised Crime) needs to be further strengthened to ensure efficiency and the sustainability of their workload. The SPO has filled 17 out of its 20 prosecutor posts. One prosecutor was temporarily transferred to SPO from the Prosecutor General Office in March 2023 for the period of one year. The SPO has filled 12 out of its 16 financial investigator posts. Following a second round of recruitment in June 2022, the NBI has 60 investigators. As provided by law, an international commission consisting of two criminal justice experts nominated by the EU and two by the US government, continued to monitor the functioning of the NBI. *See also under Chapter 24 – Justice, Freedom and Security*

Despite some progress, the remaining judge vacancies in the SPAK specialised courts need to be filled up. In the SPAK appeal court, 10 out of 11 judges have been appointed. There were nine judges out of 16 in the first instance court, of which three delegated and not formally appointed.

Management bodies

The self-governing institutions of the judiciary have continued to fully exercise their functions. All vacancies for non-magistrate members of the High Prosecutorial Council (HPC) have now been filled. The High Judicial Council (HJC) and HPC are due to renew at least half of their membership, including both magistrates and lay members, by December 2023. This renewal will result in new chairpersons for both Councils. It is essential that the process to select the members of the HJC and HPC guarantees fair and effective competition and independence, in particular by taking measures to ensure a competitive number of applicants notably in appointments by bodies that appoint lay members and by Parliament.

The HJC advanced with the appointments of judges to vacant positions but it needs to finalise the promotion of judges to the High Court and ensure that all 19 judges are in place. The HJC continued to approve a significant amount of implementing legislation regulating the activities of the judicial system and courts. Evaluations remained below the projected targets. However, they remain key to ensuring the effective functioning of the judiciary and efficiency of the judicial system. The HJC needs to increase the pace of evaluations and the HPC needs to urgently start carrying them out. The HJC and HPC need to put in place clear rules of procedure for the evaluation, promotion and transfer of judges and prosecutors. The HPC needs to urgently start carrying out evaluations of prosecutors, in line with its annual plan, and adopt the necessary implementing legislation to do this. So far, no evaluations have been completed by the HPC, which is a matter of concern. The HPC and the General Prosecution Office (GPO) should further improve cooperation to ensure effective management of district prosecution services and in reporting on how the system is functioning. The budgets and human resources of the HJC and HPC have gradually increased. There are recurrent complaints from the media and civil society about transparency and outreach. It is necessary to improve the regulatory framework and the well-established practice for media communications and access to information, based on the principle of transparency.

The Justice Appointment Council continued to operate throughout 2022 and a new Council was selected in December 2022.

The capacity, independence and efficiency of the self-governing bodies of the judiciary needs to be further strengthened, including by ensuring the quality of their decisions, transparency of their work and effective public communication.

Independence and impartiality

The 2016 justice reform set out a satisfactory legal and institutional framework to guarantee the independence and impartiality of magistrates. However, concerns continued to be raised about alleged attempts to interfere with and exert pressure on the judicial system. The training of magistrates should further focus on integrity and judgecraft. Targeted action to reduce undue influence and increase public trust in the judiciary should be further considered.

Legal provisions are in place to guarantee independent procedures to appoint, promote, evaluate and dismiss judges and prosecutors, and to ensure the possibility to appeal all related decisions. The remuneration of judges and prosecutors reaches the highest levels for public sector salaries in the country. In December 2022, the Constitutional Court delivered a decision on the regulatory framework for the salaries of magistrates. This decision has been implemented in full respect of the principle of the financial independence of magistrates. The transparency and correct implementation of the legal provisions on promoting and transferring prosecutors and judges should be ensured by the Councils, including through implementing legislation.

The roll-out of a modern integrated case management system has been long pending, and it remains necessary to improve the efficiency and transparency of the justice system. The limited number of judges at several courts coupled, with the lack of an integrated case management system, leads to a worrying result in that the random allocation of cases is not widely applied. The random allocation of cases in the prosecution services is not applied and is an area of serious concern. The IT centre for the justice system has only one member of staff on duty, which is insufficient to ensure strong leadership and high standards. Progress was made on the case management system, particularly with the establishment of the interoperability working group in June 2023 and the adoption of the interoperability framework setting the basis for the roll-out of the system .

It is a criminal offence to exert undue influence over a judge or a prosecutor. There have been no official reports from judges or prosecutors of such attempts. Concerns remain about internal and external attempts to exert undue interference over the judicial system, political pressure and intimidation. No sanction has been taken against public officials or politicians waging accusations against magistrates. However, the self-governing institutions have publicly reacted to such accusations, classifying them as undue influence and pressure.

Accountability

The High Justice Inspector (HJI) continued to be operational, initiating and conducting disciplinary investigations against magistrates. Nearly half of the planned inspectors (12 out of 26) are in office. The recruitment of additional inspectors and improvement of HJI's capacity remain necessary. The HJI adopted a revised methodology to reduce the backlog of 1 606 cases that it inherited, of which 1 072 have yet to be processed. The HJI has not accumulated a backlog of new cases since it was set up. It is still necessary to During the reporting period, the HJI received 789 complaints. It processed 534 complaints and started 28 disciplinary investigations, of which for six magistrates it has requested disciplinary measures by the Councils. In most cases where the HJI requested dismissals, the councils decided on a

more lenient measure.

The HJI has proposed three disciplinary measures for judges to the HJC, of which two are still ongoing and one has been followed, but with a change to the proposed measure. The HJI has proposed three disciplinary measures for prosecutors to the HPC, of which one is ongoing and two are suspended.

The HPC should quickly begin the evaluation of all prosecutors, given the lack of progress in the reporting period.

Cooperation between the institutions governing the justice system should be further strengthened. The regular general meeting between the HPC and the HJC took place only once during the reporting period. Coordination on a regular basis is needed.

Strategic communication by the institutions of the judiciary on key policies is still weak. Greater transparency is needed on the concrete steps to implement the judicial map. Frequent communication is also needed on key policies adopted by both councils, including reader-friendly information on the procedure to promote judges and prosecutors, regular thematic evaluations and other analytical reports.

Professionalism and competence

The system for recruiting, selecting, appointing, transferring and dismissing judges and prosecutors is managed exclusively by the self-governing institutions of the judiciary. The continued implementation of judicial reform reduced political influence throughout the appointment process, thus contributing to ensure a more merit-based career system. The last vacancy in the Constitutional Court was filled in December 2022. The evaluation process, including the ranking of candidates, needs to be more transparent and allow for more competition, in line with the Venice Commission recommendations.

The High Court continued to reduce its backlog of cases, however this remains very high, and more efforts, including additional judges and legal advisers, are necessary to help reduce it further.

Quality of justice

Some positive actions have been taken towards increasing the relevance of the continuous training programme in the reporting period. The overall quality of the initial and continuous training at the School of Magistrates (SoM) requires further improvement. Further to the efforts made in previous years, an increase in the number and quality of cohorts of students and graduates is still necessary as a matter of priority, to address judicial vacancies and the efficiency challenges of the judicial system. However, for the 2022-2023 academic year, the intake of new students slightly decreased compared with the previous term. Of the 96 places available in the SoM, only 66 students were admitted for 2023-2024. In addition, the SoM needs to continue improving the quality of new recruits and graduates, including through a comprehensive revision of the entry examination in line with European standards. A comprehensive analytical projection of the short and long-term needs of the judicial system, including a number of magistrates is still missing. This should take into account the backlog in cases, implementation of the judicial map and the results of vetting. The SoM needs to intensify its efforts to improve the quality of academic staff and to ensure a competitive and transparent recruitment process. The methodology of continuous training needs to be improved and should be based on a regular needs assessment. The SoM should publish an analysis of the satisfaction surveys on continuous training and adopt a methodology to conduct regular needs assessments. Initial training should be substantially revised to be more consistent with the objective of specialisation and to put a greater focus on practical training,

especially on legal writing and reasoning. Training should also include a specific curriculum on EU law. The total budget allocated to training initiatives at the SoM in 2022 amounted to EUR 2.7 million, compared with EUR 2.9 million in the previous year. As an observer of the European Judicial Training Network (EJTN), the SoM should be more proactive in profiting from the network's activities and expertise.

The quality of final court decisions need to be further improved. The HJC and the High Court have taken some steps towards the dissemination and unification of judicial practice, which however requires further consolidation. Access to full reasoned decisions and their timely publication remains very limited.

Albania had 11.4 judges per 100 000 inhabitants (318 judges) and less than 8 prosecutors per 100 000 inhabitants (202 full time prosecutors) in 2022 according to the European Commission for the Efficiency of Justice (CEPEJ). The EU average in 2021 was 24.1 judges and 10.8 prosecutors per 100 000 inhabitants. The number of judges in Albania increased in 2022 compared with the previous year's ratio, following several new appointments; and there was a slight drop in the number of prosecutors compared with the previous reporting period. The 2021 budgetary allocation for the judicial system was about EUR 70 million. This amounts to over EUR 14.5 per inhabitant. The budget for the courts saw a significant increase, however the courts' infrastructure remains poor overall and future budget allocations need to address with greater determination the pressing needs of the judicial institutions.

Efficiency

The unfilled open vacancies, the length of proceedings, the low clearance rate and the high number of unresolved cases continue to affect the efficiency of the judicial system.

The majority of courts in Albania function with reduced personnel, due to judicial vacancies, on average at less than half of their normal capacity. Progress was made in addressing judicial vacancies, through the appointment of 40 new magistrates who were sworn in office at the High Judicial Council in October 2023 and will immediately take up their duties at first instance courts throughout the country. Albania began to implement the judicial map, which aims to help optimise human and financial resources, increase specialisation, increase the courts' efficiency and mitigate the impact of the vetting process. The implementation of the judicial map should ensure the respect of the right to access to justice and of the applicable legal framework, in particular on transfers and promotions. A robust implementation plan for the judicial map is still missing and needs to be urgently put in place. Periodic assessments, effective communication and an adequate budget need to be ensured.

The average number of cases per judge remains high, which is of concern, especially at appeal level. Attempts to stabilise the backlog have not yet produced results. There has been a 31% increase in cases awaiting adjudication countrywide. The average length of a case at appeal level was 893 days in 2022. At the Tirana Appeal Court, the average length of a criminal case was 5 820 days.

The courts with the largest backlog are the High Court, the Appeal Court and the Administrative Court of Appeal. In 2022, the backlog in the Administrative Court of Appeal increased by 15%, with 21 166 cases pending, compared with 2021, although the clearance rate improved. The backlog in the appeal courts of general jurisdiction is 28 140 cases, i.e. up 24% from the previous reporting period. All the other efficiency indicators for cases at appeal level have worsened compared with the previous reporting period, which is a worrying trend. The High Court has the biggest backlog, of over 31 827 cases but has managed to reduce it by 12% compared with the previous year. The highest number of pending cases at the High

Court are civil cases, while of the number of new cases registered in the Court fell by 27% compared with last year.

The accumulated backlog has a significant impact on the clearance rate and capacity of judges to process cases in due time. The HJC and HPC should decide on an appropriate methodology and take the necessary steps to reduce the backlog at all levels and to ensure a reasonable time for the hearing, reasoning and publication of final court decisions. The absence of defence lawyers is the most frequent reason for the adjournment of hearings. Together with filling up of vacancies as well as other administrative and procedural matters, this issue should be addressed to improve judicial efficiency.

Further efforts are needed to improve the collection and reporting of judicial statistical data. It is urgent to set up a new integrated case management system through determined policy, planning and budgetary efforts, and ensure its interoperability across the entire justice system, in line with CEPEJ methodology. Progress was made with the establishment of the interoperability working group and the adoption of the interoperability framework setting the basis for the rollout of the system .

Alternative dispute resolution is not used, and the courts did not refer any cases in 2022. It is necessary to improve citizens' awareness of alternative dispute resolution, the services of the mediation chamber and the legal provisions on court referral to the mediation chamber needed as a matter of priority to reduce the case backlog and increase access to justice.

There are 18 cases pending before the Council of Europe Committee of Ministers for supervision of the execution of final judgments of the European Court of Human Rights.

Fight against corruption

Albania has **some level of preparation** in the fight against corruption. Despite **some progress** and continued efforts in fighting corruption, including a number of high level convictions and financial investigations at high level, it remains an area of serious concern. Overall, corruption is prevalent in many areas of public and business life and measures to prevent it continue to have a limited impact, particularly in vulnerable sectors. The Specialised Structure for Anti-Corruption and Organised Crime (SPAK) conducted criminal proceedings and financial investigations in several high-level cases. Criminal convictions were pronounced by the SPAK Courts in high-profile cases, notably in case of a former Minister of Environment and of a member of Parliament as part of an investigation into the concession contracts on urban waste treatment (the incinerators' affair). Increasing the number of final convictions in high-level cases remains an important priority to further tackle the culture of impunity. The vetting of judges and prosecutors continues to bring results in the fight against corruption within the judiciary, however further efforts are needed to ensure due judicial follow-up in vetting cases where there are indications of criminal offences. The institutional capacity of the Anti-corruption Directorate-General in the Ministry of Justice needs to be further strengthened. The composition of the Ethics Commission needs to be revised, as the presence of a member of the government is ground for serious concern. The sectors that are most vulnerable to corruption require targeted risk assessments and dedicated actions. The 2022 recommendations were only partially implemented, thus they remain valid.

In the coming year, Albania should in particular:

- strengthen the investigation, prosecution, adjudication and final conviction of corruption cases, in particular at high level, and increase the seizure and confiscation or recovery of criminal assets resulting from corruption-related offences;
- further strengthen the capacity of the SPAK, to fully reflect its operational needs,

including by increasing human resources, providing specialised equipment and adopting a strategy that prioritises cases as a way to tackle the continuously increasing backlog of cases;

→ adopt a new anti-corruption strategy to effectively curb corruption, including dedicated action plans and indicators for the sectors most vulnerable to corruption, and address effectively the recommendations of the Council of Europe's Group of States against Corruption (GRECO).

Track record

Efforts continued to extend the track record of **investigations, prosecutions and convictions** in the fight against corruption.

The specialised law enforcement bodies in charge of investigating, prosecuting and adjudicating complex corruption cases – the SPAK and the Anti-Corruption and Organised Crime Courts – remained operational during the reporting period.

However, greater political will and more structured and consistent efforts, including adequate resources, tools and skills, are still needed to systematically address cases of corruption.

In 2022, 186 people were convicted of public sector corruption and 7 of high-level corruption, while 298 new cases were sent to court for public sector and none for high-level corruption, 18 people were convicted of corruption in the judicial system.

The anti-corruption sector in the state police recorded a total of 1 193 criminal offences and investigated 1 537 suspects in 2022, up from 1 018 criminal offenses and 1 491 prosecuted offenders in 2021.

Seizures of assets from corruption-related crimes totalled EUR 38 million in value in 2022, compared with EUR 21 million in 2021. The reported value of confiscations remain much lower and needs to significantly increase.

On **high-profile cases**, criminal convictions were pronounced by the SPAK Courts, notably the conviction of a former Minister of Environment to 10 years in prison and of a Member of Parliament to four years in prison as part of an investigation into the concession contracts on urban waste treatment (the incinerators' affair), reduced to 6.8 and 2.8 years respectively due to shortened trial. A former deputy prime minister was indicted by SPAK for criminal offences, including passive corruption, as part of the investigations on the 'incinerators' case. A former deputy minister of health was arrested in connection to a procurement case. Investigations launched previously on high level officials have continued.

In 2022, the **administrative investigations** conducted by the Anti-corruption Directorate-General led to 20 criminal reports (compared with 12 in 2021), and 43 administrative reports comprising 259 disciplinary measures. A systematic preventive policy should be adopted by the relevant agencies based on the analysis of the record of disciplinary measures and other wrongdoings.

The vetting of members of the judiciary continued to have a positive impact on the fight against corruption. During the reporting period, 12 cases were referred to the prosecution services when the vetting process had been terminated due to resignation, increasing the number of referred cases to 34, which represents about 10% of the total number of resignations and dismissals. Additional efforts are needed to systematically initiate criminal procedures against judges and prosecutors suspected of criminal conduct during vetting by prosecution services, in particular in cases of dismissal.

On **asset declarations by high-level state officials**, in 2022 the High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest (HIDAACI) applied 128 administrative measures, such as fines. It referred 37 cases to law enforcement agencies for further investigation (compared with 15 cases in 2021 and 72 in 2020). The electronic system for the declaration of assets and private interests continued to operate.

In 2022, HIDAACI reviewed 13 **whistleblowing** cases and two requests for protection against retaliation. Additional campaigns are needed to increase citizens' engagement in the fight against corruption.

As regards internal control mechanisms, the state Supreme Audit Institution (SAI) reported estimated direct economic damages to public finances in 2022 of almost EUR 14 million, roughly half on revenue and half on expenditure. The SAI also estimated the negative effect due to irregularities at around EUR 825 million which includes economic, efficiency and effectiveness losses. In 2022, the institution referred four cases involving 16 persons for prosecution, including a former Minister for Health and a former director of the Port Authority in Durres. Two of these cases, and 12 of the persons, were related to abuse of duty in cadastre agencies of Vlore and Sarande. (*see also Chapter 32 – Financial Control*).

On **access to information**, the Commissioner for the Right of Information and Protection of Personal Data approved the new models of the transparency programme and the register of requests and responses and has monitored all central and dependent public authorities, as well as all local self-government units. The electronic register of requests and responses was installed in another 100 public authorities, bringing the total number to 195. A total of 331 public authorities have published the transparency programme on their official websites.

Anti-corruption measures continue to have a limited impact in particularly vulnerable areas. Corruption remains prevalent in the health and property sectors and within the police. Targeted action is urgently needed. Internal checks and inspection mechanisms in the public administration remain weak and ineffective.

Institutional framework

Prevention of corruption

The **Anti-Corruption Directorate-General** in the Ministry of Justice is the main body responsible for systematically preventing corruption and raising awareness. It also conducts administrative investigations in institutions. It cooperates with a **network of anti-corruption coordinators** posted to 44 state institutions. The independence, capacities and public visibility of the directorate-general and the network, as well as alignment of its investigative functions with EU practices should be further increased, and their efficiency assessed against public perception and bribery indexes.

The central ministries, all agencies of the Ministry of Justice, and 22 additional municipalities adopted integrity risk assessment and **integrity plans**. Their effective implementation is yet to be ensured.

Within the overall anti-corruption framework, the role of the state Supreme Audit Institution is to provide recommendations to the government to address systematic weaknesses. The e-procurement, e-appeals and e-complaints systems helped to increased transparency in public procurement.

In 2022, the powers of the Agency for Dialogue and Co-governance were extended to include following up citizens' complaints of corruption, including inspections at the relevant authorities. The Agency should further improve its efficiency, in coordination with the Anti-

Corruption Directorate-General and the network of coordinators.

The High Inspectorate for the Declaration and Audit of Assets and Conflicts of Interest (HIIDACI) has become a well-established institution. It introduced the online system for assets, while providing training, assigning contact points and establishing cooperation with banks, cadastre and other institutions. Close to 100% of around 4 000 persons concerned entered their declarations in the online system. However, the module for publication of assets was put on hold until it fulfils cyber security requirements. Relevant institutions should cooperate closely to ensure a proper verification of the data declared. Measures continue to have a limited impact, notably in the most affected areas such as infrastructure, property rights, customs, tax, education, health, public procurement and government contracts. These areas require targeted risk assessments, dedicated actions and effective implementation of the measures.

Further efforts are needed to improve compliance with procedures and prevent corruption in the procurement cycle (*see also Chapter 5 – Public Procurement*).

Law enforcement

The specialised bodies in charge of investigating, prosecuting and adjudicating complex corruption cases – the Anti-Corruption and Organised Crime Courts and the SPAK, comprising the Special Prosecution Office (SPO) and the National Bureau of Investigation (NBI) – remained fully operational during the reporting period.

Legal framework

Albania is party to all international **anti-corruption conventions**, including the United Nations Convention against Corruption.

In March 2023, **GRECO** concluded that Albania implemented or dealt satisfactorily with only 5 of the 24 recommendations made in the report of the 2020 evaluation round concerning integrity of central government and law enforcement (Fifth Round evaluation), while 13 were partly implemented and 6 were not implemented. More efforts are needed to make improvements in the following areas: (i) the adoption of robust integrity plans in all ministries; (ii) the consistency of the legal and institutional framework on the fight against corruption and the integrity of public officials; (iii) effective implementation of the Ministerial Code of Ethics; (iv) independence of the Ethics Commission; and (v) integrity measures for the members of the Council of Ministers and political advisors. Improvements are also needed in the framework and conduct of public consultations, the monitoring and transparency of contacts with lobbyists and other third parties, and in post-employment restrictions to avoid conflict of interests. There is also a need to strengthen the legal guarantees on the financing of political parties and electoral campaigns.

On the OSCE/ODIHR 2021 recommendations on the investigation and prosecution of cases of vote-buying, by 12 May 2023, 13 election-related reports had been received by SPAK, and 6 pre-trial criminal investigations had been initiated, including on vote-buying. As electoral campaigns are increasingly moving online, special attention should be paid to online and third-party campaigning.

Albania's legislation is partially in line with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Strategic framework

The implementation of the inter-sectoral strategy against corruption is overall on track, although important weaknesses remain. A new strategy for 2023-2030 is in preparation, in

which more attention should be paid to the sectors most vulnerable to corruption which require targeted risk assessments and dedicated actions, sound monitoring mechanisms and sufficient budget for implementation. The new strategy should also aim to encourage ownership and strengthen institutional capacities. The strategy aims to include monitoring indicators. Overall, the impact of corruption prevention structures in the public sector remains limited. Some progress was made in awareness-raising and efforts in this area need to be sustained.

Fundamental rights

Albania's legal framework sets out an overall good basis for the protection of fundamental rights. However, overall efforts at implementation of the legal and policy frameworks need to intensify. In particular, implementing legislation still needs to be adopted. On personal data protection, Albania should take urgent measures to prevent the recurrence of massive breaches of personal data and improve their handling. Progress was made on the use of alternatives to detention and, in particular, the probation service. The application of gender-responsive budgeting continued to improve. Since January 2022, the Albanian government has implemented a range of measures aimed at supporting families, women and girls, and vulnerable groups, as a response to the global crisis caused by the COVID-19 pandemic and Russia's war of aggression against Ukraine. Economic assistance to victims of domestic violence has been increased significantly. The implementation of the law on gender equality and of the national strategy for gender continued and needs to be further intensified. There was some progress on the rights of persons with disabilities, as concerns biopsychosocial assessment. The process of first registration of properties and other transitional processes need to advance in full transparency, including by tackling corruption. The registration and digitisation of cadastral data continued, but at a slow pace. Progress was made with the adoption of implementing legislation for the Law on the cadastre and the Law on the finalisation of transitional ownership processes, however the overall implementation and results need to be significantly advanced. The remaining implementing legislation related to the 2017 framework Law on the protection of persons belonging to national minorities is still to be adopted. On the protection of personal data, Albania needs to put in place strong legal and institutional safeguards to prevent further massive breaches of privacy by private companies and the public administration and adopt the necessary legislation to align with the EU *acquis* on personal data. Since the 2022 recommendations were only partially implemented, in the coming year Albania should, in particular:

- adopt the pending implementing legislation on the rights of persons belonging to minorities pertaining to self-identification and the use of minority languages, and increase the capacities of the state Committee on National Minorities;
- safeguard the right to property, notably by making decisive progress on first registration and compensation, improving the transparency of the state cadastre and the quality of the property register, and ensuring that the right to a fair trial and the right to effective remedy are respected in cases of expropriation and removal of properties;
- improve data protection, in particular by adopting the revised Law on personal data protection in full alignment with the EU *acquis*, by strengthening the independence and capacity of the Information and Data Protection Commissioner, and by awareness raising measures.

Overall, Albania continues to be party to most international **human rights instruments**. Albania has not signed the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the International Convention on Economic, Social

and Cultural Rights. For Albania to fully benefit from its observer status in the European Union Agency for Fundamental Rights (FRA), it needs to develop a comprehensive monitoring and data collection system to assess the level of implementation of human rights legislation, policies and strategies.

Albania continues to ensure good cooperation with the **European Court of Human Rights (ECtHR)**. In June 2023, 389 cases were pending against Albania before the ECHR. The ECHR delivered judgments on ten applications and found breaches of the European Convention on Human Rights in nine out of ten cases (against three in 2022), relating mainly to the right to respect for private and family life, the right to a fair trial, and the right to liberty and security. In the reporting period, there were 101 new applications allocated to a decision body. Currently, there are seven cases under enhanced supervision by the Committee of Ministers.

On the **promotion and enforcement of human rights**, the Ombudsperson (People's Advocate) continued to exercise their mandate satisfactorily. Despite a 10% increase in the institution's budget from 2021 to 2022, the human and administrative capacities of the institution still need to be further strengthened. Of the 249 recommendations issued in 2022, only 17% have been fully implemented and 36% partially implemented, while 41% remain unimplemented, rejected, or without response. It is necessary to significantly improve the implementation of the Ombudsperson's recommendations to ensure the effective enforcement of human rights. Parliament's election of a new Ombudsperson, following the end of the five-year term of the incumbent Ombudsperson in June 2022, is significantly delayed. The incumbent remains in an acting capacity until the new Ombudsperson is elected. Blockages and delays in the parliamentary appointment procedure need to be urgently addressed to ensure that appointment procedures fully guarantee the legitimacy of the institution. The Ombudsperson should complete and publish their annual report before presenting it to Parliament and end the practice of presenting the annual report to Parliament before it is published.

The Commissioner for Protection from Discrimination (CPD) continued to carry out their mandate with 73 recommendations issued in 2022, up from 49 in 2021. Only 23.2% of the overall number of recommendations were fully implemented, while 53.5% of recommendations concerned cases subject to court proceedings. Legislative changes are necessary to empower the Commissioner to issue executive orders instead of recommendations. In 2022, 297 cases were handled by the CPD (213 new complains from 2022 and 84 carried over from 2021) of which 143 were in the field of employment, 140 in the field of goods and services and 14 in the field of education.

On the **right to life**, limited progress was made in investigating cases and strengthening the institutional and legislative framework on persons missing since the communist era. Sufficient resources should be allocated to improve capacities to make identifications and to formalise the arrangements for institutional coordination in the area. A single comprehensive and publicly accessible database of missing persons should be created. Continued political will is important to increase the number of cases solved and to raise public awareness of this issue.

On the **prevention of torture and ill-treatment**, the medical and custodial staff in prison hospitals are generally satisfactory. However, poor material conditions still prevail, as well as structural deficiencies, including the lack of communal spaces for group activities and of outdoor yards. A memorandum of understanding with a joint action plan was signed by the Minister for Justice and the Minister for Health and Social Protection to implement the 2021 recommendations of the European Committee for the Prevention of Torture and Inhuman or

Degrading Treatment or Punishment and the judgments of the ECHR on forensic psychiatric patients and prisoners with a mental disorder. Patients with medical conditions from the Kruje and Zaharia detention facilities were transferred to the Lezha prison. The renovation of the Lezha prison continued, however, it is still over-populated and conditions in its forensic psychiatric facility need to be brought up to a satisfactory standard. Efforts are also needed to increase the number of staff and improve their working conditions and skills. No systemic ill-treatment in prisons or by the police has been reported, but the People's Advocate underlines the need to improve the minimum standards for sanitary conditions in prisons and police premises.

The National Preventive Mechanism (NPM) carried out 73 periodic inspections in 2022, which were followed by 90 recommendations (in response to inspections and individual complains). The NPM handled 45 cases (31 complaints and 14 own-initiative cases), of which 25 complaints were related to prisons and treatment of prisoners and were 6 against the state police for alleged use of violence and unfair association. The NPM's 90 recommendations were accompanied by 779 sub-recommendations, of which only 41% have been implemented, 9% partially implemented, 45% not implemented and 5% are still without a response.

The **prison system** and detention centres remain a serious issue of concern. Long-standing issues include political influence, corruption and poor management, as well as a shortage of staff, poor infrastructure, and a lack of healthcare and security. The lack of inspections and employment and reintegration programmes for prisoners are other issues of concern. Continued efforts are needed to increase the number of prison staff, including medical and specialist personnel, and to improve their skills and working conditions.

Across the country, the number of inmates is now below the capacity of the prison system, with 89% of the capacity used. However, 13% (3 out of 22) of the prisons are overcrowded.

The Director-General for Prisons has initiated a review of prison security and the rehabilitation of prisoners in Peqin, Fier and Ali Demi prisons. Special attention should be paid to de-radicalisation in prison and after release. The closure of prisons that do not meet the necessary standards has been announced in the framework of the territorial reform of prisons (the 2023-2028 master plan of the Directorate-General of Prisons), and is expected in the next 2 years.

According to the Directorate-General of Prisons, the electronic entry and exit management system in prisons and detention institutions is ready to be put in operation. It aims to increase security, improve controls and data storage, make the facilities easier to manage. Between January 2022 and February 2023 a total of 2 009 staff were trained on human rights, including on the European Prison Rules.

In 2022, 6 688 people were placed in alternatives to custody by a court decision, which is down 1% from 2021, but an 18% increase compared with 2020. The probation service remains fully operational across the entire country and provides alternatives to imprisonment, including for juvenile offenders. However, the use of electronic monitoring is still suspended (since 2017) because of an unsettled legal dispute.

Legislation on the **protection of personal data** needs to be urgently aligned with the EU General Data Protection Regulation (GDPR) and the EU law enforcement Directive. Public consultations on the draft legislation took place in the summer of 2022. The law needs to ensure the independence of the Office of the Information and Data Protection Commissioner (IDP) and empower it to adopt binding decisions. Moreover, to ensure effective alignment with the EU *acquis* on data protection, the capacities of the IDP will need to be strengthened.

In 2022, the IDP handled 370 complaints and carried out 48 administrative inspections, issuing 48 recommendations and 63 administrative sanctions. In response to massive personal data leaks in 2021, the IDP Commissioner issued a decision in November 2022 that imposed fines on the Directorate-General for Taxes and Directorate-General for Road Transport Services for their respective liability for the breaches. One cross-cutting finding of the IDP from its administrative inspections has been the lack of awareness about data protection in the public administration. Concerns about the handling of personal data by private companies and the public administration continued in 2022. Overall, robust legal and institutional safeguards are needed to prevent breaches of personal data, increase public awareness of the relevant risks and increase the public institutions' awareness of their obligations set out in the law.

Overall, **freedom of thought, conscience and religion** was generally upheld. The state continued to provide the same level of financial support to religious communities. In May 2023, the state allocated approximately EUR 1.05 million to the Catholic, Sunni Muslim, Orthodox, and Bektashi communities for the administrative functioning of the communities and religious education, a similar amount as the previous year. The dependence of some religious groups on financial support from third parties creates vulnerabilities. The restitution of properties belonging to religious groups that were expropriated during the communist era remains an unresolved issue.

The Commissioner for Protection from Discrimination reported three cases of complaints of discrimination based on religious grounds, but ruled that there was no discrimination in any of the cases.

Regarding the fight against antisemitism, Albania is an observer member to the International Holocaust Remembrance Alliance (IHRA) and has adopted the IHRA definition of antisemitism. Concrete efforts have been made regarding Holocaust education.

Freedom of expression

The country is **in between some and moderate level of preparation** in the area of freedom of expression. **Limited progress** was made, in particular through the amendment of the Law on audiovisual media, to align with the 2018 EU Directive on audiovisual media services, with a view to participation in the Creative Europe Programme. However, the intersection of business and political interests, lack of transparency of financing sources, concentration of media ownership, intimidation and precarious working conditions continued to hamper media independence, pluralism and the quality of journalism. The atmosphere of verbal and physical attacks, smear campaigns and intimidation lawsuits against journalists has not improved.

Last year's recommendations remain valid. In the coming year, Albania should in particular:

- ensure zero tolerance for intimidation and effective judicial follow up in cases of attacks against journalists, including through full decriminalisation of defamation;
- address the high concentration in media ownership and significantly increase the transparency of media financing, including by revising legal requirements for public advertising, in line with European standards;
- improve the working conditions for journalists, in particular by strengthening the protection of Albanian journalists' employment and social rights and ensuring a consistent application of the labour code.

Intimidation of journalists

High-level officials and political actors continued to voice anti-media sentiments and use denigrating language against journalists on several occasions. In July 2022, a second journalist was banned for three months from government press conferences for alleged ethical violations.

In November 2022, an investigative journalist was physically attacked in Tirana by unidentified persons. The journalist claimed that the attack was directly related to his reporting on allegations of former public officials' connections to corruption cases. In January 2023, a local journalist and his wife were physically attacked, while the journalist was on duty covering a court case. In March 2023, the building of a private national broadcaster was attacked by heavily armed individuals and, as a result, a security guard lost his life. All high-level state authorities and politicians across the political parties condemned the event; effective judicial follow-up should be ensured. In July 2023, international media watchdog organisations called on a high-level local official to refrain from threatening and harassing a journalist following her reports on a corruption case. A solid track record of prosecution and judicial follow-up has yet to be established to safeguard the safety of journalists.

There was a slight increase in the number of strategic lawsuits against public participation (SLAPPs). Media organisations reported that 19 new criminal court cases were filed against journalists or media workers in 2022, while 11 cases remain unresolved and have been carried over from previous years. Furthermore, 12 civil cases were filed, of which 11 are for allegedly publishing fraudulent or inaccurate information. No custodial penalties have been imposed on journalists during the reporting period. Data is not available on any financial penalties imposed. The systematic monitoring and transparent reporting of the judicial cases involving journalists and media professionals needs to be strengthened. The use of force by law enforcement authorities, in particular on the margins of demonstrations, continues to be a source of concern.

Legislative environment

The constitutional right to freedom of expression continued to be generally upheld. However, defamation remains a crime punishable by particularly high criminal fines. The provisions of the Criminal Code on insult and defamation need to be repealed or fully aligned with European standards. The civil law provisions on publishing fraudulent or inaccurate information need to be aligned with European standards on freedom of expression and media freedom.

During the reporting period, the Audiovisual Media Authority adopted a revised Audiovisual Broadcasting Code, which defines the principles, rules, requirements and practices of audio and audiovisual broadcasting, following consultation with civil society and media organisations. The Code aims to improve the application of the right to gender equality, to tackle hate speech, and to address disinformation.

In April 2023, following a public consultation with media actors, Parliament adopted limited amendments to the 2013 Audiovisual Media Law intended to transpose key aspects of the 2018 Audiovisual Media Services Directive (*see also Chapter 10 – Digital transformation and media*).

The anti-defamation legal package was removed from Parliament's agenda in November 2022.

There is a need for a comprehensive assessment of the legal and regulatory framework to address major challenges hampering media independence, in particular concentration of

media ownership and transparency of financing sources and economic interests, including public funding. It is essential that any change to the legal framework be in line with European standards, including the Venice Commission opinions, and is subject to extensive consultations with media organisations and civil society.

Implementation of legislation/institutions

It remains important to ensure direct and transparent media access to government institutions and their activities and to factual non-partisan public information. The practice of institutions, public officials and political parties of distributing pre-packaged audio, video and text materials to the media, especially in the context of elections, remains an area of concern that needs to be addressed.

International media freedom organisations condemned the decision by a prosecution office to impose blanket bans on information in the media about cyberattacks on Albania's e-governance system, denouncing a potential violation of the media's liberty to publish public interest materials. Albania adopted changes to the law on the right to information, including stronger accountability for breaches of the law. Implementation of the right of access to public information needs to be further strengthened.

In December 2022, the demolition by a government agency of a hotel belonging to a businessman and prominent media owner, claiming violations of construction laws, and without waiting for the outcome of a legal review, caused controversy.

Public service broadcaster

In March 2022, Parliament formally launched the process to fill two vacancies on the steering board of the public broadcaster, which is composed of 11 members. One vacancy still has to be filled. Parliament needs to avoid blockages and delays in the procedure to appoint members of the board of the public broadcaster. Appointments need to be carried out in line with procedures that ensure the greatest level of independence, impartiality and legitimacy of the institution.

In June, the Steering Council of the public broadcaster elected by unanimity a new Director-General. The fact that the appointee held the position of Secretary for relations with media and civil society of the ruling Socialist Party until September 2021 has raised some concerns about the future independence of the public broadcaster. By July 2023, tens of media workers had been dismissed by the newly appointed management.

Economic factors

High-profile business groups further increased their economic penetration in the media market during the reporting period. Media organisations and activists have continued to raise concerns about the use of media channels to promote owners' economic interests and political agendas and to provide coverage favourable to their political and business sponsors. Concerns have been raised that individuals accused of corruption and money laundering are financing the media as part of their strategies to escape justice. Market and audience concentration and lack of transparency of media funding continue to remain issues of concern as regards media freedom in the country. Media owners' practices to evade taxes have been denounced by media freedom organisations.

In the context of intertwined economic and media interests, there are also reports of media outlets exerting pressure in exchange for positive coverage.

Internet

It is estimated that there are around 800 online media outlets operating across Albania, most

of them registered outside the country and a more limited number registered with the Electronic and Postal Communications Authority under the domain .al.

The state generally refrains from filtering and blocking online content. However, media freedom organisations claim that there are no specific legal provisions to enforce and protect net neutrality. Albania is a signatory to the Declaration for the Future of the Internet of April 2022.

Digital media continue to be strongly influenced by political actors, businesses and by third parties in terms of funding and content.

Large information technology platforms remain unregulated and unregistered in Albania, although they account for a big proportion of the online advertising market and are the main distribution platforms for news and video content. Advertising in online and social media during elections is still unregulated. Media freedom organisations have highlighted the lack of regulation to ensure transparency in online advertising during electoral campaigns.

The national strategy for cybersecurity and its 2020-2025 action plan have been adopted. The strategy includes a chapter on the protection of children online as a priority for the country. Five key pillars in this chapter look at tackling specific areas of their protection online, including capacities for the investigation and prosecution of crimes against children committed over the internet, which remain a major problem.

Freedom of artistic expression

Freedom of artistic expression is broadly guaranteed.

Professional organisations and working conditions

Professional associations of journalists face serious hardships in terms of limited financial and human resources, and of the limited possibility to set up an effective cooperation with the government to promote the interests of independent media.

Limited job security and poor working conditions pose serious risks of self-censorship and a reduced resistance to disinformation.

The limited enjoyment of employment rights remains an issue of concern, especially in local and online media. Many media employees do not have employment contracts, while many journalists do not receive their salaries on time or are dismissed in breach of the provisions of the Labour Code. Some media outlets that have been fined by the tax authorities for underreporting the employees' wages have claimed to be targets of political intimidation. It is important that labour, tax and other legal obligations are respected systematically and without discrimination.

Self-regulation needs to be further strengthened and supported. The Alliance for Ethical Journalism, a group that brings together stakeholders (including online ones) who pledge to comply with the Code of Ethics, has started to develop some activities in this area.

Freedom of assembly and association is guaranteed by the constitution and continued to be generally respected.

Labour and trade union rights are covered in *Chapter 19 – Social policy and employment*.

On **property rights**, progress was made with the adoption of implementing legislation on the Law on cadastre and the Law on the finalisation of transitional ownership processes, but significant challenges remain. The state cadastre needs to put effective measures in place to

prevent corruption and, accordingly, to establish high standards of transparency and efficiency in the procedures, develop an efficient integrated land management system and proceed vigorously with the systematic digitalisation and diligent reconciliation of legal titles and cadastral maps. Albania has endorsed the Terezin Declaration in 2009 but does not have any restitution or compensation laws relating specifically to Holocaust era confiscations of private property. More efforts are needed to finalise the transitional ownership processes, the first registrations of properties and rightful compensation for properties illegally expropriated during the communist era. The legalisation, expropriation and demolition of constructions must strictly adhere to the legal framework in place, including the principle of transparency and due judicial process.

In 270 cadastral zones, first registrations were not yet completed and progress was slow, with only 20 zones registered in 2022-2023. Meanwhile, in the registered cadastral zones, 80% of data is believed to be inaccurate. Ownerships are unclear and property boundaries overlap due to repeated and inconsistent interventions and faulty measurements over recent decades.

Many title deeds and cadastral maps are still in paper format and many property transactions continue to be processed based on deeds and maps on worn-out paper with unclear data. In 2022, the state cadastre began to systematically digitise title deeds and has digitised approximately 40% of them by April 2023. The systematic digitisation of maps is set to follow in 2023. However, systematic correction of data and measurements might only start in 2024 or later, a process that will require significant investment and several years to be completed.

Internal procedures for property registrations and transactions continued to fall short of the standards set by clarity and anti-bribery measures. In the work of the Anti-corruption Directorate-General, 85% of all public allegations of corruption received, 60% (160) of all administrative measures and 70% (50) of all employees who were the subject of criminal reports, were related to the state cadastre agency. In this respect, the state cadastre needs to urgently adopt a sound integrity plan and an institutional development strategy, and effectively integrate high standards of transparency and accountability in its internal procedures and IT systems.

Compensation for properties confiscated by the communist regime continued to stall during 2022. So far, only around 800 requests have been satisfied, while the agency for the treatment of properties (ATP) still has to process around 26 000 requests for compensation. In 2023, the government adopted decrees to extend the mandate of the ATP and clarify the calculation of compensation for properties whose type of use had changed, in particular those that changed from agricultural to construction land. The ATP should process all remaining requests without further delay.

Numerous complaints continued to be raised about the actions of the government agencies responsible for expropriating properties in the public interest and demolishing illegal constructions, which is a cause for concern. Civil society organisations and other stakeholders highlighted that the government is applying the law selectively. The authorities should ensure that the principles of legality and transparency, the prohibition of the arbitrary use of executive power, and the right to a fair trial and the right to an effective remedy are duly respected in cases of the expropriation and removal of properties.

Legislative amendments from 2018 established the joint registration of marital property. However, men still formally own most of the private land in the country. To strengthen women's legal rights and interests, the legal notion of 'agricultural family' may need to be reviewed.

On **non-discrimination**, the implementation of the legal and policy framework needs to be further strengthened, including by providing specialised training to judges and prosecutors. In 2022, the Commissioner for Protection from Discrimination (CPD) continued to handle a stable number of cases, mostly in the areas of employment and services. Laws on hate speech are in line with international standards. National policies are needed to guide the fight against the different forms of hatred and discrimination. Better enforcement and greater awareness-raising are needed to eliminate hate speech, particularly in rural and remote areas. In 2022, the CPD handled six cases of hate speech, including on the grounds of race, gender or sexual orientation, and found that hate speech had been used in two cases. In 2023, the CPD handled 3 new cases, of which two are under review. On hate crime, some progress was made in increasing the capacities of law enforcement agencies to respond to this phenomenon. However, further awareness-raising and capacity-building among criminal justice officials about hate crimes is still needed. Moreover, the ODIHR's recommendations on the collection of data and statistics on hate crimes have yet to be fully implemented. Six cases of hate crime were reported to the police.

The 2021-2030 national strategy on **gender equality** and its action plan are more affirmative in addressing the rights of all women and men. It focuses on people who face intersecting forms of discrimination and vulnerability, young people and social reforms, and includes a section on humanitarian emergencies. However, implementation needs to be stepped up. The Gender Equality Mechanism lacks adequate financial and human resources, thereby hampering the implementation of the strategy. Further effort is needed to complete the collection of data envisaged by the strategy to allow adequate monitoring.

The application of gender-responsive budgeting has continued to improve. In 2022, all standard budget instructions contained gender-responsive budgeting as part of the criteria for expenditure and for the first time a gender budget statement was officially attached to the draft budget. Overall, 9% of the 2023-2025 medium-term budget programme specifically supports gender equality outcomes. A total of 47 budget programmes of 11 ministries and two state institutions were gender-responsive. At local level, 12% of public finances are gender-responsive. Parliament has increased its engagement in promoting gender-responsive budgeting and in promoting gender equality more broadly. However, it does not have a functioning sub-committee on gender equality, and the regulatory impact assessment is not carried out regularly, nor does it have a specific provision on gender equality. The standard EU *ex ante* gender impact assessment tool has been adapted to the Albanian context, with a specific focus on mainstreaming gender equality goals into policies related to the EU internal market.

Eighteen municipalities signed the European charter for equality of women and men in local life, and five municipalities (Elbasan, Tirana, Durres, Gjirokastra and Gramsh) have developed and approved local gender action plans. The plans are instrumental for the implementation of the European charter, as well as the national strategy for gender equality.

Since January 2022, the Albanian government has implemented a range of measures aimed at supporting families, women and girls, and vulnerable groups, as a response to the global crisis caused by the COVID-19 pandemic and Russia's war of aggression against Ukraine.

In January-June 2022, 916 victims of domestic violence provided with a protection order have benefited from economic assistance, which has tripled from ALL 3 000 to ALL 9 000.

Provisions on referral mechanisms between different levels of care, training for healthcare providers, youth friendly services, and outreach to vulnerable groups have not been addressed in the Law on reproductive health. The Ministry of Health and Social Protection has made

efforts to monitor and provide training to health personnel on identifying and addressing the issue of gender-biased sex-selective abortion, but efforts should continue to ensure monitoring of the practice. Women living in rural and remote areas, Roma and Egyptian women and LGBTIQ individuals face limited access to primary health care, and to sexual and reproductive healthcare services.

On gender-based violence, the national legal framework needs to be further harmonised with the provisions of the International Labour Organization Convention on Violence and Harassment in the World of Work (Convention No. 190), ratified in February 2022. The current legal framework is not fully aligned with international standards, including the Istanbul Convention, and lacks focus on the reintegration of, and access to services for, victims and survivors of violence.

In 2022, the police identified and treated 5 210 cases of violence and other crimes committed within domestic relationships, a 1.9% decrease from 2021. In total, 72% (3 767) of all victims were women and girls. 2 940 cases of domestic violence were handled with a request for a protection order. According to Article 130/a *Domestic violence*, criminal proceedings were initiated for 1 887 cases and 682 perpetrators were arrested. In 2022, 36 cases of women victims of sexual violence were treated in the Lilium centre, which is fully funded from the state budget. Currently, there are local referral mechanisms for reporting gender-based violence in all 61 municipalities of the country. However, these mechanisms and the rehabilitation and reintegration programmes for vulnerable women need to be reinforced. Social services continue to be donor-driven and often delivered by civil society organisations active in the field. A dedicated state budget and other resources are still needed.

The legal and policy framework on **the rights of the child** increasingly reflects international standards and EU requirements. Coordination mechanisms need to be significantly improved to ensure full implementation of the legal framework in the areas of child trafficking, cybercrime, child marriage, child sexual abuse and the right to healthcare and education. The ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities should be beneficial to this end. The 2021-2026 national agenda on the rights of the child (NARC) set out the strategic framework, in line with the national and international commitments in this area. Elimination of all forms of violence and child protection, including online is one of the four strategic goals of the national agenda. The systematic collection of reliable and comparable data disaggregated by age and sex is essential for evidence-based policy-making and for effective protection of children.

The persistence of child marriage, driven by gender inequality, poverty and social exclusion, remains a matter of concern. The lack of official data means it is not possible to provide an accurate picture of the phenomenon, while the laws to protect minors from child marriage are generally ineffective or applied inconsistently. However, since 2021 the government has prioritised addressing child marriage in its budgeted national policy framework, and the 2021-2026 national agenda on the rights of the child contains objectives and measures to combat this practice.

The 2021-2023 national de-institutionalisation plan included an economic reform programme with a financial package to develop alternative childcare services and to close social care institutions. However, family and alternative care laws are often inadequately implemented and are not fully enforced. Additional efforts are needed to further implement and tackle all violations of children's rights.

Violence and sexual violence, including online, remains an area of concern. In 2022, Child Protection Units managed 2 496 cases of children in need of protection (mainly cases of

children at risk or victims of violence, abuse, neglect or exploitation). The number of child protection workers (241 in all 61 municipalities) remains far below the total number needed. Two centres with emergency services for child victims of sexual abuse and other forms of violence have been set up and are operational in Fier and Shkodra. A comprehensive legal framework on the status and responsibilities of social workers needs to be adopted. Further efforts are needed to ensure an adequate and systematic response to all types of violence against children. Albania lacks legislation criminalising travel companies that facilitate opportunities to engage in the sexual exploitation of children. As a member of the Lanzarote Committee, Albania needs to provide cross sector training to professionals for the provision of integrated services for children victims of sexual abuse and other serious forms of violence. The full inclusion of unaccompanied or separated foreign minors in the national child protection system is needed. Child labour prohibition needs to be effectively implementing, and working conditions of young people need continuous monitoring.

Since December 2022, a new support programme is being implemented for unemployed women with three or more children. Through this programme, the state budget covers social and health insurance payments based on the minimum wage. Around 7 500 women benefit from this programme.

The 2022-2026 justice for children strategy enlarges the from criminal justice to equitable access to justice for all children and in all areas of law, seeking to consolidate child-friendly justice. Its full implementation would require more resources, investment, coordination and accountability. The coordination and implementation of the strategy requires a dedicated service within the Ministry of Justice.

For children in conflict with the law, pre-trial detention remains the main reason for deprivation of liberty (74% of cases). With the reduced number of magistrates, pre-trial detention is unduly prolonged, negatively impacting the detained children and their prospects for rehabilitation and reintegration into the community. Albania should consider developing community-based programmes for children in conflict with the law instead of the planned large facility.

The Albanian state police has created units in 16 police departments or stations where trained police personnel conduct child-friendly interviews. The proper maintenance and uninterrupted functioning of these facilities require an adequate budget from the state police.

Some progress was made on the **rights of persons with disabilities**. The reform of the biopsychosocial assessment is now implemented country-wide, with respective referral mechanisms yet to be put in place. Albania's framework legislation on the rights of persons with disabilities remains only partially in compliance with the UN Convention on the Rights of Persons with Disabilities and gaps must be addressed. Albania needs to ratify the Optional Protocol to the Convention. More robust efforts are needed to address discrimination against persons with disabilities, to improve overall accessibility, promote employment and collect statistical data. De-institutionalisation actions are taking place, but need to be further taken forward at a sufficient pace. The quality of education for children with disabilities, especially children with a hearing impairment, continued to cause concern. Numbers of assistant teachers in the pre-university education system continued to increase in 2022. However there is need to be further increased to ensure sufficient support in all schools, especially in rural and remote areas. Additional efforts are needed to provide training on inclusive education approaches for all teachers and on the early detection of disability.

Discrimination against **lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons** is still very prevalent in Albanian society, especially as regards access to healthcare,

education, justice, employment and housing. Members of the LGBTIQ community continue to experience physical aggression and hate speech, particularly on social media. Albania does not have legislation recognising civil cohabitation or same-sex marriage. In 2022, police officers received training on investigating hate crimes against LGBTIQ persons. The shelter for homeless LGBTIQ persons continued to provide care, support and advocacy, but state funding remains insufficient, which creates uncertainty for the continued provision of services. The 12th Tirana Pride took place peacefully on 20 May 2023. However, public awareness and acceptance of LGBTIQ persons remain low, particularly in rural areas. Hate speech and discriminatory language in the media, especially online, criminal offences and discrimination against members of the trans community persist and need to be addressed. In 2022, the CPD handled one case of hate speech against the LGBTIQ community. In 2023, two new cases of hate speech were registered and are being processed. According to civil society organisations' data based on a survey, around 40% of people in the LGBTIQ community reported incidents of discrimination, of which only 20% were reported to the police. Of the total number of referred cases, only 15% were resolved.

On **procedural rights**, the legal framework for free legal aid is complete and primary and secondary legal aid are delivered at central and local level. The number of people that have benefited from free legal aid has increased considerably since the approval of the 2017 law. Despite the legal framework on free legal aid and institutional set up, few children benefit from legal aid compared with the number of children involved in criminal law, family and civil law and administrative law cases. The budget allocated for legal aid in 2022 amounted to around EUR 800 000, markedly higher than in 2021. The budget spent in 2022 is estimated at EUR 400 000 (up from EUR 245 739 in 2021). However, the dedicated state budget should be further increased to make the legal clinics fully operational. The staffing of the free legal aid directorate is complete, and ten centres are in operation across the country. It remains important to improve the collection, analysis and reporting of statistical data on free legal aid. Limited progress was made on other procedural rights. There was no progress on addressing remaining issues concerning the procedural rights of suspects and accused persons. On the right to information in criminal proceedings, the refusal or failure to grant access to a case file should be subject to judicial review, with effective remedies. On access to a lawyer, adequate facilities for confidential client-lawyer consultations need to be provided by courts, prosecutors' offices and the police. On the presumption of innocence, there should be a clear legal prohibition and available redress, against public authorities making public references to guilt in public statements and in judicial decisions, other than those on guilt. Moreover, redress should be ensured in the event of a breach of such prohibition.

No progress was made during the reporting period on the adoption of the three remaining pieces of implementing legislation related to the 2017 framework Law on the protection of national **minorities**. The implementing legislation on the crucial issues of free self-identification of national minorities and the use of languages has yet to be adopted in line with European standards and should be open to wide public consultation. Overall, Albania needs to ensure effective implementation of the legal framework on the rights of persons belonging to minorities. The capacities of the State Committee on National Minorities needs to be strengthened. The national population and housing census began on 18 September 2023. It is important for Albania to carry out the national census in a smooth and transparent manner and in line with international standards.

Limited progress was made on the social inclusion of the **Roma and Egyptian** minorities. Monitoring data and reporting on the implementation of the national action plan for equality, inclusion and participation of Roma and Egyptians in Albania (2021-2025) are not yet

available. The institutional capacity of the Ministry for Health and Social Protection, which coordinates Roma-related policies, remains weak. The staffing of the social inclusion department needs to be strengthened. Participation of Roma and Egyptians in the local administration needs to be improved, and inter-ministerial, national and local coordination on Roma inclusion should be further strengthened. Roma and Egyptian children continue to benefit from scholarships and part-time education programmes, as well as free textbooks and transportation to remote schools. However, segregation in schools remains an issue that should be systematically addressed. The overall employment rate of Roma and Egyptians remains very low. Roma and Egyptians continue to benefit from a 5% quota through implementation of the law on social housing. The housing situation remains a significant challenge due to often poor living conditions and a lack of property title deeds. Access to personal documents has improved for both communities. However, other barriers such as the lack of digital skills and access to technology continue to prevent Roma and Egyptian people from fully enjoying their rights and accessing public services, which are increasingly digital. Additional efforts and resources are required to accelerate the inclusion of Roma and Egyptians, tackle anti-gypsyism, discrimination and educational and physical segregation, to promote participation of Roma, and to reduce the gaps with the rest of the population.

On **citizenship rights**, there were no new developments in the reporting period. The two programmes adopted in 2022 by the Council of Ministers for acquiring Albanian citizenship on the basis of special merit in the fields of arts, culture, education, science and sports, without requiring applicants to have a prior residency in Albania to be eligible, remain in force. The 2020 Law on citizenship provides a legal basis for the creation of an investors' citizenship scheme ('golden passports'). In July 2022, the Council of Ministers adopted a decision allowing the Ministry of the Interior to launch a tender for a public-private partnership that would serve to roll out an investors' citizenship scheme. In March 2023, the government announced the suspension of initiatives related to the establishment of the investors' citizenship scheme. As a candidate country, and in line with the Commission's recommendation on this matter in its sixth report under the visa suspension mechanism², Albania should refrain from developing such a scheme which would pose risks as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime, and would be incompatible with the EU *acquis*.

2.2.2. Chapter 24: Justice, freedom and security

The EU has common rules for border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails lifting border controls inside the EU. Member States also cooperate with Albania in the fight against organised crime, corruption and terrorism, and on judicial, police and custom matters all with the support of the EU Justice and Home Affairs agencies.

Albania is **in between some and moderate level of preparation** to align with the EU *acquis* in the area of Justice, freedom and security. **Some progress** was made overall. The Specialised Structures against Organised Crime and Corruption (SPAK) are building an initial track-record of law enforcement cases, however efforts need to be intensified. SPAK continued to achieve a good level of cooperation with EU and member state law enforcement agencies.

The track record on money-laundering and high-level corruption cases remains insufficient, and financial investigations need to be further developed. However, there was progress in the implementation of the recommendations of Moneyval and of the Financial Action Task

² COM(2023) 730 final.

Force (FATF), as in June 2023 FATF decided to do an on-site visit, which took place in August and led to Albania's delisting in October. Nevertheless, Albania should ensure that any future VTC law (including potential criminal amnesties) complies with the EU *acquis* and international standards. Albania continued to show commitment to counter the illicit production and trafficking of cannabis. In view of the law adopted on controlling the cultivation and processing of cannabis and the manufacturing of its by products for medical and industrial purposes, Albania should ensure that mechanisms are in place to effectively prevent cannabis from being diverted to unintended purposes.

Albania has continued its positive engagement with the EU justice and home affairs agencies. Albania has contributed to the management of the mixed migration flows towards the EU by cooperating to implement the EU Action Plan on the Western Balkans. It concluded a revised Frontex Status Agreement in September. Referrals and access to asylum procedures remain to be addressed and there are still shortcomings in the return procedures. The number of asylum applications lodged by Albanian nationals in EU Member States and Schengen-associated countries remains below the pre-pandemic level, but further increased in 2022. Addressing this phenomenon still requires continuous efforts. As to immigration from third countries, Albania should take concrete steps to address the needs of unaccompanied minors. Albania's visa policy should be further aligned with that of the EU.

The recommendations for 2022 have only been partially addressed. In the coming year, Albania should in particular:

- continue developing the systematic use of parallel financial investigations when dealing with organised crime, illicit trafficking, terrorism and money laundering;
- ensure that any voluntary tax and compliance legislation (including amnesties) is in alignment with the relevant EU *acquis* and international standards set by Moneyval and the Financial Action Task Force (FATF);
- implement the asylum law effectively and improve referrals and access to the asylum procedure; address shortcomings in the return procedures; resume the regular and timely provision of data on migration flows and asylum; continue to address the issue of unfounded asylum applications; and further align its visa policy with that of the EU.

Fight against organised crime

The country has **some level of preparation** in aligning with the EU *acquis* in this area. **Some progress** was made in meeting last year's recommendations. Albania continues to have a good level of cooperation with EU Member States, Europol and Eurojust, and participated in a number of international law enforcement operations. Some progress was made on the seizure and confiscation of assets linked to organised crime, which must continue in the future. Continued efforts are also needed to ensure more prosecutions and final convictions, especially at a high-level, and to set up the asset recovery office. More results are still needed in countering cybercrime, money laundering, and preventing and combating trafficking in human beings. All forms of child sexual abuse online should be criminalised and prosecuted.

Last year's recommendations remain valid, therefore in the coming year Albania should in particular:

- strengthen the fight against organised crime, including through continued cooperation with EU Member States and EU agencies (including Europol and Eurojust), expanding access to Europol's Secure Information Exchange Network Application (SIENA) to all relevant law enforcement agencies;

- set up without delay an asset recovery office, in alignment with the EU *acquis*, that will be responsible for identifying and tracing criminal assets, as foreseen by national legislation;
- ensure that the Special Prosecution Office and National Bureau of Investigation make efficient use of the databases to which they now have access and improve their criminal analysis and intelligence capability.

Institutional set-up and legal alignment

The Albanian State Police (ASP) has a total of 11 932 officers, equivalent to 260 officers per 100 000 inhabitants, compared with an EU average of 335.3 per 100 000 inhabitants (Eurostat, 2019-2021). The Ministry of the Interior approved the organisational and structural reform of the Albanian State Police at central and local levels in April 2023 and its implementation began in May 2023. In the context of the reform, ASP committed to addressing the high turnover of its staff. After the transfer of responsibility for money laundering, terrorism financing, financial crimes and property investigations from the former Serious Crime Prosecution Offices to the District Prosecution Offices, prosecutors and judicial police officers need more training. Albania should provide the relevant institutions with adequate human resources, including external expertise, and with access to relevant databases and criminal intelligence systems to ensure efficiency in the fight against organised crime.

The Specialised Anti-corruption and Organised Crime Structures (SPAK) employs 17 prosecutors, out of the 20 approved by the High Prosecutorial Council. One prosecutor was temporarily transferred to SPAK from the General Prosecutor's Office in March 2023 for the period of one year. A total of 74 administrative positions have been filled and 17 are vacant. The work of the financial investigation unit in the SPO started after the recruitment of 12 investigators in April and May 2023, while the recruitment of another 4 investigators is ongoing. The 60 investigators of the National Bureau of Investigation (NBI) and several special prosecutors attended trainings on different topics with assistance from international actors (mainly the EU and USA). The number of databases to which the SPO and NBI have direct access has increased and now include the Civil Status System, the ASHK (database of the State Cadastre Agency), the database of the Prisons Directorate, the Banking Accounts Register, the SEMD (the Ministry of Justice's electronic system to check the legal status of citizens), the database of the Directorate-General for Road Transport (DPSHTRR), the Albanian notary register, the beneficiary property register, and the state police systems ADAM, E-Fine, Reports-Statistics and the total Information Management System (TIMS). However, a solution is still needed to enable simultaneous access to all databases. The recruitment of officers of the Judicial Police Services to the NBI should be preceded by the clarification of their functional roles and selection criteria, in line with the SPAK Law.

The **strategic framework** consists of the 2021-2025 strategy against organised and serious crimes for. In February 2023, the action plan for 2023-2025 was adopted. Iterative annual action plans of the Albanian State Police on preventing and suppressing the criminal activity of cultivating narcotic plants have been adopted, the last of which in 2023. There is also a cross-cutting anti-corruption strategy for 2015-2023 and its action plan for 2020-2023. A 2021-2023 action plan on the fight against trafficking in human beings was adopted in November 2021. A strategy for controlling small arms, light weapons, ammunition and explosives and a 2022-2024 action plan to implement it are in place.

The **legal framework** was further aligned with the EU *acquis*, especially in the field of anti-money laundering. In its 4th enhanced report on Albania, released in June 2023, Moneyval

concluded that Albania has improved its measures to tackle money laundering and terrorist financing, strengthened the transparency of its legal arrangements and improved the regulation and supervision of non-financial institutions. However, Albania remained on the FATF list of jurisdictions under increased monitoring despite the FATF's assessment that the country has substantially completed its 2020-2023 action plan. This was due to FATF concerns linked to Albania's plans for the adoption and implementation of a voluntary tax compliance law, including a criminal amnesty. In June 2023 FATF decided to propose an on-site visit, which took place in August and led to Albania's delisting in October. Nevertheless, Albania should ensure that any future VTC law (including potential criminal amnesties) complies with the EU *acquis* and international standards'. (see also Chapter 4 – *Free Movement of Capital* and Chapter 16 – *Taxation*).

On the beneficial ownership (BO) register, which entered into force in 2021, sanctions are in place since July 2022 for subjects who fail to comply with BO registration obligations. The further application of administrative sanctions against relevant entities for violations of the transparency obligations needs to be monitored. The central register of bank accounts, which became operational at the end of July 2021, has allowed for faster investigations.

Albania made limited progress in aligning its firearms and explosives legislation with the EU *acquis*. It adopted several pieces of legislation to implement the previously amended law on weapons and transformed the firearms focal point from a virtual unit into a section within the criminal police department. Albania should further align its legislative framework, including as regards explosives precursors. Increased efforts are needed on awareness raising, outreach and education on the dangers and risks related to the misuse, illicit possession, and trafficking of firearms/SALW as well as on reduction of illicit firearms through legalisation, voluntary surrender and deactivation. Progress is necessary in establishing the required infrastructure for the latter purpose.

While Albania has a comprehensive legal framework for confiscating criminal proceeds, an asset recovery office has not yet been created, as required by the Law on the administration of seized and confiscated assets from 2019, and is now long overdue.

In the fight against organised crime and money laundering, Albania needs to step up the implementation of the anti-mafia law on the preventive seizure and confiscation of assets – including non-conviction based confiscation and third-party confiscation – to freeze assets related to criminal activities and promote their social reuse. Albania should also allow 'suspicious transactions reports' to be presented as evidence in court.

Albania is party to the Budapest Convention on Cybercrime and in February 2023 signed the Second Additional Protocol to the Convention on enhanced co-operation and disclosure of electronic evidence. Based on the 2020-2025 national cybersecurity strategy, new legal and sub-legal acts on cybercrime have yet to be adopted. In July 2022, Albania was victim to a large-scale cyberattack, which led to the temporary disruption of most online public services (see also Chapter 31 – *Foreign Security and Defence Policy* and Chapter 10 – *Information Society and Media*).

Legislative amendments to criminalise all forms of online child sexual abuse have yet to be adopted.

Implementation and enforcement capacity

Albania pursued its efforts to improve its **track record** on fighting organised crime. In 2022, 54 new cases were referred to the prosecution service (up from 41 in 2021). Of these, 18 indictments for a structured criminal group were closed in 2022. A total of 98 people received

final convictions at appeal level (compared with 75 people in 2021).

In 2022, the SPO increased the number of *ex officio* investigations to 28 (from 18 in 2021), out of 257 new criminal proceedings – with 79 of these for organised crime. SPAK participated in 142 criminal cases involving 626 accused persons, compared with 128 criminal cases and 418 accused persons in 2021. In 2022, there were 55 final court judgments were passed down and 207 defendants convicted. Of these, 18 became final at the first-instance Special Court and 37 at the Special Court of Appeal. At appeal level, 15 criminal cases involved 47 defendants accused of organised crime, and 22 criminal cases involved 80 defendants accused of corruption and other criminal offences.

There was a fall in serious crime in 2022 with 3 816 new cases referred to both SPAK and the general prosecutors (compared with 3 913 new cases in 2021), with an increase in referrals for money laundering (503 referrals in 2022 against 423 in 2021), organised crime offences (13 referrals more than in 2021) and cybercrime cases (65% increase in 2022). New referrals for trafficking of arms and terrorism remained at similar levels in 2022, while referrals for drug trafficking dropped to 2 876, compared with 3 078 in 2021. For serious crimes, 820 cases resulted in indictments in 2022, compared to 791 in 2021. In 2022, there were 560 people with final convictions for serious crimes compared with 375 in 2021. The use of special investigative techniques and proactive investigations should be stepped up.

On international police cooperation, Albania deployed a second liaison officer to Europol in February 2023. In 2022, there was an increased number of police operations carried out in cooperation with international partners: 90 of them were in the field of narcotics (up from 78 in 2021) and 19 in the field of illicit trafficking (up from 14).

In 2022, 16 joint investigation teams (JITs) were operating. Eight JITs started in 2021 and eight in 2022. Most of the JITs (11) are in the field of narcotics.

There was a 16.9% increase in messages shared by the Albanian State Police with international partners on the Secure Information Exchange Network Application (SIENA), from 5 686 in 2021 to 6 645 messages in 2022. Between January and August 2023, the number of SIENA messages exchanged increased by 39.1% compared with the same period in 2022. An agreement was signed in January 2021 between the Albanian State Police and the customs authorities to allow access to SIENA. However, these connections have still not been made operational. This should be tackled as matter of urgency by the stakeholders involved. The Directorate-General for Taxation and the Financial Intelligence Unit have not taken the necessary steps to obtain access to SIENA. Access to SIENA is essential to allow the timely sharing of sensitive information with counterparts in EU countries.

Albania continued to cooperate with EU police services through the European Network of Fugitive Active Search Teams (ENFAST), in which it has observer status.

Albania is one of the most active third countries participating in the European Multidisciplinary Platform against Criminal Threats (EMPACT). In 2022, Albania participated in 119 operational actions and was action leader in two of them, the Operational Action Plans (OAPs) on Organised Property Crime and Cyberattacks. Albania was co-leader of another two actions in the OAP on criminal finances: money laundering and asset recovery. In 2023, Albania further stepped up its participation in EMPACT and is participating in 128 operational actions, while remaining the leader of two operational actions (in the OAP on Organised Property Crime and in the OAP on Cyberattacks) and a co-leader of two Operational Actions (in the OAP on Migrant Smuggling and in the OAP on Criminal finances, money laundering and asset recovery).

Albania continued to actively participate in EMPACT Joint Action Days promoting cooperation against firearms trafficking, the smuggling of migrants and drug trafficking, motor vehicle crime, and trafficking in human beings and document fraud.

The cooperation with Interpol has continued to yield positive results, even though the number of messages received through Interpol's I-24/7 global police communication channel fell by 9.3% in 2022. Cooperation between the Albanian Security Academy and the EU Agency for Law Enforcement Training (CEPOL) is well established and based on a working arrangement. However, the revision of the Working Arrangement has been pending for more than two years and no new National Contact Point has been appointed. Albania continues to benefit from full access to the CEPOL Exchange Programme and to participate in the CEPOL-led Partnership against Crime and Terrorism project in the Western Balkans. Authorities should, with the assistance of CEPOL design, prepare and organise targeted training on counter terrorism and environmental crime.

On **domestic operational capacity**, legal and institutional reforms have strengthened the capacities of the ASP's Operational Directorate. During 2022, special investigative measures were used in 496 cases involving drug trafficking investigations. Albania should continue to use and develop special investigative techniques and proactive investigations.

With EU assistance, in January 2023 the Security Academy was accredited for the very first time as an institution of higher education, for a period of 5 years. A few recommendations will need to be addressed before the accreditation is renewed.

Law enforcement authorities need to be more proactive and systematic in addressing organised crime, especially when investigating large criminal networks. Special units within the police and the prosecution service have access to 40 national registers, but they still lack direct access to the electronic register of mobile phone subscribers and to IP addresses from internet service providers.

Financial investigations do not systematically accompany criminal proceedings from the beginning, and their effectiveness remains limited. The financial investigation techniques of the police and prosecutors still need improvement. Seizures of assets declined in 2022. Albania reported about EUR 46 million worth of seized assets (compared with EUR 50 million in 2021). The confiscation of assets increased in 2022 to EUR 5.8 million in value, compared with EUR 150 000 in 2021.

There is no strategic or systematic approach to identifying and confiscating criminal assets that are located abroad or that are not reachable. Albania should implement rules on the extended confiscation and precautionary freezing of assets, to effectively handle them and to prevent any loss of their economic value.

Albania remains a country of origin, transit and destination of **trafficking in human beings**. Albanian women and children are subject to trafficking mostly for sexual exploitation to neighbouring countries and EU Member States, while the second and third purposes for trafficking are forced labour and criminal exploitation. The number of perpetrators of Albanian nationality registered in the EU remained high in 2021, with Albanian nationals being in the top-10 non-EU countries of origin of suspects (4th) prosecuted (9th) and convicted (7th) persons. Children placed in institutions and children from the Roma and Egyptian communities are particularly vulnerable to trafficking. The Prosecution Office registered 11 new criminal proceedings for trafficking in human beings in 2022, compared with 10 in 2021. The number of final convictions remained very low with seven final convictions from two cases. The national referral mechanism for (potential) victims of trafficking remained functional. Assistance was provided in all cases. In 2022, 112 victims or potential victims

were identified and assisted, compared with 159 in 2021. The identification of potential victims remains inadequate within Albanian territory and among vulnerable migrants entering the country and those accommodated in reception centres. Implementation of the 2021-2023 national action plan on the fight against human trafficking should be supported by adequate funding and better coordination. NGO-run shelters remain underfunded. Investigations and prosecutions are not conducted consistently with a focus on the victim. A gender-responsive approach to access to justice for victims should be promoted. Anti-trafficking efforts should increase, in particular by strengthening the capacity of border police to identify and refer to the prosecution service cases of trafficking and by strengthening the child protection system. Successful reintegration remains difficult because the state's core protection, care and social services are insufficient.

Prevention efforts, especially on strategic communication, should be stepped up. Dedicated awareness-raising campaigns should be developed to target communities at risk of trafficking in human beings and high-risk sectors and environments. The 116 006 hotline for victims of crime, including trafficking, should be made functional. The improved legislative framework for victims, including amendments to the Criminal Procedural Code, is yet to be implemented. Police, prosecutors and judges should receive dedicated training, especially on the rights of victims.

On **trafficking in firearms**, large numbers of firearms are available in Albania. These are used by Albanian criminal groups and trafficked, primarily to neighbouring countries. Albania is both a destination and a transit country for light firearms. There were 27 new criminal cases registered at the Prosecutor's Office in 2022, a similar level to 2020, and 26 people received final convictions in 2022, compared with 20 in 2021. The exchange of information between different national stakeholders (law enforcement agencies, the prosecution service and judicial system) is still poor, which clearly jeopardizes the reception of complete data from the police and the prosecution service.

Cases of **cybercrime and internet fraud** increased in 2022, with 121 cases referred to the Prosecutor's Office (compared with 79 in 2021) and with 3 people receiving final convictions. Albania should provide a more effective law enforcement response that focuses on the detection, traceability and prosecution of cybercriminals. Albania should raise encourage prosecutors to make greater use of the 24/7 network of contact points set up by the Council of Europe Convention on Cybercrime. The ASP's cybercrime unit has a central forensic laboratory but should increase its capacity to deal with such cases. The capacities for investigating and prosecuting crimes against children committed through the internet need to be strengthened.

Albania's economy has a large informal sector and transactions are primarily cash-based although the number of electronic transactions has increased substantially in recent years. Crimes that generate large amounts of money include drug trafficking, tax evasion, smuggling and trafficking in human beings. On **money laundering**, both the centralised bank account register and the beneficial ownership (BO) register are in place. The beneficial ownership register is now almost fully populated, comprising 99% of businesses and 94% of NGOs by April 2023 (*see also Chapter 4*). Since July 2022, sanctions are in place for subjects who fail to comply with BO registration obligations, and 317 fines were issued during the reporting period. Albania should monitor the further application of administrative sanctions for violations of the transparency obligations by entities that must register. A dedicated electronic register (PRESTO), which the General Prosecution Office introduced in July 2021 to ensure that all money laundering cases are tracked, is in full use. Albania also needs to align its legislation with the *acquis* on combatting money laundering by criminal

law.

In 2022, 503 cases of money laundering were referred to prosecutors, against 423 in 2021. The number of people with final convictions for money laundering rose from only one in 2021 to nine in 2022.

The ASP's **witness protection** programme has worked satisfactorily. In 2022, 23 witness protection operations were performed, one less than in 2021.

Cooperation in the field of drugs

Institutional set-up and legal alignment

The Ministry of the Interior and the Ministry of Health and Social Protection/Institute of Public Health are the lead bodies in the fight against drug trafficking and drug abuse, respectively. Albania still does not have a dedicated national drugs strategy. Several security aspects are covered by the 2021-2025 national strategy against organised crime and serious crime and its successive action plans. Under the strategy against organised crime, the ASP adopts annual action plans on preventing and cracking down on criminal activity in the cultivation of narcotic plants, the most recent of which was adopted in February 2023. More efforts need to be made in the area of drugs policy, notably by adopting a national drug strategy covering the supply and demand and harm reduction aspects and by fully aligning legislation with the EU *acquis* and international practices.

The activity of the working group established in May 2022 to review the legislation on narcotic drugs and psychotropic substances should be stepped up, in reaction to the changes made to the psychotropic substances lists by the International Narcotics Control Board.

The establishment of a National Drugs Observatory (NDO) is still pending. Albania should set up an operational observatory with the necessary human and financial resources, which is crucial for implementing a comprehensive data collection system on drugs, coordinating a drug information system, and for associating Albania to the EU's Reitox network.

Although there is a national early warning system (NEWS) coordinator, who has been appointed by the Ministry of the Interior, and Albanian experts have undergone training courses, there is still no operational NEWS on the detection of new psychoactive substances. The NEWS should be made operational without delay.

Albania adopted a law on controlling the cultivation and processing of the cannabis plant and the production of its by-products for medical and industrial purposes in August 2023. Albania should continue to consult the EU on the envisaged implementing legislation and ensure that mechanisms are in place to effectively prevent cannabis from being diverted to unintended use.

Implementation and enforcement capacity

Albanian criminal groups continue to play a prominent role in the global traffic of drugs, in particular the trafficking of cocaine from Latin and South America to Europe. During the reporting period, international police operations, often with the active involvement of the Albanian State Police, have led to the dismantling of some of these groups.

In a joint operation in January 2023 between Eurojust, Europol, Italian and Albanian authorities, targeting a large-scale drug trafficking network responsible for trafficking cocaine, cannabis and heroine from Albania to Italy, 30 suspects were arrested across 31 locations. In April 2023, Spanish authorities dismantled an Albanian criminal group that trafficked cocaine from Latin America across Europe. 17 people belonging to that organisation were arrested in raids across Spain. Since the start of the operation in September

2021, nearly ten tonnes of cocaine seized in Italy, Belgium, Greece, Portugal, the Netherlands and Spain have been connected to that group.

Albania's law enforcement authorities have maintained a good level of cooperation with their counterparts in EU Member States in tackling the trafficking of narcotics. During 2022, 271 police operations in the field of narcotics took place, out of which 90 were conducted in cooperation with Albania's international partners. Albania continues to implement the working arrangement with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), but stronger efforts are needed, including through better inter-institutional coordination, in increasing its reporting capacity on drug-related issues in line with EMCDDA guidelines/protocols and in allocating sufficient resources for this task.

Drug trafficking is the most common form of serious criminal offence in Albania, even if the number of identified cases has slightly decreased. In 2022, the police identified 2 956 offences related to the cultivation, production, sale and trafficking of narcotics compared with 3 168 in 2021, involving 3 690 alleged offenders (3 927 in 2021). Production and sale are by far the most common offences related to drugs (77% of all cases). Between January and August 2023, the number of detections of criminal offences related to drugs increased by 10.9% over the same period in 2022.

Albania should drastically increase its capacity to collect, store and report data for all drug-related indicators and in line with EU standards, and should increase the capacities of the law enforcement authorities with regards to drugs.

Albania remains the only country in the region that allows monitoring by another country: since 2013, Italy's Ministry of Economy and Finance Enforcement Agency (*Guardia di Finanza*) has carried out aerial surveys to detect cannabis plantations in Albania. In 2022, 63 flight missions were operated by the agency, surveying 1 106 744.8 hectares, allowing 41 000 plants to be found and destroyed. This represents a decrease of around 55% compared with 2021, but is still higher than in 2017-2019. In addition, the ASP continued monitoring by drones. The quantity of cannabis seized in Albania increased slightly from 3.6 tonnes in 2021 to 3.76 tonnes in 2022.

The amount of cocaine seized declined from 725 kg in 2021 to 578 kg in 2022, which remains a very significant amount. Hashish and heroin seized have declined drastically from 208 kg in 2021 to only 37 g in 2022 for hashish and from 81 kg in 2021 to 7 kg in 2022 for heroin. At the same time, there was a large increase in the amount of MDMA seized, from 7 g in 2021 to 480 g in 2022.

The lack of safe and secure storage for seized drugs and drug precursors prior to destruction remains a concern. Albania needs to establish the legal base for an appropriate process for the destruction of precursors and the practice of keeping only a small sample as material evidence for court proceedings (instead of the entire quantity seized).

Fight against terrorism

Institutional set-up and legal alignment

Albania has a comprehensive legal framework for preventing and combatting the financing of terrorism and is fairly advanced in aligning with the EU *acquis* in this area. It is a party to all of the Council of Europe counterterrorism conventions, including those covering the seizure and confiscation of the proceeds of crime and the financing of terrorism. The authorities should ensure effective implementation of targeted financial sanctions mandated by the UN Security Council, including by increasing the involvement of financial institutions and other relevant actors and through effective inspections, in line with the FATF action plan. Work

needs to continue on preventing the risk of radicalised groups using non-profit organisations to finance terrorism.

In March 2022, the government adopted a new cross-sectoral strategy for 2023-2025 and two action plans to prevent violent extremism and fight terrorism. These replace the 2020 national cross-sectoral counterterrorism strategy and the 2015 national strategy on countering violent extremism and their respective action plans. The funds necessary to implement the action plans need to be budgeted.

Albania has continued to make good progress in implementing the 2019 bilateral arrangement with the EU on putting the Joint Action Plan on Counterterrorism for the Western Balkans into practice. A revised bilateral arrangement was signed in December 2022 and is being implemented. Albania should submit the first report on the implementation of the revised arrangement. Work has advanced on creating a body or mechanism for joint national threat assessments as well as on advancing the work on Critical Infrastructure Protection. According to the revision, the Albanian authorities should draft a report on critical infrastructures to assess the current situation and needs both from a legislative and an operational point of view, to align with the upcoming EU legislation and standards and ensure the resilience of critical entities.

The Counterterrorism Directorate of the ASP is the lead body on counterterrorism, under the jurisdiction of the Special Prosecution Office and the special courts. Its resources were increased as part of the ASP restructuring in 2023. The State Intelligence Service and the Defence Intelligence and Security Agency are also active in the field. The ASP's community policing personnel are involved in preventive and early-warning efforts. The Coordination Centre for Countering Violent Extremism is in charge of capacity-building and coordinating countering violent extremism (CVE) activities across government institutions and oversees the implementation of the relevant parts of the national CVE and counterterrorism strategy. Changes in the centre's leadership and staff have repeatedly led to the loss of institutional memory and have negatively impacted the centre's effectiveness. The centre should therefore create the necessary internal administrative procedures to address this and to improve knowledge and information management. Last year's efforts to improve the centre's capacity to prevent violent extremism at local level should be continued. The capacities of local communities and local security councils to prevent terrorism should be further improved. Measures and capacity to address terrorist content online should be improved, including by aligning with the EU *acquis* and by adopting best practices.

Implementation and enforcement capacity

The police referred seven cases of terrorist offences and financing of terrorism to the Special Prosecution Office. One individual, an Iranian national, was convicted of terrorist offences in 2022. The authorities repatriated 10 adult women and 27 minors from the camps in Syria in October 2020, August 2021 and May 2022. The CVE Coordination Centre and the ASP's Counterterrorism Directorate have led the inter-institutional work on reintegrating and rehabilitating them in an effective and professional manner, with the Counterterrorism Directorate also carrying out criminal investigations and ensuring monitoring. No criminal charges have been brought against any of the returnees so far. In total, 81 Albanian nationals returned to Albania from Syria and Iraq. Around 35 to 45 Albanian nationals are estimated to remain in Syria, of whom 9 seem to be in prisons of the Syrian Democratic Forces. At least 45 Albanian nationals are believed to have died in the conflict zone. The authorities continue to seek to return the remaining women and children from the camps in Syria. The CVE Coordination Centre has engaged in capacity building at local and national level on preventing and countering violent extremism, including in cooperation with civil society.

Regional cooperation and the exchange of sensitive information with international partners remains satisfactory. Albania should make more proactive use of the capabilities of the Europol European Counter Terrorism Centre and should continue its collaboration with the Europol Internet Referral Unit. The country actively participated in the implementation of the Western Balkan counter-terrorism initiative, under the Integrative Internal Security Governance.

Albania should continue to focus on the disengagement, reintegration and rehabilitation of returnees and their families from Syria, and on the investigation and prosecution of those suspected of criminal offences. It should strengthen the case management and referral mechanisms for returnees and individuals at risk of radicalisation. Prison radicalisation and online terrorist content continue to require attention. Albania should also continue to investigate links between organised crime and terrorism. Furthermore, it needs to align its legislative framework with the EU legislation on explosive precursors.

Judicial cooperation in criminal and civil matters

In 2022, the Albanian Liaison Office to Eurojust registered 38 cases at the request of the Albanian authorities, which represents an 81% increase compared with 2021. 48 new cases were opened with the Albanian Liaison Office at the request of the competent authorities of EU Member States, only slightly fewer than in 2021 (51). Among non-EU countries, Albania had the fourth highest number of Eurojust cases in 2022.

With EU assistance, in 2022 Albania doubled its participation in joint investigative teams (JITs). Out of 16 JITs, the majority (11) were pursued in the field of narcotics, 3 were in the field of computer crime, and the remaining dealt with illicit trafficking and economic and financial crime.

Albania actively participates with two representatives in the Eurojust regional project 'Increasing cross-border cooperation in criminal justice in the Western Balkans' (WB CRIM JUST). This has led to greater interaction between prosecutors in the Western Balkans with the aim of coordinating their investigations.

The Albanian liaison prosecutor was appointed to Eurojust in January 2021 and helped to facilitate judicial cooperation between EU and Albanian prosecutors in the fight against transnational organised crime. The continuity of this engagement was ensured in June 2023 when the mandate of the liaison prosecutor posted to Eurojust was extended for another two and a half years, beyond the expiry of the EU funding for their posting at the end of 2023.

The setting-up of joint investigation teams has been facilitated by EU financial support and the Law on judicial cooperation in criminal matters with foreign jurisdictions. Albania should also ensure that it provides its own financial resources to proactively set up more JITs.

A cooperation agreement between the European Public Prosecution Office (EPPO) and the General Prosecution Office was signed in July 2022 to facilitate cooperation in criminal matters and the exchange of information. A similar agreement between EPPO and SPAK was signed in June 2023.

On judicial cooperation in civil matters, between June 2022 and March 2023, Albania received 102 requests for mutual legal assistance and sent out 72 requests. On judicial cooperation in criminal matters, in the same period, Albania received 144 requests and sent out 263 requests. Albania should finalise the internal procedures for acceding to the 2005 Hague Convention on Choice of Court Agreements and the 2007 Protocol on the Law Applicable to Maintenance Obligations. It should continue to improve international cooperation, the timely implementation of multilateral instruments, and its institutional

capacity.

Legal and irregular migration

Institutional set-up and legal alignment

The Ministry of the Interior is the main actor in the field of migration. The main bodies under its supervision responsible for implementing migration policies are the Department of Border and Migration in the ASP Directorate-General, the Directorate for Anti-Trafficking and Migration Policies in the Ministry of the Interior and the Directorate of Asylum, Foreigners and Citizenship. The Ombudsperson and the child protection unit in the Ministry for Health and Social Protection play an important role in monitoring and providing services to migrants. The National Agency for Employment and Skills is responsible for services, employment programmes and vocational training programmes for foreigners, stateless persons and refugees.

The **legal framework** on migration is partially aligned with the EU *acquis* and needs updating in line with developments on the EU side. Following the entry into force of the Law on Foreigners in November 2021, 23 out of a total of 29 pieces of implementing legislation have been adopted so far: two in 2021, 15 in 2022 and six in 2023.

Albania has a readmission agreement with the EU and implementing protocols are in place with 12 Member States. Albania and Greece have still not concluded an implementing protocol. Draft readmission agreements have been sent by the Albanian authorities to several countries of origin³, so far to no avail. New draft readmission agreements with Georgia and Armenia have been drawn up and are to be followed up.

The implementation of the national migration **strategy** and action plan for 2019-2022 came to an end in December 2022. Out of 129 measures in the action plan, 72 measures are reported as implemented, 36 as partially implemented and 21 measures as not implemented. The final report has not yet been completed. In March 2023, an inter-institutional working group began preparations to draft the new migration strategy for 2024-2030. Several preparatory workshops with national stakeholders were organised in May 2023 to identify priority objectives.

Implementation and enforcement capacity

Albania cooperated with the EU, EU Member States and its neighbours to implement the EU Action Plan on the Western Balkans presented by the Commission in December 2022 and therefore contributed to the management of the mixed migration flows towards the EU.

In 2022, there was a 34% decrease in the number of irregular migrants entering Albania, i.e. 12 216 compared with 18 496 in 2021. This reduction could be attributed to the strengthening of border surveillance and control, especially in the Kakavije/Kapshtice operational area where the Frontex joint teams were deployed. As many as 32% of all migrants apprehended in 2022 were apprehended repeatedly. Of all arrivals, 235 were identified as unaccompanied or separated children. Unaccompanied minors travelling from Albania to EU Member States remain a source of concern.

The three nationalities most represented remained Syrians, Afghans and Bangladeshis.

In the first 8 months of 2023, 4 877 irregular immigrants were apprehended, down by 30.6% from the same period in 2022. Regular reporting on irregular migration flows and asylum should be ensured. Since the summer of 2022, the information provided to the EU by the

³ Afghanistan, Iraq, Morocco, Algeria, India, Pakistan, Egypt, Bangladesh and Tunisia.

Ministry of the Interior has been sporadic.

Reception capacities already increased in 2021 with the refurbishment of the Babrru National Reception Centre to provide up to 250 beds and a dedicated family-friendly space. In July 2023 a new Temporary Reception Centre was inaugurated in Qafë-Botë. The total capacity of all reception facilities is approximately 570 beds. Albania does not have separate facilities for unaccompanied minors. The updated national contingency plan for the possible arrival of a substantial number of migrants and asylum seekers still needs to include an appropriate budget allocation. The case management of unaccompanied children is not handled as an integrated process, as required by the law on asylum. Unaccompanied minors need to be included in the national child protection system.

By June 2023, the overall **staffing** of the ASP's Department for Border and Migration had increased by almost 19% in comparison with 2021. As a result of the organisational and structural reform, there are now 1 977 employees at central and local levels, of whom 1 882 are police officers and 95 are civilian staff. Comprehensive training and joint exercises have been organised for key border officials and frontline officers. However, permanent training structures should be established in compliance with basic training standards for EU border guards. Border and Migration Police officers should increase their ability to identify vulnerable refugees and migrants with specific needs. Coordination with child protection and anti-trafficking departments should also improve. Reports of migrants being returned to Greece without adequate pre-screening have continued during the reporting period. Albania should address the shortcomings identified in its return mechanism for irregular migrants, in line with applicable legislation and with international obligations.

The **readmission agreement** with the EU is functioning well, with Albania swiftly honouring requests from Member States for the readmission of both its own and third-country nationals. In 2022, 23 860 Albanian nationals were ordered to leave and 9 655 were effectively returned. Cooperation between Albania and Frontex on return operations is very good. On 25 January 2022, Frontex organised in Albania its first fully-fledged Frontex-led return operations, returning approximately 50 Albanian irregular migrants from several EU Member States with the support of the Albanian authorities.

The number of third country nationals voluntarily returned from Albania to their countries of origin remains low: six in 2022. Albania should pursue its efforts to increase returns to their countries of origins of migrants with no right to stay.

In August 2021, Albania started temporarily hosting Afghan evacuees. By the end of September 2023, 4 033 have been hosted in open facilities near the coastline in Albania, with the support of international NGOs. All Afghan evacuees applied for temporary protection in the country, granted to them by a Council of Ministers decision adopted on 25 August 2021. Around 90% of them have been resettled to other countries, mostly to the United States (1 963), Canada (1 439), UK (106) and EU Member States (77). Since March 2022, the Albanian authorities have granted to refugees from Ukraine the right of residence in Albania for a period of up to one year without needing to obtain a residence permit. They can also apply for a temporary protection status. By the end of August 2023, 70 909 Ukrainian citizens had entered Albania, while 62 631 had left. Most of them are staying in private accommodation. Only 33 have applied for and benefit from temporary protection status.

Asylum

Institutional set-up and legal alignment

The 2021 Law on asylum is largely aligned with the EU *acquis* and all 15 pieces of

implementing legislation have been adopted. Appropriate consultations should continue with the European Union Asylum Agency (EUAA) on the practical guidelines for their implementation through the EUAA-Albania cooperation roadmap and through practical cooperation under the EU regional support to protect sensitive migration systems. Although the law grants asylum seekers the right to access public services at the same level as Albanian nationals, the lack of alignment with other legal acts and lack of implementation capacity prevents asylum seekers from accessing services effectively. An efficient implementation of the law to a high standard remains to be achieved and would require additional investment in administrative capacities and the overall development of a well-functioning asylum system. A revised pre-screening instruction was adopted in 2022, but its implementation in practice needs to be improved.

Albania has the necessary institutions in place to handle asylum claims. Administrative appeals may be lodged with the National Commission for Refugees and Asylum.

Implementation and enforcement capacity

Albania continues to be primarily a transit country, considered as such both among the refugee and migrant community and by the Albanian authorities. In 2022, 125 people made a claim for asylum with the Border and Migration Police, compared with 85 in 2021. The fact that only 1% of all arriving migrants in 2022, a large majority of whom came from countries with high protection rates in the EU, were referred to asylum procedures, underlines the need to improve referrals and access to asylum procedures.

In 2022 no applicant was granted refugee status, while 24 were granted subsidiary protection. Between January and June 2023, nine people were granted subsidiary protection, and none was granted refugee status.

On **asylum procedures**, the capacities of the Border and Migration Police to identify and refer people with specific needs are still insufficient. The Directorate for Asylum, Foreigners and Citizenship has been reorganised with three experts charged with developing asylum procedures, one head of sector and one director. The staff needs training to develop their skills on assessing individual claims, particularly regarding information on the country of origin and for cases involving vulnerable people. The lack of qualified interpreters at the temporary reception centres during and after pre-screening should be addressed and the hiring of female interpreters encouraged, to increase reporting on violence and on potential trafficking cases. Coordination between the actors involved should be improved.

There are still shortcomings to be addressed in the implementation of return procedures at the border with Greece, in particular as regards adequate screening, safeguards including access to information, interpretation, a pre-return period of stay, and the right to appeal, including for unaccompanied minors.

The status of about 2 700 Iranians (from the People's Mujahedeen of Iran) relocated to Albania in 2015 and 2016 has yet to be decided. They currently hold temporary residence permits on humanitarian grounds.

The Commission's sixth report under the visa suspension mechanism, published in October 2023, concluded that Albania has taken action to address most of the Commission's previous recommendations. Albania's visa policy is still not fully aligned with the EU's as regards the list of countries whose nationals require an entry visa. Albania has year-round visa-free arrangements with Armenia, Azerbaijan, Belarus, China, Guyana, Kazakhstan, Kuwait and Türkiye, which are not on the EU's visa-free list. Moreover, a reciprocal visa liberalisation agreement with China was signed in February 2023, which consolidates the earlier unilateral

decision of Albania granting visa free access to Chinese nationals. Albania also grants visa-free access to third country nationals who have a resident permit in the United Arab Emirates for at least 10 years. As in 2022, nationals of Bahrain, Oman, Qatar, Saudi Arabia and Thailand, who need a visa to travel into the EU, also benefited from the seasonal lifting of visa requirements between April and December 2023. Following strong requests from the EU side, Albania has not extended seasonal visa-free access to the nationals of Egypt, India, and Russia in 2023, which is significant progress. Overall, the practice of temporarily lifting the visa requirement is not aligned with the EU *acquis*. Continuing to progressively align Albania's visa policy to the EU's is essential, in particular with regard to countries presenting migration or security risks.

According to Eurostat data, the number of Albanian citizens lodging asylum requests in EU Member States increased by 16% in 2022 compared with 2021 (from 11 300 to 13 100 applications), but still remains below the pre-pandemic level (20 415 in 2019). The asylum recognition rate increased slightly from 5.7% in 2021 to 6.3% in 2022 (9% in 2021 and 10.6% in 2022, including people with humanitarian status).

In 2022, 6 991 Albanian nationals were refused permission to exit Albanian territory at border crossings, which is a 33% increase on 2021. The number of minors refused permission to exit rose by 19%, from 343 in 2021 to 423 in 2022. In the first 8 months of 2023, the number of minors refused exit remained stable compared with the same period in 2022. This increase can be attributed to the strengthening of border crossing controls, the implementation of the relevant legislation. Awareness-raising activities should continue as well as addressing the underlying reasons, and dialogue and structured cooperation with the EU Member States most affected by unfounded asylum applications by Albanian nationals. The Commission is monitoring the trend very closely in the framework of the visa suspension mechanism and issued a recommendation to Albania on this matter in its sixth report under the visa suspension mechanism.

Greater attention should be paid to the reintegration of returnees, especially the most vulnerable people. Migration counters that have been set up in municipalities should be formalised and improved to facilitate the reintegration of returnees and more police officers should continue to be trained to escort returnees to Albania.

Schengen and external borders

Institutional set-up and legal alignment

The **legislative framework** for the management of Albania's external borders is not yet fully aligned with EU standards, however its 2021-2027 integrated border management strategy and 2021-2023 action plan are broadly aligned. The Law on border control that introduced rules on advance passenger information and passenger name records (PNR) into Albanian legislation is not aligned with the EU *acquis*. A passenger information unit was created in February 2022 within the Albanian State Police. The Albanian authorities are aware that the transfer of PNR data from the EU to Albania is not possible under the current legal framework.

Implementation and enforcement capacity

Albania has committed to modernise its border infrastructure and improve border surveillance. With EU assistance, Albania has improved radar coverage for the surveillance of the blue border. Efforts need to continue to complete the coverage and to create a command-and-control room to collect situational information from the regional level and allow coordinated intervention from the central level. Albania should establish a risk-analysis

system based on the common integrated risk analysis model developed by Frontex.

In 2022, 418 criminal offences were recorded for assisting illegal border crossings (29 more than in 2021) and 631 offenders were prosecuted, of whom 321 were arrested or detained.

As part of the organisational and structural reform of the Albanian State Police, an investigative sector has been created in the border and migration police with the aim of preventing, detecting and countering cross-border illegal activity, including people-smuggling and trafficking in human beings. This is a very positive development.

Albania continues to participate actively in the Western Balkan Risk Analysis Network.

Operational cooperation with neighbouring countries continued to be good. In 2022, in accordance with the relevant protocols, a total of 976 joint patrols were carried out with border police officers from Montenegro, Kosovo*, North Macedonia and Italy's *Guardia di Finanza*; up from 920 in 2021. At the green border, 592 joint patrols were carried out, while 384 joint patrols were carried out at the maritime border with Italy. A joint police and customs cooperation centre with Greece was inaugurated in the Kakavije border area in April 2023. Furthermore, an agreement with Montenegro was signed in February 2023 on the opening of a joint border crossing point at Shen Nikolla-Pulaj and an implementing protocol with North Macedonia for the common border crossing point at Qafe Thane/Kjafasan was signed in November 2022.

The successful implementation of Frontex Joint Operation Land and Albania Sea continued in 2022 under the current EU-Albania Status Agreement. The updated EU-Albania Status Agreement was signed in September 2023 and allows teams from the European Border and Coast Guard standing corps with executive powers to also be deployed at non-EU borders. In June 2023, the Albanian Ministry of Interior and Frontex signed a memorandum of understanding on a complaints mechanism on the protection of fundamental rights.

Albania needs to ensure that the personal identification secure comparison and evaluation system (PISCES) is operated in alignment with the EU *acquis* on personal data protection. In 2022, the Department for Border and Migration undertook 14 serious disciplinary measures against border police officers for corruption and abuse of office, slightly fewer than in 2021 (16).

The production and delivery of Albanian biometric documents was transferred from a foreign private company to a newly established state agency in August 2023. Albania will need to ensure that it continues to respect the international standards and procedures for producing and issuing secure identification documents.

* 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.

2.3. ECONOMIC CRITERIA

<i>Table 1.1:</i>	2014-19	2020	2021	2022
Albania - Key economic figures	average			
GDP per capita (% of EU-27 in PPS) ¹⁾	30	31	32	34
Real GDP growth	2.9	-3.3	8.9	4.8
Economic activity rate of the population aged 15-64 (%) , total	66.1	69.1	69.3	73.2
<i>female</i>	57.3	61.2	61.4	66.8
<i>male</i>	75.0	77.1	77.3	80.0
Unemployment rate of the population aged 15-64 (%) , total	15.0	12.2	12.1	11.3
<i>female</i>	14.1	12.4	12.4	11.7
<i>male</i>	15.7	12.1	11.8	10.9
Employment of the population aged 15-64 (annual growth %)	3.3	-1.9	-0.4	4.8
Nominal wages (annual growth %) ²⁾	2.9*	2.7	6.3	8.2
Consumer price index (annual growth %)	1.7	1.6	2.0	6.7
Exchange rate against EUR	133.7	123.7	122.5	119.0
Current account balance (% of GDP)	-8.2	-8.7	-7.7	-6.0
Net foreign direct investment, FDI (% of GDP)	8.2	6.7	6.5	6.7
General government balance (% of GDP)	-2.8	-6.7	-4.6	-3.7
General government debt (% of GDP)	69.8	74.3	74.5	64.6

Notes :

1) Eurostat

2) average gross monthly wages, average of 2015-2019

Source: national sources

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

2.3.1. The existence of a functioning market economy

Albania is **between a moderate and a good level of preparation** in developing a functioning market economy and made **some progress** in this area. Despite the economic fallout from Russia's war of aggression against Ukraine, the Albanian economy showed resilience and GDP growth remained strong in 2022. Inflation increased to above the target in 2022 but remained single-digit and then decreased in early 2023. The strong recovery supported labour market performance, giving Albania the highest participation rate and one of the lowest unemployment rates in the region. Supported by strong revenue growth and a large increase in nominal GDP, the public debt ratio fell much more than expected, to below its pre-2019 crisis level, but remains among the highest in the region. Long-awaited reforms were launched to improve investment expenditure, planning and execution, and the monitoring of fiscal risks continued to improve, but weaknesses persist in both areas. There was some progress on revenue-related reforms but plans to adopt a medium-term revenue strategy have been abandoned, while a low revenue ratio continues to impede much needed investments. The financial sector remained stable and continued to expand but financial intermediation remains low. The business environment benefitted from a higher level of digitalisation of public services. However, challenges related to a large informal economy and a shortage of labour with relevant skills persist. Consultations of the public by the government did not improve significantly. Last year's recommendations to improve the functioning of the market economy were partly implemented, and remain partly valid. In the

coming year, Albania should in particular:

- achieve a non-negative primary balance and continue to reduce the public debt ratio while providing targeted support to vulnerable households and firms if needed, and continue to reduce arrears and use the regular revision process for budget amendments;
- complete procedures to fully establish the National Single Project Pipeline and advance the necessary legal amendments to fully integrate public-private partnerships (PPPs) into it, and use a systematic risk assessment when deciding on new state guarantees and onlending;
- adopt measures to increase tax revenue as a share of GDP in a growth-friendly way, while taking into account the results of a broad public consultation on tax policies.

Economic governance

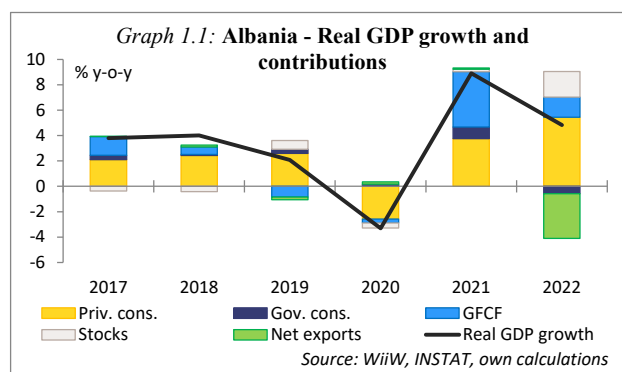
Albania continued to pursue stability-oriented economic policies. The authorities supported households and businesses and state-owned electricity utilities to cushion the impact of high energy and food prices, while complying with the fiscal rules. After a large decrease in 2022, the public debt ratio fell below its pre-pandemic level. The government continued to use specific legal ('normative') acts instead of the regular legislative procedure to amend the 2022 budget, but on fewer occasions than in 2021, and none in the first half of 2023. Albania submitted its 2023-2025 economic reform programme (ERP) to the European Commission at the end of January 2023, in which it underlined its plan to achieve a positive primary balance already in 2023. Parliament approved the 2023 budget on 24 November 2022 and the ERP on 5 February 2023.

Albania partially implemented the policy guidance jointly agreed at the Economic and Financial Dialogue between the EU and the Western Balkans and Türkiye in June 2022. Fiscal consolidation progressed, and control of arrears and fiscal risks improved, but there was limited progress on revenue-related reforms. Business support services were broadened and measures against informal employment were better coordinated, but information about the actions against informality and their effects remained limited. Labour market analysis and the preparations for implementing the Youth Guarantee progressed and reimbursements for medical costs increased, as did ad-hoc expenditure on social protection. Albania still has not ensured the necessary sustained and systematic increase of expenditure on social services, human development and innovation.

Macroeconomic stability

Albania's economy continued to show resilience, despite three consecutive shocks. Albania's real GDP growth averaged 2.7 % in 2013-2018. Though the economy was hit by the 2019 earthquake and the COVID-19 crisis, GDP contraction was less than expected in 2020 (3.3 %), followed by a strong economic recovery in 2021 (8.9 %), which extended into 2022 (4.9% GDP growth) despite the shock due to Russia's war of aggression against

Ukraine. Solid increases in private investment and very strong private consumption growth led to higher-than-expected economic growth in 2022, outweighing shrinking public investment and consumption and a negative contribution of net exports to growth. A robust

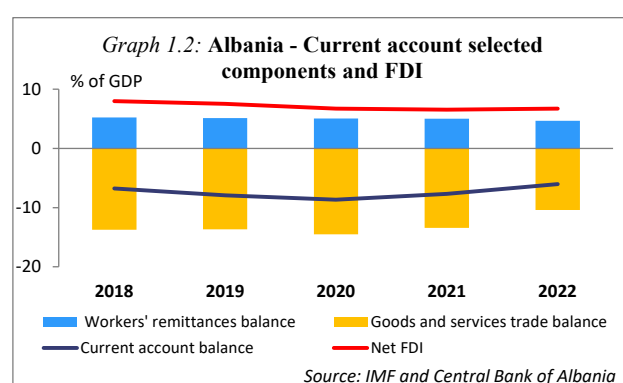


rise in private consumption was supported by continued strong employment and wage growth. Construction, manufacturing and services were the main drivers of growth on the production side, partly due to buoyant tourism. These macroeconomic trends largely continued in the first quarter of 2023, albeit at a slower pace, except for growing public consumption and investment.

Convergence with EU income levels stagnated in 2014-2019 with GDP per capita (at purchasing power parity) remaining at 30% of the EU average, but rising to 32% in 2021 and 34% in 2022.

Despite surging import prices, the current account deficit decreased in 2022. Sharply increased 2022 import prices widened the goods trade deficit, despite currency appreciation and strong growth in goods exports. However, a 30% surge in the services trade surplus, to 13% of GDP, contributed to a 1.7 pps decrease in the current account deficit to 6% of GDP in 2022. The share of remittances in GDP continued to fall, from 4.9% in 2021 to 4.5% in 2022, resulting in a decrease in the secondary income surplus to just above 6% of GDP in 2022. In the first half of 2023, the current account deficit continued to fall by about 27% compared with the first half of 2022, driven by a continuing surge of the trade surplus in services and by the growth of remittances.

Foreign direct investment (FDI) inflows grew strongly and financed the current account deficit in 2022. The completion of large energy projects led to a declining trend in FDI inflows after peaking above 8 % of GDP in 2015-2019, but they grew by 19% in 2022, which pushed the ratio up to 6.7% of GDP in 2022 from 6.4% in 2021. FDI inflows again fully financed the current account deficit in 2022, after falling short of it in 2020 and 2021. Public external debt fell by 3.3% nominally (in terms of GDP from 32% to 26.1%) and overall



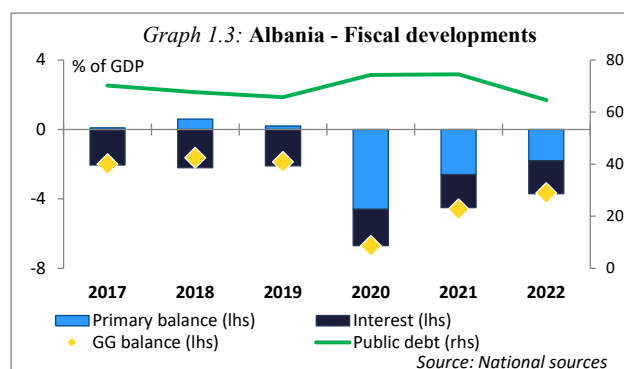
external debt dropped by 10 pps to 54.6% of GDP in 2022. Using buffers of the late 2021 Eurobond and in view of the less favourable conditions on the capital markets, the Albanian government only issued its 6th Eurobond in June 2023⁴, which increased public external debt by 5.2% in the second quarter of 2023 compared with the second quarter of 2022. Foreign exchange reserves have consistently increased over recent years and remained at about EUR 5 billion throughout 2022 and until May 2023, before rising to 5.6 billion in July 2023, following two interventions in the foreign currency market to address a currency appreciation hike-. The reserves continued solidly covering 7 months of imports of goods and services and over five times the short-term external debt.

Inflation rose significantly, though less than in Albania's peers, and the Bank of Albania began to tighten its monetary policy stance. Annual inflation averaged 2% in 2021 but rose sharply from late 2021 due to rising international food and energy prices to an average of 6.7% in 2022. Nevertheless, it remained the lowest in the region, helped by subsidised retail electricity prices and the appreciation of the lek against the euro, mostly due to significant external inflows from tourism and FDI. In response to the inflation rate exceeding the 3% target, and the broadening of domestic demand-driven price pressures, the Bank of Albania (BoA) raised the policy rate by 2.75 pps in several steps to reach 3% in March 2023. Inflation

⁴ EUR 600 million, 5-year maturity, with a coupon of 5.9%.

has been slowing since November 2022, to 4% in August 2023 as price increases for food, energy and transport decelerated, appreciation of the Albanian lek against the euro accelerated (from 2.8% in 2022 to 7.8% year-on-year in the January to August average 2023) and financial market conditions tightened.

In 2022, high GDP and revenue growth helped to lower the public debt ratio below its pre-pandemic level. The fiscal deficit was below 2 % of GDP in 2015-19, but increased sharply to 6.8 % of GDP in 2020, due to the impact of the pandemic. A strong economic rebound and rising inflation fostered high revenue growth, contributing to the fiscal deficit falling to 3.7% of GDP in 2022, despite significant energy-related spending. Exceptional support to the state-owned electricity provider and vulnerable groups was partly offset by savings on interest and personnel expenditure, and under-execution of foreign financed investments. As a result, the overall annual expenditure increase was moderate at 2.1%. The high GDP denominator and a small nominal decrease in public debt led to a 10 pps public debt ratio decrease from its peak of 74.5 % in 2021 to 64.6 % in 2022. For 2023, a fiscal deficit of 2.5% of GDP and a positive primary balance are foreseen. The exceptional provision for budget support to state owned energy companies in the budget was not needed, and the funds are planned to be reallocated.



The overall annual expenditure increase was moderate at 2.1%. The high GDP denominator and a small nominal decrease in public debt led to a 10 pps public debt ratio decrease from its peak of 74.5 % in 2021 to 64.6 % in 2022. For 2023, a fiscal deficit of 2.5% of GDP and a positive primary balance are foreseen. The exceptional provision for budget support to state owned energy companies in the budget was not needed, and the funds are planned to be reallocated.

The tax revenue ratio remains low, despite improvements in the tax administration. Increasing social contributions and local taxes pushed the overall tax revenue ratio upwards to 25.7% of GDP in 2017, but since then it decreased to 25.4% of GDP in 2022, which is low compared to peers. It is also low given the need for significant investment in physical and human capital. Improvements in the tax administration, and substantial reforms such as the introduction of automated electronic VAT invoicing ('fiscalisation'), excise harmonisation and indexation and digitalisation were successfully implemented in the last three years, but have not yielded an increase of the revenue ratio. The tax revenue structure has remained unchanged over the last decade, characterised by a heavy reliance on revenue from consumption and low revenue from capital taxation and social contributions (the average social contributions revenue of 5.8% of GDP are the second lowest in the region). The 2023 amended income tax law, which takes effect in 2024, will broaden the tax base bringing self-employed professionals into the personal income taxation. Following a suspension of public consultations on the long-planned medium-term revenue strategy (MTRS) in 2022 the authorities have undertaken a review and update of the 2020 draft, which should aim for a broader tax base and a higher revenue mobilisation in a comprehensive and systematic way with public buy-in.

Weaknesses in the management of public investment persist, but new initiatives have been launched to address them. Though public investment spending has increased strongly since 2017, partly driven by post-earthquake reconstruction, it remains backloaded and generates increasing arrears in the last quarter of the financial year. In 2021 and 2022 these were partly settled with year-end budget amendments, using unexpected excess revenue. However, structural weaknesses in investment planning and execution persist, partly because the selection and monitoring of public investment projects remains fragmented across types of investment and government agencies that use different procedures. In addition, national legislation still separates investment planning for public-private partnerships (PPPs) from that

of conventional projects. Post-earthquake reconstruction spending lacked transparency as it was not integrated into the regular public finance procedures. Reforms launched at the end of 2022 aim to harmonise and improve the evaluation procedures for various types of public investment projects and resulted so far in setting up a national single project pipeline, which also strengthens project prioritisation in line with fiscal space and can contribute to reducing arrears. An amendment to the PPP-legislation is still necessary for integrating PPPs into those new procedures.

Fiscal space improved, and the overall macroeconomic policy mix was appropriate in the face of high inflation. Good fiscal performance and a reduction in the debt-to-GDP ratio has improved the fiscal space, but vulnerabilities remain significant given the exposure to external shocks and continued high debt ratio (in comparison to regional peers). The fiscal response to the energy shock mainly consisted of continuing to subsidise the regulated electricity price for all households and SMEs, though it could have been better targeted to reduce fiscal costs and to include incentives for investments in energy-saving. Nevertheless, the overall spending restraint supported the 2022 monetary policy stance and contributed to dampening inflationary pressures. The macro-fiscal policy mix was generally appropriate to address the high inflation rate and to support economic stability and recovery.

Functioning of product markets

Business environment

Business satisfaction with public services is improving, but there are increasing concerns about labour shortages. The 2022 Balkan Business Barometer, an annual independent survey of businesses in the region, shows that businesses' satisfaction with public services improved in 2021 and 2022, supported by a higher level of digitalisation. More public services are now available online, including 31 tax services which allow taxpayers to pay taxes online to a certain extent. In addition, applications for all business licences can be made online. Efforts to set up a complete and digitalised cadastre within the next two years are progressing, but there are still delays and discrepancies as regards the information on property deeds. Improved digital public services help to reduce corruption, but irregularities in public procurement procedures are still perceived as an obstacle for businesses, although implementation of these procedures is improving, and the number of unsolicited proposals and new PPPs have decreased. The introduction of cash limits for business-to-business transactions is one measure taken to address the significant level of informal economic activities that add to unfair competition. There is a growing perception that difficulties in recruiting skilled labour is becoming an obstacle to business and entrepreneurs are increasingly demanding government measures to help retain workers and to provide incentives for the return of the diaspora.

Mixed progress on improving legal certainty for businesses and making public consultations more effective. The adoption of the new 'Unified Law on Investment', originally planned to be adopted in 2020, is reportedly postponed to end-2023, delaying the expected improvement in legal security for investors. The mandatory publication of the government's draft documents on the government's online platform increased transparency although its use for public consultation has remained very limited and actual consultations must still rely on ad hoc outreach by government institutions. In this context, Albania made progress by mapping the stakeholders of the line ministries at the end of 2022 to notify them about public consultations in their area of interest. A new "council of enterprises", composed of public and private sector representatives, has been set up to improve consultation of SMEs. In February 2023, the Financial Action Task Force (FATF) reported that Albania largely completed the implementation of the agreed action plan on anti-money laundering and

reforms to counter the financing of terrorism. In June 2023 FATF decided to propose an on-site visit, which took place in August and led to Albania's delisting in October. Nevertheless, Albania should ensure that any future VTC law (including potential criminal amnesties) complies with the EU *acquis* and international standards'.

State influence on product markets

High food and energy prices triggered increased government support but intervention in the price-setting mechanism was deemed unconstitutional. Rising food and energy price led Albania to adopt a financial support package (the 'social resilience package') in March 2022 to support the transport sector, farmers and vulnerable households and to increase the budget for subsidised electricity prices⁵. A sovereign guarantee scheme for businesses exposed to rising food prices was also adopted. In April 2022, the government created two temporary boards ('Transparency Boards') with government and private sector representatives, which set regularly adjusted ceilings for the wholesale and retail prices of selected food commodities and fuels. However, in 2023 the Constitutional Court decided that these boards were not in line with the constitution and so had to be abolished. In 2023, a one-time windfall tax was introduced on the extraordinary profits in 2022 of the energy providers in the liberalised market. The government announced relief measures for exporting businesses that are affected by the strengthening of the lek, a temporary financial compensation for businesses in agriculture and fishery, which are struggling with the 25% increase of the minimum wage that took effect in April, and plans for a sovereign guarantee to support the liquidity needs of larger companies faced with high inflation, wage increases and currency appreciation.

Privatisation and restructuring

The state's presence in the economy slightly increased but remained limited overall. In 2022, Albania reported State aid of 0.3% of GDP mostly in form of tax exemptions and grants, excluding support to agriculture. According to recently established sector accounts, the public sector's share of gross value added of the economy averaged about 10.6% in 2015-2019 and slightly increased to 11.1% in 2020. The proportion of public sector employment⁶ to total employment decreased from 16.3% in 2014 to 14.3% in 2017, before picking up to 15.3 % in December 2021. According to a list of public sector institutions, the central government of Albania is the majority or full owner of 76 central state-owned enterprises, mostly in transport infrastructure and energy, in addition to enterprises in water supply and sewerage in local government or municipal ownership. Restructuring and liquidation of state-owned enterprises continued, and in 2022 a new nomination framework for the boards of State-owned enterprises was adopted by the Council of Ministers. In 2021, the state-owned Albanian Investment Corporation, which develops dormant state assets by mobilising private capital, started to review state assets and formalise partnerships with governmental institutions, and it has now prepared 7 proposals.

Efforts continued to improve the monitoring of state-owned enterprises (SOEs) and the associated fiscal risks. State-owned energy utilities' dependence on regular public guarantees and loans remains a source of fiscal risks. This is aggravated by the hydropower sector's vulnerability to rainfall fluctuations and to climate change risks, for which mitigation measures are still underdeveloped. Fiscal risk statements regularly accompany the budget and have been expanded since 2021 to include disaster risks and the financial assessments of an

⁵ The increasing international prices for electricity imports are so far not reflected in the prices for households and SMEs. The state budget balances the differences for the state-owned electricity distributor.

⁶ As a share of total employment of 15 to 64-year-olds, according to LFS (INSTAT).

increasing range of state-owned enterprises and utilities. These proved useful for forecasting financing needs for the public electricity sector in 2022⁷, when adverse weather caused a decline in domestic electricity production, and rising international prices led to surging electricity import costs. An instruction issued in December 2022 introduced additional reporting requirements for all public bodies on potential fiscal risks, including those related to PPPs, but the capacities and the mandate of the fiscal risk unit has yet to be upgraded to make full use of this information.

Functioning of the financial market

The financial sector remained stable, but risks from the high share of foreign currency and variable interest loans persist. Bank profitability (the return on equity) continued its recovery from 12.9% in 2021 to an average of 15.5% in the first half of 2023, following a drop to an average of 8.5% in 2022. Overall banking sector capital, in relation to risk-weighted assets, remained unchanged between 18-19%, which is above the regulatory minimum, but a few small banks do not fulfil the macroprudential requirements adequately. Liquidity declined in 2022, but was still above the regulatory limit set by the Bank of Albania and recovered slightly in 2023. The ratio of non-performing loans to total loans fell 3 pps from mid 2020 to mid 2022, and have remained around 5.2% since then. However, there are concerns that the interest rate risk could transform into a credit risk as bank loans, about 75% of which carry variable rates, are being repriced. Several updates of banking legislation and regulation were adopted in 2022 which strengthen macroprudential requirements (liquidity buffers, net funding ratio, capital adequacy) and risk management. The recent resolution of the dispute over the fees for private bailiff services, which facilitate the execution of collateral, is therefore timely. Banks have a sizeable exposure to sovereign risk, given the 25% share of government securities among their assets. Euroisation was already high and increased slightly. The share of foreign currency deposits is above 50% and foreign currency loans are about 49% of the total, although the share of loans that are not hedged against exchange rate risks decreased. The consolidation of the banking sector continued, with the merger of the small Alpha bank into OTP. This reduces the number of banks in Albania to 11. The small but growing non-bank financial sector expanded to 38 institutions⁸ but its share of GDP was unchanged at 12%. This includes the insurance market, which is estimated at about 2.3% of GDP, dominated by non-life insurance. New legislation provides sets a framework for growing use of new instruments like factoring and leasing in addition to strengthening risk management requirements in the non-bank financing sector.

Access to finance

The modernisation of payment systems improved access to finance but capital market development is just beginning. Total credit growth accelerated from an average of 6.9% in 2021 to 11.2% in 2022. Lending to the private sector⁹ also accelerated, from 6.9% in 2021 to an average of 12.3% in 2022, but slowed to 7.3% by July 2023 as interest rates continued to increase. The financial intermediation level remained low, with loans to the non-financial private sector standing at 32.7% of GDP, about 15 pps below regional peers. In 2022, the regulatory framework for the modernised payment system was completed. This has led to more adults holding a bank account and to an increase in electronic payment facilities across

⁷ The government provided direct on-lending of 0.4% of GDP and budget support of 1% of GDP to the sector to cover the increased costs.

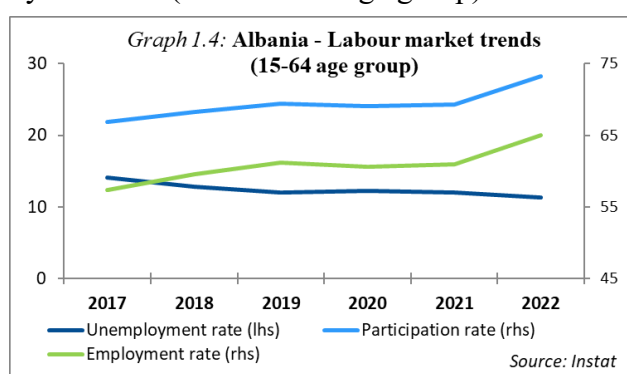
⁸ Including 12 insurance companies, 8 investment funds, and a number of institutions providing microcredit, financial leasing, factoring, money transfer and electronic payment services.

⁹ Annual average growth adjusted for written-off loans and exchange rate impacts.

the country. Card payments increased by 18%. Bank financing is still the dominant means of external business financing. In April 2023, the Government set out to promote active participation in the capital market, including by state owned enterprises, municipalities and foreign investors. The policy aims to promote bonds placements in view of increasing demand e.g. from private pension funds and to deepen the secondary market for government securities. In addition, institutions of the Albanian banking and financial sector have begun to implement the 2022-2027 national strategy for financial education, which aims to address the comparatively low level of financial literacy in the Albanian population.

Functioning of the labour market

The labour market continued to improve. Solid employment growth, averaging 3.7% a year in 2015-2019, helped lower the unemployment rate (in the 15-64 age group) from 17.5% to 12%. The labour market recovered most of its pandemic-related losses in 2021 and strengthened significantly in 2022, when employment growth averaged 5%. The unemployment rate dropped to 11% in the last quarter of 2022 and the inactive population decreased by 14.3%. The labour-force participation rate climbed to 74.8% by the end of 2022 and 75.8% mid 2023, approaching the EU average, as did the closing gap between male and female labour force participation which dropped by 3 pps to 11.5 pps (mid 2023). However, the recent employment increase is not matched by an equivalent increase in social insurance contributors, which might indicate a growth in informal employment. The unemployment rate for 15-29 year-olds remained persistently above 20%, masking on one hand an increase in their participation rate by 3pps, but on the other hand an increase in the number of unemployed people aged 25-29. Although employment growth continued in the first half of 2023 with an average 3.5% it did not lower the overall unemployment rate, mainly because of an increasing number of unemployed young people (15-29). Despite the improving labour market situation, emigration increased by 10.5% compared with 2021, leading to a population decrease of 1.1 % in 2022. This also contributes to the ageing of the population and hits the financing of the pension system, on which Albania already has a low ratio of contributors to beneficiaries.



Real private sector wage growth was not matched by public sector wage growth and triggered plans for a comprehensive reform of public sector salaries and wage increases. Public and private sector wage growth was balanced (both 6.6%) in 2021, but in 2022 nominal private sector wages grew by 12.3% (5.5% in real terms) on average, while public sector wages only increased by 2.3% in nominal terms, resulting in a drop in real wages. In April 2023, the government launched a public sector salary review, aimed at restructuring and updating salary scales and bringing public wages closer to regional levels. A revised regulatory framework was announced to consolidate the principles and mandates for the setting of the public salary schedule for about 130 000 public sector employees. The objective is to raise the average monthly public wage in several steps to the equivalent of about EUR 900 by 2025 and to retain and attract staff in positions of critical importance for the public, including health workers, teachers and police. The first stage increased public sector wages in the second quarter of 2023 by 20.5% year on year, pushing overall average wage growth to 14.9% in the first half of 2023 compared to the same period in 2022. The

estimated total cost of ALL 39 billion would mean a 50% increase in the current public sector wage bill and potentially a deviation from the planned fiscal trajectory, in addition to likely spill-over effects to private sector wage developments. In January 2023, the minimum wage in Albania was the lowest in both nominal terms and in purchasing power standard among countries in the region with available data. The government lifted the minimum wage by 25% year-on-year in April 2023 to ALL 40 000 and announced a further increase to ALL 45 000 (about EUR 400). Since early 2022, the minimum wage has exceeded 50% of the average monthly wage and generated high wage growth in the lowest income sectors like agriculture.

2.3.2. The capacity to cope with competitive pressure and market forces within the Union

Albania has **some level of preparation** to cope with competitive pressure and market forces within the Union and made **some progress** in bolstering competitiveness. Structural reforms in the energy market progressed, and transport infrastructure, the digitalisation of the economy and education outcomes continued to improve, but significant gaps with regional and European levels remain. Albania's competitiveness is hindered by relatively low levels of entrepreneurial and technological know-how, unmet investment needs in human and physical capital, persistently low spending on R&D and, increasingly, by shortages of skilled labour. Trade openness increased through surging exports of services (tourism), but remains low overall, as the exports of goods remain well below potential.

As some of the Commission's 2022 recommendations were not fully implemented, last year's recommendation remain partially valid and in the coming year Albania should in particular:

- improve the labour market relevance and quality of vocational education and training (VET) to increase enrolments, and invest in the digital skills of young people and adults;
- increase spending on education, social protection and health as a percentage of total expenditure and issue instructions to collect data on public expenditure on R&D;
- accelerate the diversification of renewable energy sources, develop business support services for SMEs' green transition, digitalisation and e-commerce, and support cooperation between business and academia on innovation.

Education and innovation

Education reforms are progressing, but it remains difficult for young people to transition into the labour market. Albania recorded improving results in the last PISA tests (15-year-olds in 2015 and 2018) and relatively good results in the latest international assessments of fourth-grade students' mathematical and scientific understanding (TIMSS 2019) and their reading comprehension (PIRLS 2021)¹⁰. This might indicate that recent reforms of the education system are having some effect, despite the relatively low spending on the education system of about 3% of GDP on average in 2017-2022. However, the gap in the education level to the EU average remains wide and higher public expenditure on education is necessary to speed up convergence. In addition, regional surveys¹¹ show that about a quarter of young respondents consider that skills learned in the education system do

¹⁰ TIMSS = Trends in International Mathematics and Science Study, conducted every four years at the fourth and eighth grades. Albania participated for the first time in TIMSS in 2019, only with 4th graders. PIRLS = Progress in International Reading Literacy Study, assessing students' reading achievement in their fourth year of schooling every 5 years. Albania participated in 2021 for the first time. It scored in both studies above most regional peers but limited testing scope and issues with data quality limit comparability. [TIMSS & PIRLS International Study Center](#).

¹¹ Balkan Public Opinion and Business Barometers 2022

not match the needs of their job, and 45% of companies surveyed identify applicants' lack of skills as a reason for unfilled vacancies (2022). Participation in vocational and educational training (VET) remains particularly low (17.7% of upper secondary students, compared to the regional average of 58%) and attendance numbers actually fell in 2022. This contributes to the continued high rate (26.1%) of young people (aged 15-29) not in education, employment or training (NEET) at the end of 2022, and the high emigration of people with a lower level of education¹². The private sector's involvement in VET improved, but schools have yet to develop and follow curricula with sufficient and attractive work-based learning that is relevant to the labour market. Though ongoing reforms of the VET system address these issues, their funding and the pace of implementation are not yet adequate. In addition, implementation of the 2023-2030 national employment and skills strategy, which envisages the employment policies that are necessary including upskilling and adult training, needs sufficient funding to raise the skill levels of the relatively large group of Albanian adults with a low level of education, and thus alleviate the shortage of skilled labour.

Albania has better access to EU research funds, but domestic funding remains negligible. Public funding for research and development is foreseen to increase from the estimated 0.1% of GDP in 2022, but it is unlikely to reach the level of 1% of GDP envisaged in draft 2023-2030 national strategy on technology and innovation (STI), and reliable data on actual research funding is not yet available. There are no cost-based tax incentives currently being offered to private companies for training and research. Though some efforts have been made to stimulate public/private cooperation in this area, the very limited level of investment in innovation remains an obstacle to the much-needed increase in productivity. Albania's association agreement with Horizon Europe entered into force in 2022, giving its research institutions access to EU funding for research and innovation that is comparable to EU Member States.

Physical capital and quality of infrastructure

Investment recovered in 2021 and 2022 and infrastructure projects made some progress. Total investment (gross fixed capital formation) averaged 24.4% of GDP in 2014-2018 before dropping by almost 2 pps in 2019-2020. In 2021 and 2022, investment rebounded to 24.4% and 24.0 % of GDP respectively, fuelled by rising private and foreign direct investment as well as public-financed post-earthquake reconstruction. This pushed public investment to 6.8% of GDP in 2021, before it fell to 5.4% of GDP in 2022. The share of gross fixed capital formation in GDP is the second highest in the region, and about 1.2 pps above the EU average. Net FDI inflows rose by 22% year-on-year in 2022, mostly flowing into real estate, energy, finance and manufacturing. Albania has made progress with the preparation and construction of road, rail and port infrastructure projects, which are improving interregional connectivity (the Adriatic-Ionian Corridor) and trade-related infrastructure (rehabilitation of the rail line from the port of Durrës to Tirana, construction of a new rail line to the international airport). In addition, a new 2023 – 2030 transport sector strategy and action plan was prepared, with an estimated budget of EUR 1 billion. The logistics performance index of the World Bank on Albania's trade and transport-related infrastructure records an increase from 2.29 in 2018 to 2.7 in 2022 (1 = low to 5 = high, EU = 3.6).

Digital infrastructure improved but needs further investment. Though the percentage of businesses with access to fast network connections (>10MB/s) increased from 79.8% in 2020

¹² OECD "Labour Migration in the Western Balkans: Mapping Patterns, Addressing Challenges and Reaping Benefits". <https://www.oecd.org/south-east-europe/programme/Labour-Migration-report.pdf>

to 90.5% in 2021 there has only been a small rise in internet use and business websites. Fixed broadband penetration increased from 17 to 20 per 100 inhabitants in 2021 and remains an issue, particularly in rural areas. These have 40% of the population but only a quarter of the fixed broadband subscribers. Investment in digital infrastructure is also needed in schools. Many schools lack computers - there are about 0.2 computers per pupil - and have poor internet connections, which remains an obstacle to using digital technologies in schools. Households with access to the internet increased from 88.3% in 2021 to 96.5% in 2022, with an increasing share also accessing the internet via a fixed broadband connection.

Hydropower remains the main source of electricity, but Albania made some progress in the development of its electricity sector. Although this is a renewable source, hydropower creates a dependency on unpredictable rainfall, exacerbated by climate change. This means that the country's electricity import needs fluctuate, leading to calls for more efforts to diversify electricity sources. Albania aims to increase solar energy production capacity to 1 GW and has awarded two contracts for solar photovoltaic farms with 240 MW capacity through solar power auctioning. In addition, the first auctions for wind power resulted in contract awards for 222.5 MW installations in July 2023. These are important steps towards reducing Albania's 98% dependence on hydroelectric production. The power sector law¹³ was amended to improve its alignment with the EU *acquis* on energy, as required by the Energy Community secretariat. This enabled the effective separation of the electricity distribution system operator from the production operator. The Albanian Power Exchange (ALPEX) also went live and held its first electricity auction in April 2023. ALPEX is a joint venture company, owned by the transmission system operators of Albania (OST) and Kosovo (KOSTT), entrusted with operating both day-ahead and intraday markets. Transparent price signals can be provided for investments in renewable energy through ALPEX, though retail electricity prices are not yet fully liberalised for all customers. The recently adopted Law on renewable energy sources and new incentives for households to install solar panels and water heaters are expected to help to reach the increased renewable energy share targets in the 2020–2030 national energy and climate plan for energy efficiency (NECP).

Sectoral and enterprise structure

The economic structure continued to shift gradually away from agriculture and towards construction, manufacturing and services. The share in gross value added of the agricultural sector fell from 22.9% to 21% in 2014 -2019. It increased slightly to 21.3% in 2022 but remained higher than other sectors, exceeding the share of manufacturing by a wide margin despite this sector's gradual increase (to 7.5% in 2022). The increase in the combined share of services by 2.7 pps in 2015-2019 to 55.4% of gross value added reversed in 2020, and was down to 54.1% in 2022. Within the services aggregate, the category 'wholesale and retail trade, transport, accommodation and food service activities' recorded a strong 1.9 pps increase in 2022 compared with 2021, while the category 'public administration and defence; compulsory social security; education; human health and social work activities' fell. Reflecting stronger investment activity, the construction sector's share in gross value added increased to 11.2% in 2022, about 1 pp higher than its average in 2015-2019. Agriculture provided 33.7% of employment in 2021, down from 36% in 2019 and 2020 but still accounted for over 50% of employment in more than half of Albania's prefectures.

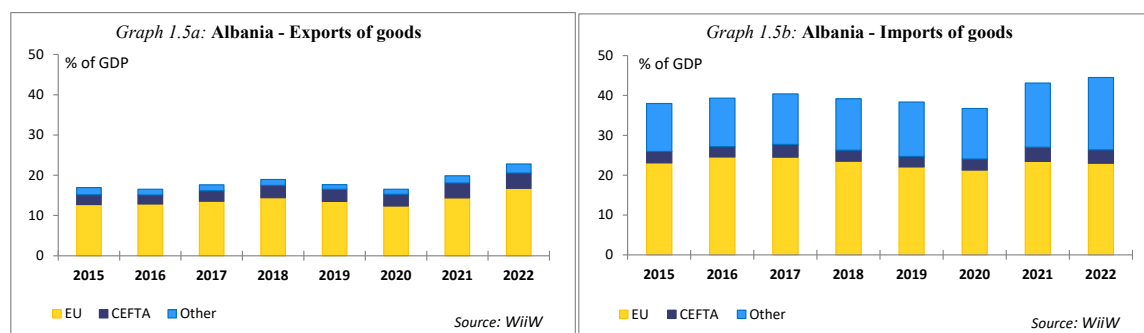
¹³ The decision to close Case ECS-4/17 in April 2022 was based on the complete transposition into national law of the Electricity Directive's provisions related to DSO unbundling, the completion of legal unbundling and substantial progress in functional unbundling.

Manufacturing's share of total employment increased slightly to 11.2% in 2021, whereas services' share increased to 44.4%.

Tax registrations of businesses and farmers continued to increase. Tax registrations of farmers increased by 34.1% in 2022, most likely related to the support scheme for farmers' fuel costs, whereas the number of active registered non-agricultural enterprises increased by 5.6%. A total of 92.6% of active enterprises employed fewer than 10 people (85.6% employed 1 to 4 people), 5.7% had 10-49 employees, whereas 1.6% of enterprises had 50 or more employees and comprised 50.6% of total employment. The percentage of registered enterprises that provide services (85.6%), was unchanged from 2021. There is a high concentration (64.8%) of active enterprises in the prefectures of Tirana, Durrës and Vlorë, which account for about 50% of the population. In total, 5.3% of active enterprises are jointly or wholly owned by foreigners, contributing to 12.5% of employment, the majority (62.7%) of which have owners from Europe, in particular from Italy and Greece.

Economic integration with the EU and price competitiveness

The EU remains Albania's main trading and investment partner. Trade openness (the sum of exports and imports as a share of GDP) averaged 75.7% of GDP in 2015-2019. After a drop in 2020, it jumped from 74.7% of GDP in 2021 to 88.5% of GDP in 2022, driven by strong growth both of exports and imports, which rose to 37.5% and 49.6% of GDP respectively. Despite the increase in exports' share of GDP (up by 10 pps since 2015), it remains the lowest in the region, largely due to the very low share of goods exports. Exports remain dominated by services, mostly tourism-related. The EU remained the main destination for the export of both goods and services (2020 data). The EU's share of Albania's goods exports increased in 2022, halting the downward trend of the previous 5 years, but the EU's share of Albania's imports continued to decline. The trade in goods with countries in the Central European Free Trade Agreement (CEFTA) decreased, in particular due to a 2 pps drop in its proportion of Albania's exports. FDI inflows from the EU jumped from 30% of the total in 2015-2018 to 51% in 2019-2022. Between these periods, the shares of Switzerland and Türkiye, once the source of the second and third largest inflows, decreased from 33.7% of the total to 11.4% and from 8% to 7.6% respectively. The EU's share of FDI stocks remained high at 54.4%. In January 2022 an inter-ministerial working group was established to draft a 2022-2027 export promotion programme, expected to be finalised in 2023. The real effective exchange rate increased by an average of 0.5 % in 2022, but by 2.6% in the first quarter of 2023 (compared with the 2022 average).



2.4 PUBLIC PROCUREMENT, STATISTICS AND FINANCIAL CONTROL

Chapter 5: Public procurement

EU rules ensure that public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.

Albania is **moderately prepared** in public procurement. **Some progress** was made , in particular, through an increased use of the most economically advantageous tender award criteria.

The 2022 report's recommendations were only partially implemented and remain valid.

In the coming year, Albania should, in particular:

- continue efforts to ensure competitive procurement procedures, with further encouragement of the use of the most economically advantageous tender award criterion and the use of framework contracts;
- step up efforts to align the legislative framework with the EU *acquis* in the area of concessions and public-private partnerships;
- ensure that the conditions of intergovernmental agreements concluded with third countries comply with the requirements of the EU *acquis* and in the Stabilisation and Association Agreement (SAA) in the area of procurement.

Institutional set-up and legal alignment

The **legal framework** on public procurement is largely aligned with the 2014 Directive on public procurement and procurement of utilities. The Law on concessions and public-private partnerships (PPPs) is partly aligned with the EU *acquis*. The government plans to adopt a revised PPP law in 2023. Albania is also partially aligned with the EU *acquis* on defence and security procurement.

A working group has been set up and a negotiation team has been nominated to prepare for Albania's accession to the Agreement on Government Procurement of the World Trade Organization.

The Public Procurement Agency (PPA) is the body mandated to propose regulatory measures, monitor compliance with procurement rules and monitor the implementation of contracts. A new organisational structure was created in March 2023. It has 48 posts, of which eight are vacant. In 2022, a regulation was adopted to strengthen the status of the Agency for Centralised Procurement. The MoFE, together with the Concessions Treatment Agency (ATRAKO), are the main organisations responsible for PPP and concessions.

Implementation and enforcement capacity

Albania's public procurement market represented about 9.4% of GDP in 2022, compared with 10.7% in 2021. In 2022, the average number of bids per tender was 2.5 (compared with 2.5 in 2021 and 2.57 in 2020). Public procurement forecasts are published regularly.

The PPA has a monitoring system to assess procurement performance and compliance, as well as the implementation of contracts. Since 2021, contracting authorities submit plans for implementing signed contracts to the PPA. The PPA provides regular monitoring reports and, since 2021, has also provided real-time information on procurement through the open data platform.

All legal and financial instruments used in the area of public procurement and concessions, including intergovernmental agreements concluded with third countries for the

implementation of joint projects, should comply with the principles of transparency, competition, equal treatment and non-discrimination.

On the monitoring of contracts award and implementation, the number of negotiated procedures without prior publication increased to 157 in 2022 (143 in 2021). This represented 3.3% of all procedures but had fallen to 0.9% in terms of the value of all procurements in that period (from 3.4% in 2021). The use of framework agreements fell slightly in terms of numbers (763 compared with 873 in 2021), but these represented a higher total value of contracts procured through framework agreements (approximately EUR 419 million in 2022 compared with approximately EUR 354 million in 2021). The application of the most economically advantageous tender criteria for the award of public procurement contracts increased to 7.3% of procedures, amounting to 33.9% of the total value of contracts.

There is a central procurement portal for the publication of tender and contract notices, and its use is mandatory, including for low-value procurements. The PPA extended its role in contract monitoring and contracting authorities began reporting on contract implementation in 2022, so far on 3 659 contracts.

On PPP/concessions, there was a significant reduction in the number of new PPPs. The use of unsolicited PPPs was also curtailed. By the end of 2022, the PPPs/concessions registry contained information on 228 contracts. In 2022, 3 concession procedures were published, of which one was awarded. . The technical capacity to design and assess PPPs requires further development. The December 2022 government decision on improvements to the single investment project pipeline aims to gradually integrate decisions on PPPs into the broader assessment procedures for investment projects.

The contracting authorities need to continue to build **capacity to manage public procurement processes**. Ongoing training continued, with 1 396 people trained in 2022. The technical skills and capacity to design and assess concessions and PPPs also require further development. Further efforts are needed to improve compliance with procedures and prevent corruption in the procurement cycle.

On integrity and conflicts of interest, the PPA issued instructions on the declaration of conflicts of interest by procurement officials and adopted a regulation on preventing conflicts of interest in the exercise of public functions in the PPA. The State Audit Institution continues to report irregularities in public procurement at central and local level.

In terms of developing an effective system for the **prevention of corruption** in public procurement, Albania should focus on further strengthening the functioning of the overall system to increase competition, compliance and professionalisation. Albania has laid a good foundation by significantly improving transparency through its comprehensive electronic procurement and e-appeals system, and in terms of giving participants access to redress by developing its review system.

Efficient remedy system

The Constitution and the PPL contain provisions on the **right to legal remedy** that are mostly in line with the remedies Directive.

The Public Procurement Committee (PPC) is the independent review body dealing with complaints about public procurement and concessions/PPP. Its decisions can be challenged before the Administrative Court of Appeals (and Supreme Court for subsequent appeals). A regulation was adopted in 2022 that further clarified the rules on the invalidity of procurement contracts and the role of the PPC in this respect.

The remedy system is easily accessible to economic operators, though subject to a fee. An electronic portal for submitting and managing appeals and complaints is in place and provides real-time statistics. The PPC has completed the overhaul of its internal procedures to incorporate the new online procedures.

In 2022, the PPC received 782 complaints about procurement, in line with the previous year (768 in 2021). 89.9% of complaints were addressed within the legal time limit (compared with 89.2% in 2021 and 78% in 2020), while the average time it took to reach a decision fell to 12 days. In 2022, 5.45% of PPC decisions were appealed before the administrative courts (a slight reduction compared with 2021).

The **capacity** of the PPC to deal with appeals, needs to be further improved. In March 2023, the Parliament agreed to increase the number of posts at PPC from 36 to 42, eight of which remain vacant. Extensive training of PPC staff is based on a cooperation agreement with the University of Tirana.

Chapter 18: Statistics

EU rules require that EU Member States are able to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are provided for the methodology, production and dissemination of statistical information.

Albania is **moderately prepared** on statistics. **Some progress** was made in addressing the 2022 report's recommendations. Further alignment was made with ESA 2010 standards, statistics publication was made faster of, and there was increased transmission to Eurostat. Parliament approved the 2023 statistical plan, including a date for the population and housing census, which is ongoing. The role of the Institute of Statistics (INSTAT) was further strengthened, and its resources improved but capacity challenges remain. Despite the progress made in the modernisation of, data collection methods, further efforts are needed to improve the statistical production processes.

The recommendations issued in 2022 largely remain valid. In the coming year, Albania should:

- disseminate in a timely manner the results of the population and housing census 2023 and prepare an updated plan, secure the resources and be ready to implement the census of agriculture holdings in line with the relevant EU *acquis* and international standards;
- take measures to reduce the staff turnover of the Institute for Statistics (INSTAT) should, in order to ensure that statistical production needs are met;
- increase the production and transmission of timely and high-quality data for dissemination by Eurostat, and in particular make government finance statistics (GFS) data publicly available.

On the **statistical infrastructure**, Albania's Law on official statistics is in line with the European Statistics Code of Practice, and most classifications are in line with EU standards. The 2022-2026 official statistics programme is being implemented. The 2023 annual statistics plan was approved by parliament in January 2023. This included the date for the population and housing census, which needs to be conducted in 2023, having already been postponed twice. While INSTAT has made some efforts to fill vacancies and aims to increase staffing levels from 236 to 266 by 2026, further efforts are needed to reduce staff turnover, to ensure that production needs are met, and to train new staff in the latest statistical developments.

On **macroeconomic statistics**, annual and quarterly GDP data are produced in line with the production and expenditure approach, using current prices and with chain-linked volume and seasonally adjusted. On national accounts, Albania is partially in line with ESA 2010 on the quarterly and annual national accounts (main aggregates), on supply and use tables and derived input-output tables, as well as on regional accounts; data transmission to Eurostat has gradually improved in terms of timeliness for annual national accounts. However, significant improvement is still needed to achieve full compliance (mainly in the approach to quarterly GDP by income and population and employment data). Substantial further work is necessary to improve the timeliness, coverage and quality of annual non-financial sector accounts and annual financial sector accounts and to start compiling also quarterly non-financial sector accounts. Efforts are needed to start the work for the compilation of pension entitlements table. Despite progress on alignment with ESA 2010 standards, Albania still needs to improve compliance with the methodological requirements, and implement the improvements it has already achieved in the next benchmark revision in 2024. The Gross National Income (GNI) inventory, which describes the sources and methods used to compile national accounts, should be updated. Efforts are also needed to ensure the completeness of the notification tables on the excessive deficit procedure, which are sent regularly to Eurostat on a best-efforts basis. Improvements are also needed in government finance statistics to meet the requirements of the EU *acquis* and the data should be made publically available. INSTAT produces and publishes the harmonised index of consumer prices and is responsible for generating income accounts.

Data collection and production of **business statistics** have improved. Albania carries out an industrial production survey, although data is currently not collected or transmitted to Eurostat. Albania is partly compliant for all short-term statistics (STS) domains (industry, construction, retail trade and other services). However, some STS indicators are still not transmitted to Eurostat, in particular those on industrial turnover, hours worked, and indicators on business registrations and bankruptcies. Further efforts are needed to transmit the business demography statistics, starting with enterprise births, deaths, and survivals. INSTAT continues to achieve high response rates in both business and household surveys.

On **social statistics**, INSTAT continues to conduct the labour force survey regularly, and microdata are provided to Eurostat, but it still does not produce statistics on job vacancies. Statistics on labour costs are calculated based on a labour cost survey. INSTAT continues to conduct the annual survey of income and living conditions (SILC) wave and the data has been validated and published by Eurostat. Data on income and living conditions at household and personal level has been released using EU-SILC. Statistics on external migration and asylum are partly aligned with the EU *acquis*. Crime statistics are published every year and are fully based on administrative sources. Crime statistics in Albania are classified on the basis of the national criminal code and laws, but INSTAT is working on a mapping that uses the International Classification of Crime for Statistical Purposes.

The collection of gender-disaggregated data has improved: the new official statistics programme includes provisions on collecting and analysing gender statistics. Further efforts are needed to produce disaggregated data for certain groups, especially on the prevalence of violence and harassment at work, on data disaggregated by both gender and geographical location, age, ethnicity, disabilities and migratory status. After being postponed twice the population and housing census is being implemented in 2023, after a second pilot census led to further adjustments in the approach. Recruitment of staff for the census started in May. Video messaging to raise awareness about the census have already started, and widespread communication on it will start in September 2023. Albania needs to ensure that the census

goes ahead, that adequate funding for its full implementation is ensured, that administrative data is reused where possible, and to ensure that sufficient attention is paid to the rebasing of data.

Agricultural statistics are partly aligned with the EU *acquis*. Some progress was made on the administrative registers, such as in the farmers' register, the individual register of animals and the animal holding registers, but the quality of the data still needs to be improved. INSTAT also needs to finalise the documents needed for the census of agricultural holdings planned for 2024, including an action plan and an updated budget, and secure necessary funds to carry it out successfully. Adoption of the necessary legal act to ensure compliance with the EU regulations on integrated farm statistics needs to be assured.

Environmental statistics are partly aligned with the EU *acquis*. Material flow accounts are well aligned to the EU *acquis*. Air emission accounts, physical energy flow accounts and environmental taxes by economic activity remain partially in compliance with the EU requirements. Waste statistics have improved but they are not yet fully aligned. Data on packaging waste are increasingly substantial as they are the basis for a new EU own resource on non-recycled plastic packaging waste. Albania already collects data on municipal waste, but it needs to collect and transmit the statistics on industrial waste and ensure a comprehensive estimate of all plastic packaging waste generated and recycled.

Energy statistics are moderately aligned with the EU *acquis*. INSTAT and the national Agency of Natural Resources produce monthly and annual energy statistics for commodity balances for all energy products (fuels) used in Albania (natural gas and oil) as well as prices of electricity for households and industry. Substantial further work is required to reach full alignment with the EU *acquis* on energy statistics.

Chapter 32: Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the euro against counterfeiting.

Albania is **moderately prepared** in the area of financial control. **Some progress** was made during the reporting period when it comes to updates to the legal framework of internal control and internal audit. Implementation of the policy document for the strengthening of public internal financial control (PIFC) and targeted internal audits on arrears continued. Albania further aligned its national legislation with the EU *acquis* on counterfeit banknotes and coins. Internal control is not yet ensured across budget entities. Working relations between the Supreme State Audit Institution, the Parliament and the Ministry of Finance and Economy (MoFE) need to be further strengthened.

Since the 2022 Commission recommendations were only partially addressed, they remain valid. In the coming year, Albania should in particular:

- implement the instructions on financial delegation of responsibilities and issue instructions on delegation of management responsibilities with a view to improving managerial accountability;
- monitor and follow-up the implementation of recommendations made in the annual PIFC report across budget institutions; increase parliamentary scrutiny of audited bodies in the implementation of external audit recommendations, through more frequent parliamentary hearings and the establishment of a parliamentary monitoring framework to regularly assess government's follow-up action;

→ strengthen controls and consolidate capacities to protect EU financial interest, ensuring correctness and transparency of expenditure in line with the principles of sound financial management.

Public internal financial control (PIFC)

A **strategic framework** for PIFC is in place. PIFC measures are included in the public financial management and the public administration reform strategies, and were also set out in the 2021-2022 PIFC policy document. As of 2023, the specific PIFC policy document will be integrated into the new 2023-2030 PFM strategy, which is under preparation. Annual PIFC reports are prepared and bring together reporting on activities, and findings from assessments and self-assessment on internal control and internal audit. They are presented to the Council of Ministers and Parliament as part of the process to approve the budget.

The **internal control** system is only partially effective. The legislation on internal control is largely in line with international standards. Amendments to the law were adopted in February 2023 to strengthen enforcement options and clarify roles and responsibilities. The Ministry of Finance and Economy is responsible for monitoring implementation. Albania has implemented several measures to improve the internal control system, in particular to improve the execution of procedures and to strengthen the capacity of civil servants. However, further efforts are needed to advance the implementation of PIFC reforms. Risk management is still at an early stage at all levels and needs to be better incorporated into the management of financial and operational processes.

Managerial accountability is not yet fully embodied in the legislation and administrative practice. The instructions that have been adopted on the delegation of financial responsibilities need to be implemented and accompanied by delegation of operational and administrative responsibilities to improve overall managerial accountability. In practice, a very small number of administrative decisions are delegated to lower levels due to the centralised system of decision-making.

The legislative framework on **internal audit practice** is in line with international standards. The law was amended in February 2023 to strengthen the independence of internal audit, update the requirements of the organisational set-up and clarify how to deal with suspected corruption and fraud.

At the end of 2022, 83% of internal audit units were considered to be set up in line with the legal requirement. A total of 31 public units (mainly smaller municipalities and independent institutions) have not yet set up an internal audit unit or established an alternative arrangement, and some are understaffed. In 2022, there were 434 internal auditors, of whom 353 had basic certification (up from 342 in 2021 and 318 in 2020). A new system for the advanced certification of auditors has been set up and a first cohort of 25 participants has been selected.

The fact that the internal audit system does not yet issue audit opinions on the effectiveness of the internal control systems across different budget entities remains an issue.

In 2022, the **Central Harmonisation Unit** assessed compliance with manuals and instructions of the internal audit activities of 25 internal audit units. It found only 36% of them to be partially or fully compliant.

Well-functioning internal control, internal audit and inspection systems are essential for the strengthening of systems to prevent corruption. The recent revision of the internal audit law has clarified procedures for internal auditors when faced with potential criminal acts (report to financial inspection and suspend audit). In 2021, 6 cases were reported by internal audit

units to the financial inspection. Financial inspection has reported relatively few cases to Prosecution (1 in 2021).

External audit

In line with the standards of the International Organization of Supreme Audit Institutions, Albania's **constitutional and legal framework** guarantees the independence of the State Audit Institution. The State Audit Institution has adopted a new strategic development plan for 2023-2027.

Albania should increase the implementation of external audit recommendations and develop the parliamentary scrutiny of audited bodies. The State Audit Institution has continued to take action to improve its **institutional capacity**. It carries out annual professional development activities for audit staff. The number of staff has increased to 212, partly in response to the obligation imposed by the High Court to audit all 61 municipalities on a regular basis.

The **quality of audit work** needs to be further improved to fully comply with the standards of the International Organisation of Supreme Audit Institutions. In 2022, the financial, compliance and performance audit manuals were updated. The objectives of the State Audit Institution have shifted from compliance and regularity audits to performance audits and financial audits. It follows a risk-based external audit approach.

The **impact of audit work** has shown some progress. The Albania's Supreme Audit Organisation continues to compile annual reports on its performance, publishes them on its website and reports accordingly to Parliament. Audit of the state budget is conducted in a timely manner. In 2022, 177 audit reports were submitted to Parliament. The State Audit Institution also regularly reports on the implementation of its recommendations. The level of implementation of external audit recommendations is still insufficient (50% of 2021 recommendations are fully or partially implemented), despite a high proportion of recommendations (97%) being accepted by institutions. The parliamentary scrutiny of audited bodies on the implementation of recommendations is still limited and should be increased, through more frequent parliamentary hearings and the creation of a parliamentary monitoring framework to regularly assess government's follow-up action.

ALSAI has the right to refer to the criminal prosecution bodies when the findings of audits are of their competence. ALSAI reported four criminal charges to Prosecution Office in 2022 involving 16 officials, compared to 14 cases involving 62 employees in 2021. In addition, it monitors implementation of recommended disciplinary measures. ALSAI has signed MoU's with the General Prosecutor's office, SPAK and HIDAACI.

Protection of the EU's financial interests

Albania has ensured some level of **alignment with the EU *acquis*** in the area. However, it still needs to fully harmonise its legislation with the EU Directive on the fight against fraud to the EU's financial interests by means of criminal law.

The national **anti-fraud coordination service** has established a network involving other relevant authorities, which meets regularly. Still, the roles of the authorities part of the AFCOS network should be further clarified in relation to protecting the EU's financial interests. A national anti-fraud strategy still needs to be adopted.

The manual of procedures for irregularities continue being updated.

Albania needs to improve its **cooperation with the European Commission** on investigations. In 2022, it reported 71 cases of irregularities and suspected fraud in IPA and IPARD programmes. Although cooperation on investigations has improved, Albania needs

to step up its efforts in developing a solid track record on cooperation on investigations by providing, among others, effective operational assistance to investigators from the European Anti-Fraud Office (OLAF) so they can fully discharge their duty in carrying out an on-the-spot check in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (EC, Euratom) No 2185/1996. Albania should also continue its efforts in developing a track record on reporting of irregularities.

Protection of the euro against counterfeiting

Albania further **aligned with the EU *acquis*** on the definition of counterfeit banknotes and coins, as well as the procedures for gathering, storing and withdrawing them from circulation.

Technical analysis is provided by the national analysis centre of the Bank of Albania and the Forensic Police Institute. In January 2023, a cooperation agreement on the protection of currency against counterfeiting was signed by the Bank of Albania, the General Prosecution office and the Ministry of the Interior.

In 2022, Albania seized 834 counterfeit euro coins and 134 euro banknotes, representing 68% of all seized counterfeit currencies in the country, compared with 38% in 2020.

3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Good neighbourly relations and regional cooperation form an essential part of Albania's European integration process. They contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past.

Albania maintained its engagement in a number of regional cooperation initiatives, such as the Central European Free Trade Agreement (CEFTA), the Energy Community, the Transport Community, the South East European Cooperation Process (SEECP) and the Regional Cooperation Council (RCC).

The EU-Western Balkans Summit in December 2022 took place for the first time in the region, in Tirana. The summit focused on support to the region in the fields of energy and migration, and on youth cooperation, roaming, green lanes and overall progress on implementing the Economic and Investment Plan.

As of January 2023, Albania has assumed the Chairmanship in Office for the Western Balkans Fund. Albania has also assumed the Chairmanship in Office of the Berlin.

On the **Common Regional Market (CRM)**, a political breakthrough was achieved at the Berlin Process Summit in Berlin in November 2022, where leaders adopted the three mobility agreements on higher education qualifications, on professional qualifications and on free movement with identity cards. Albania has ratified all three mobility agreements and has deposited the related notification instruments. A number of important decisions agreed at the technical level within CEFTA remain blocked.

Albania generally maintains good **bilateral relations** with other enlargement countries and neighbouring EU Member States.

Relations with ***Bosnia and Herzegovina*** remained friendly and without pending issues, with occasional high-level bilateral visits. The two countries are still to establish resident bilateral embassies, as agreed in 2020. Trade flows remain low.

Relations with ***Georgia*** are good. Albania supports the territorial integrity and sovereignty of Georgia. Albania expressed appreciation for Georgia's aspirations to integrate into the EU and NATO.

Albania's relations with **Kosovo** remained good overall. Albania's authorities have demonstrated consistence and strong support to the EU-facilitated Belgrade-Pristina dialogue. The Prime Minister of Kosovo visited Tirana in March 2023. In September 2023, the President of Kosovo visited Albania.

Relations with the **Republic of Moldova** are good, with the first bilateral diplomatic consultations taking place in 2022, and a joint commitment to develop the nascent bilateral economic relations. Albania has welcomed the EU's decision to grant EU candidate country status to Moldova.

Relations with **Montenegro** remained good overall. After 3 years, the second joint governmental meeting between Albania and Montenegro took place in Podgorica in February 2023. Albania signed a series of bilateral agreements with Montenegro's caretaker government, intended to improve cooperation between the neighbours in several areas of common interest related to energy, fishing, plant protection, social protection, sports, culture, media, defence and health. The parties signed a bilateral agreement for the construction of a bridge on the Buna River to connect the coastal areas of Ulcinj (Montenegro) and Velipoja (Albania) and announced the opening of the border crossing at Saint Nicholas – Pulaj.

Relations with **North Macedonia** remained good. In November 2022, the second government-to-government meeting between Albania and North Macedonia took place in Skopje. The governments signed 21 agreements, memoranda of understanding and protocols and pledged to cooperate on their EU integration process and on addressing the energy crisis triggered by Russia's unprovoked invasion of Ukraine. Both governments agreed on three initiatives related to the infrastructure of Corridor VIII, the construction of a dry port in Struga and the opening of the new Struga-Pogradec border crossing. Albania and North Macedonia will also create joint investigation teams in the fight against organised crime. Further avenues of cooperation are related to defence, security, digitalisation, border control, improving child protection and implementing Albanian sign language in both countries.

Relations with **Serbia** remained good overall, with regular high level political contacts. Albania's authorities have shown unwavering support for the EU-facilitated Belgrade-Pristina dialogue.

Relations with **Türkiye** have continued to strengthen, as reflected in the exchange of high-level visits. In November 2022, Albania's Minister for Europe and Foreign Affairs visited Ankara and led jointly with her counterpart the first meeting of the Political Dialogue Group. The Prime Minister of Albania visited the country and met the President of Türkiye in December 2022. Albania provided immediate support to Türkiye with the deployment of a team of 56 people in relief efforts following the earthquake that hit the country in February. Türkiye continues to exert pressure on Albania to deliver on dismantling the 'Gülen' movement in the country.

Ukraine-Albania relations have intensified since the beginning of Russia's war of aggression against Ukraine. Albania has sponsored or co-authored all resolutions in support of Ukraine during its non-permanent membership of the UN Security Council. The Prime Minister visited Kyiv in June 2022, together with the Prime Minister of Montenegro. Albania has welcomed the EU's decision to grant EU candidate country status to Ukraine.

Relations with **Greece** remained good overall, with continued political contacts. Greek Minority rights, in particular the property rights of the Greek minority, remain a subject of disagreement in the bilateral relations. The pre-trial detention of an ethnic Greek mayor-elect, who was arrested on the eve of the local elections, and whose trial started on 14 September on charges of vote-buying has been a source of bilateral tensions and raises serious concerns.

His requests to be granted special leave to be able to swear the oath have been dismissed and the High Court is expected to deliberate on the assignment of the related appeal to a court. The Constitutional Court accepted in October to pronounce itself on the constitutionality of the criminal judicial procedure following his arrest. On the issue of the delimitation of the maritime border, both sides agreed to jointly refer the case to the International Court of Justice. In December 2022, the Ministers of Foreign Affairs made visits to each other's capitals. In September 2022, the first joint technical meeting in the context of a future agreement on social insurance schemes took place in Athens.

Relations with **Italy** remained very good. Political dialogue intensified with high-level visits on both sides. In September 2022, the President of Italy visited Albania. In December 2022, Albania's Prime Minister met the Italian Prime Minister. The Albanian Minister for Europe and Foreign Affairs met the Deputy Prime Minister and Minister for Foreign Affairs of Italy in Rome in November 2022. Cooperation in the field of defence, justice and home affairs was further strengthened, including in the areas of the fight against cybercrime, trafficking in human beings, irregular migration and asylum.

4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

CLUSTER 2: INTERNAL MARKET

This cluster covers: free movement of goods (Chapter 1); freedom of movement for workers (Chapter 2); right of establishment and freedom to provide services (Chapter 3); free movement of capital (Chapter 4); company law (Chapter 6); intellectual property law (Chapter 7); competition policy (Chapter 8); financial services (Chapter 9) and consumer and health protection (Chapter 28). This cluster is key to Albania's preparations for the requirements of the EU's internal market and is very relevant for the development of the Common Regional Market.

Albania is moderately prepared in the areas of right of establishment and freedom to provide services, free movement of capital, company law, intellectual property law and financial services. Some progress was made on intellectual property law as well as free movement of capital, which may lead to the country's removal from the list of jurisdictions under increased monitoring. Nevertheless, Albania should ensure that any future VTC law (including potential criminal amnesties) complies with the EU *acquis* and international standards. The country is in between some and moderate level of preparation in the area of the free movement of goods, on which there was limited progress, and competition policy. Some level of preparation is registered on freedom of movement of workers, with some progress notably on free movement of family members of EU citizens. Limited progress can also be reported on freedom to provide services and company law. Preparations are at an early stage on consumer and health protection, where the country has made limited progress; significant efforts are still needed notably on ensuring quality healthcare for all. No progress can be reported on competition policy, where the State Aid Commission (SAC) still lacks operational independence.

Chapter 1: Free movement of goods

The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.

Albania is **in between some and moderate level of preparation** in the area of free movement of goods. There was **limited progress** overall and on last year's recommendations, notably on alignment with the EU *acquis* on simple pressure vessels. Despite an initial compliance check with Articles 34-36 TFEU this is so far only limited to the harmonised area). On the quality infrastructure, some legal bases are still not aligned and, though it has started the process, Albania is yet to fully join all the EU standards bodies. Last year's recommendations therefore remain valid, as efforts are still needed to ensure legislative alignment and to strengthen enforcement.

In the coming year, the country should in particular:

- complete the alignment of its legislation with the EU *acquis* relevant to the quality infrastructure i.e. on accreditation, conformity assessment and market surveillance;
- significantly strengthen the enforcement capacity of the market surveillance inspectorate;
- adopt an action plan for screening all domestic legislation, procedures, and administrative practices for compliance with Articles 34-36 of the Treaty on the Functioning of the European Union (TFEU) which fully covers the non-harmonised area, with a timeframe for screening all such legislation and practices and for introducing mutual recognition clauses or repeal and/or amend legislation and practices as necessary.

General principles

Albania's legislation is not aligned with Articles 34-36 TFEU. Plans for further alignment with the EU *acquis* are set out in the 2023-2025 national plan for European integration adopted in February 2023, and in the current consumer protection and market surveillance strategy.

Non-harmonised area

Albania needs to widen the scope of its work on drafting an action plan for screening national technical regulations to comply with **Articles 34-36 of the TFEU**, as thus far they have only focused on harmonised product sectors. The main purpose of such an action plan is to ensure that there are no issues in regard to the non-harmonised areas, i.e. to ensure that any non-harmonised legislation, processes, procedures or rules fully comply with Articles 34-36 TFEU, or are covered by mutual recognition clauses. Albania therefore needs to ensure that its action plan to comply with Articles 34-36 TFEU also fully covers all the non-harmonised areas.

Harmonised area: quality infrastructure

Albania's legislation on **accreditation** is designed to be aligned with the EU *acquis*, while that on market surveillance is partially aligned. Administrative structures already exist to deal with technical regulations, standardisation, conformity assessment, metrology, accreditation and market surveillance, but the recruitment of qualified staff to ensure market surveillance of all harmonised sectors needs to be completed. Albania has mutual cooperation agreements on accreditation, standardisation, and conformity assessment with some EU Member States, other countries in the region and other non-EU countries.

On **standardisation**, the Albanian legal framework is designed to align with the EU *acquis*. Albania's General Directorate of Standardisation is a full member of the European Telecommunication Standards Institute (ETSI), an affiliate member of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC), and an associate member of the International Electrotechnical Commission (IEC). It applied to become a full member of CEN/CENELEC in July 2021, and

is currently addressing the issues identified by the subsequent peer review by CEN/CENELEC in order to achieve this goal, including staffing. National standards are adopted in conformity with EU standards (set by CEN, CENELEC and ETSI). In 2022, 1 828 European and international standards were adopted (including 953 CEN-CENELEC, 384 ETSI and 491 International Organization for Standardization (IOS) and International Electrotechnical Commission (IEC) standards). During January-September 2023 GDS adopted 737 European and International standards as Albanian standards (including 430 CEN-CENELEC, 151 ETSI, and 156 IOS and IEC standards). All the harmonised European standards were adopted as harmonised Albanian standards, all by the “cover page” method, and 318 standards were withdrawn.

Albanian legislation on the accreditation of **conformity assessment** bodies is partially aligned with the EU *acquis*. The Directorate of Accreditation (DPA) has full operational capacities and has continued efforts to increase the administrative capacities through training of DPA staff, technical assessors and decision makers for different standards. Albania has 109 accredited conformity assessment bodies (49 testing laboratories, 5 medical laboratories, 1 calibration laboratory, 8 certification bodies of management systems, 15 certification bodies of persons and 31 inspection bodies). In September 2022, Albania joined the International Accreditation Forum Multilateral Recognition Arrangement. It is also a signatory of the European co-operation for Accreditation Multilateral Agreement, a full member of the International Laboratory Accreditation Organisation (ILAC), and has a mutual recognition agreement with ILAC (ILAC MRA). The General Directorate of **Metrology** is fully staffed and operational. It is a full member of the International Organization of Legal Metrology, the European Association of National Metrology Institutes (EURAMET) and the International Measurement Confederation, and an associate member of the European Cooperation in Legal Metrology (WELMEC) and the International Bureau of Weights and Measures. Albania has not yet aligned its legislation with the EU requirements on **notification procedures**.

The State Inspectorate for Market Surveillance (SIMS) remains understaffed. It should continue to increase the number of staff, including inspectors. In 2022, over 11 000 market surveillance inspections were carried out in Albania, resulting in 179 fines, 38 urgent measures, and 58 products being taken off the market, and in January-September 2023 there were 423 inspections leading to 56 products being in nonconformity resulting in 19 administrative measures (8 warnings, 8 fines and 3 urgent measures).

Harmonised area: sectoral legislation

In the area of ‘**new and global approach**’ **product legislation**, Albania adopted implementing legislation designed to be fully aligned with the EU *acquis* on simple pressure vessels. However, alignment has not yet started on equipment and protective systems intended for use in potentially explosive atmospheres (ATEX), gas appliances, pressure equipment, recreational craft, and eco-design.

On the ‘**old approach**’ **product legislation**, Albania is partly aligned with the EU *acquis* on textile labelling, footwear, crystal glass and aerosol dispensers. Its legislation is partly aligned with the EU *acquis* on registration, evaluation, authorisation and restriction of chemicals (REACH); on chemical classification, labelling and packaging ; on aerosol dispensers, and on detergents. Albania is not aligned with the EU *acquis* on motor vehicles, two- or three-wheeled vehicles, tractors (agricultural, forestry), non-road mobile machinery emissions, or on good laboratory practice.

Albanian legislation is not aligned on **drug precursors**, though the list of controlled substances complies with the relevant lists in the EU *acquis*. On **procedural measures**, Albania is partly aligned on firearms, on crystal glass, on textile labelling, on the pricing of medicinal products, and on footwear. Albania remains partially aligned with the EU *acquis* on defence products (transfer of defence-related products), and on the return of **cultural objects unlawfully removed from the territory of an EU Member State**.

Albania has anti-corruption measures in place on transparency on accreditation, conformity assessment, tariffs, legal acts and the activities of public bodies. Some agencies and the customs administration that ensure market surveillance have rules on transparency, ethics and conflicts of interest, and are subject to audits. However, further efforts are needed in terms of enforcement and strengthening the capacities of market surveillance inspectorate.

Chapter 2: Freedom of movement of workers

Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

Albania has **some level of preparation** in freedom of movement for workers. **Some progress** was made on the implementation of the 2022 report's recommendations on free movement of family members of EU citizens, strengthening of social security bilateral agreements and further development of the IT system for mapping job seeker vacancies (e.g the development of the National Agency for Employment and Skills (NAES) application, providing real-time updated information about jobs) that is preparing the implementation of the European network of employment services (EURES) upon accession. The development and adoption of 17 pieces of implementing legislation of the Law on foreigners was in line with the 2022 report's recommendations. In the coming year, Albania should:

- continue the development of the IT system to enable connection to EURES;
- strengthen the enforcement of the Law on foreigners;
- continue negotiating and implementing new bilateral agreements on social security, notably with EU Member States.

Regarding **access to the labour market**, Albania has in place a Law on foreigners, enabling simplified procedures for EU citizens settling in Albania, in line with the EU *acquis* in this area. 17 pieces of implementing legislation of the Law on foreigners were adopted during the reporting period, making the law fully operational. As of January 2023, the application procedure is further simplified as employees can now register their employment contract online. In 2022, 1 281 EU citizens received a declaration of exemption for employment.

A cooperation agreement between the State Labour Inspectorate and Social Services, the National Agency for Employment and Skills (NAES), the Commissioner for Protection from Discrimination and the Public Procurement Agency, is needed to strengthen the control of law enforcement. The Ministry of Finance and Economy (MoFE) needs to intensify efforts to review the existing bilateral employment agreements and introduce the new bilateral cooperation agreements in the field of labour migration during 2023. An interinstitutional working group was set up in March 2023 for the preparation of the new migration strategy.

In preparation for joining the **European network of employment services (EURES)**, Albania has put in place an integrated database for its employment services that, upon its connection to EURES, can facilitate exchanges of information between IT departments on civil status, the tax system, the compulsory healthcare system and the economic assistance system. The IT system to enable connection with EURES needs to be further improved.

On the **coordination of social security systems**, Albania has bilateral agreements with Austria, Belgium, Czechia, Germany, Hungary, Kosovo, Luxembourg, North Macedonia and Türkiye. Bilateral agreements with Bulgaria, Switzerland and Romania have been signed and are yet to be ratified. Negotiations with Croatia, Montenegro and Italy have been concluded and agreements are yet to be signed. Discussions on coordinating social security schemes have taken place with Greece, and Serbia. Negotiations and implementation of new bilateral agreements on social security between Albania and other EU Member States have yet to take place.

In March 2023, NAES signed a cooperation agreement with the Public Employment Service of Lithuania intending to create a cooperation framework to exchange information on employment and labour migration.

Regarding the fight against corruption, Albania has put in place a cross-cutting strategy and action plan against corruption for 2020-2023. The Ministry of Interior has adopted its 2022-2024 integrity plan. Authorities have increased the transparency and availability of digital services as all relevant information on access to the labour market and the entry or exit of foreign workers and self-employed people are available online. A co-governance platform is in place and enables people to denounce corruption in public services online.

Chapter 3: Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.

Albania is **moderately prepared** in the right of establishment and freedom to provide services. **Limited progress** was achieved in the reporting period, in particular in the field of freedom of establishment and free movement of services through the completion of the self-screening of the legislation that needs to be aligned with the Services Directive.

In the coming year, Albania should in particular:

- start amending the legislation to address the barriers to the freedom of establishment and free movement of services, which were identified in the self-screening exercise;
- continue efforts to align its legislation with the EU *acquis* and ensure appropriate institutional capacity in the area of mutual recognition of professional qualifications.

On the **freedom of establishment and the free movement of services**, Albania completed the self-screening of the existing legislation for the remaining 18 sectors to identify provisions that need to be aligned with the Services Directive. The entire legislative self-screening process covered 38 sectors and resulted in the identification of 112 pieces of legislation where amendments are needed to ensure their compliance with the Services Directive. The National Business Centre functions as a one-stop-shop for registering businesses and issuing licences, authorisations and permits. The e-Albania portal serves as a single contact point for electronic public services and as of May 2022, almost 95% of services are offered online.

The national legislation on **postal services** is aligned with the EU postal *acquis*, where Albania has made good progress. Albania is aligned with the Postal Services Directive since 2017, following the abolishment of the reserved area and postal market opening to full competition, and has aligned with the Regulation on cross-border parcel delivery services in

June 2021. There is currently one universal service provider (Albanian Post SA) designated for a period of 5 years, starting from July 2020, and 33 other postal service providers on the market. The Electronic and Postal Communications Authority (AKEP) is the independent national regulatory authority responsible for the regulation and supervision of postal services in Albania.

As regards aligning the professional qualifications framework with the *acquis* on the **mutual recognition of professional qualifications**, a roadmap on professional qualifications was finalised and remains pending adoption. Institutional capacity in this area still needs to be strengthened. The Albanian legislation currently regulates 331 professions/professional qualifications. In January 2023, Albania signed the Agreement on Recognition of Higher Education Qualifications and the Agreement on Recognition of Professional Qualifications for Doctors of Medicine, Dentists and Architects, along with the other Western Balkan countries, at the Berlin Summit.

Chapter 4: Free movement of capital

In the EU, capital and investments must be able to move without restriction, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.

Albania is **moderately prepared** in the area of free movement of capital. **Some progress** was made on the implementation of Moneyval's recommended actions and the Financial Action Task Force (FATF) Action Plan. In June 2023 FATF decided to propose an on-site visit, which took place in August and led to Albania's delisting in October. Nevertheless, Albania should ensure that any future VTC law (including potential criminal amnesties) complies with the EU *acquis* and international standards. The issue of enabling EU citizens to acquire land remains unresolved. There was progress on further alignment of the national payment system legislation with the EU *acquis*, particularly in the area of the E-Money Directive, the Payment Account Directive and on increasing financial literacy.

In the coming year, Albania should in particular:

- ensure that any voluntary tax compliance legislation (including amnesties) is in alignment with the relevant EU *acquis* and international standards set by Moneyval and the Financial Action Task Force (FATF);
- step up efforts to adopt the relevant legislation that would provide EU citizens with the right to acquire land, which is outstanding since 2016;
- ensure fulfillment of the 2018-2023 national payment strategy; initiate the assessment for the mid-term strategic objectives.

On **capital movements and payments**, Albania is lagging behind its commitment under the 2006 Stabilisation and Association Agreement (SAA) to enable EU nationals and entities to acquire agricultural real estate, a step that has been due since 2016. Provisions that would regulate the acquisition of agricultural land by EU citizens, together with more clarity on ownership rights, would encourage more foreign investment in Albania.

On **payment systems**, foreign banks can open branches and agencies in Albania and offer cross-border payments. Albanian legislation is partly aligned with the EU *acquis* on direct debits and credit transfers. The measures introduced by the Bank of Albania in the context of COVID-19 restrictions in March 2020 to reduce the costs of payment system services and to promote home banking remain in place as part of the national strategy on low-value payments.

Albania's payment system committee, which is open to representatives of non-bank financial institutions and payment system operators, is implementing the 2018-2023 national retail payments strategy. The Law on payment services, designed to align national legislation with the EU Payment Service Directive II (PSD II) provisions on transparency conditions and information requirements for payment services, came into effect fully in July 2022. Implementing legislation has been adopted to further align with the *acquis* on e-money and on access to payment accounts, and to increase transparency and competition in the payment system market. In March 2023, implementing legislation came into force on the supervision of e-money institutions, which sets among others the rules on management of risks related to this activity, supervision and requirements on e-money issuers. There are nine licensed electronic money institutions operating in Albania. The financial literacy of Albania's adult population continued to improve in 2022 (69% of adults now have a payment account), as did the use of electronic payments (17.9 electronic transactions per adult, compared with 12 in the previous year). Further efforts are needed to increase e-payment transactions through credit cards, a service that is particularly in demand from the tourism sector, but which still remains expensive for businesses. Albania does not apply the rules of the Interchange Fee Regulation, as the government considers the penetration of electronic payments to be very limited and concentrated in the capital.

On the **fight against money laundering**, Albania continued its efforts to address the deficiencies in technical compliance identified by the 2018 Moneyval mutual evaluation report. In its 4th enhanced report on Albania, released in June, Moneyval concluded that Albania has improved its measures on tackling money laundering and terrorist financing, strengthened transparency. The Law on money laundering is designed to be aligned with the EU *acquis* and the register of beneficiary owners is operational, though amendments extended the registration deadline to June 2022. Although the Financial Action Task Force assessed that Albania has substantially completed its 2020 action plan, the country remained on the FATF's list of jurisdictions under increased monitoring as the draft VTC law (including a criminal amnesty) that Albania sent to them in early 2022 did not comply with FATF principles or best practices. In June 2023 FATF decided to propose an on-site visit, which took place in August and led to Albania's delisting in October. Nevertheless, Albania should ensure that any future VTC law (including potential criminal amnesties) complies with the EU *acquis* and international standards. (See also chapters 24, *Justice freedom and security* and 16, *Taxation*).

Albania has legislation in place on risk management standards and licensing requirements for financial institutions, including non-banks and foreign exchange bureaux, in line with Moneyval recommendations. Staffing levels at the Albanian Financial Intelligence Unit (the new name of the General Directorate for the Prevention of Money Laundering after its renaming via amendments to the law on money laundering in July 2023) have increased. It has trained its employees on financial investigation techniques, asset tracing, seizure and confiscation, on risk-based implementation techniques, and on cybercrime prevention indicators.

During 2022, the Bank of Albania continued its inspections to 70 foreign exchange offices (FEO) with the focus on observing the fulfillment of the requirements under the anti-money laundering (AML) legislation. Substantial discrepancies were identified in 23 foreign exchange offices, related to inadequate knowledge about the AML legislation requirements; inappropriate procedures for client identification, and deficiencies in maintaining supporting documentation of foreign exchange operations. The inspections concluded with 15 cases of fines and 8 cases of warning notices to the FEOs. There is a need to reinforce internal

operational procedures and improve evidence-recording of suspected cases, and an overall need for training of staff of the FEOs about the anti-money laundering legal requirements.

Chapter 6: Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.

Albania is **moderately prepared** in the field of company law. **Limited progress** was made mainly on further legislative alignment on transparency requirements for listed companies. As such, last year's recommendations remain valid.

In the coming year, Albania should in particular:

- finalise the review of the existing legislation in the area of company law to identify amendments needed to complete alignment with the EU *acquis*, and make progress to introduce such amendments;
- further align the legal framework on accounting, transparency and audit with the latest EU *acquis* in these areas.

Although there is some alignment with the EU *acquis* in a range of **company law and corporate governance** areas, there was no legislative progress during the reporting period. Further alignment is needed with the 2019 Directive on the use of digital tools and 2019 Directive on cross-border operations (mergers, divisions, conversions), as well as with rules on encouraging long-term shareholder engagement (2017 Directive), and gender equality on boards of directors (2022 Directive). A corporate governance code for listed companies still needs to be developed. The National Business Centre is responsible for company registration, allowing free online registration and online access to data. Many services are only offered online through the e-Albania electronic service window. The national business register should be ready to interconnect with the EU Business Registers Interconnection System upon EU accession.

In the area of **company reporting**, the Law on accounting and financial statements is partially aligned with the EU Accounting Directive. The National Accounting Council monitors the enforcement of financial reporting and accounting standards. There are guidelines in place to comply with the EU Directive on disclosure of non-financial and diversity information by certain large undertakings and groups. Moving forward, Albania will need to align with the 2022 EU Directive on corporate sustainability reporting. The 2020 Law on capital markets provides specific **transparency** rules for listed companies regarding financial reporting, including fines in case of non-compliance. In January 2023, a regulation was adopted to further align with the *acquis* on transparency requirements for listed companies. Currently, there are no listed companies that are subject to these reporting requirements. On **statutory audit**, Albania should strengthen the capacity of the Public Audit Oversight Board in terms of staffing and funding and further align its framework with EU statutory audit rules.

Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting.

Albania is **moderately prepared** on intellectual property rights. **Some progress** was made with improvements in the transparency of the functioning of collective management organisations (CMOs).

In the coming year, Albania should in particular:

- adopt the implementing legislation for the amendments to the Law on copyright and other related rights;
- continue to improve the functioning of CMOs and the payment of royalties to right holders;
- further align legislation on industrial property rights and the IPR enforcement system.

In the area of **copyright and related rights**, the General Directorate of Industrial Property is responsible, which is in charge of registering, administering and promoting intellectual property objects, and the Copyright Directorate of the Ministry of Culture. The National Copyright Council, comprising five members appointed by the Minister for Culture, is responsible for certifying the tariff methodology.

The April 2022 amendments to the Law on copyright and other related rights further aligned the legal framework with the EU *acquis* in the areas of orphan works, certain permitted uses of certain works and other subject matter protected by copyright and related rights, for the benefit of persons who are blind, visually impaired or otherwise print-disabled, and term of protection of copyright and certain related rights. The amendments also regulated the functioning of CMOs, including the distribution manner and percentage of the fee, as well as the remuneration collected by the CMOs. To apply the new amendments, Albania still needs to adopt the implementing legislation concerning the procedure and fair compensation for the use of orphan works as well as the database of copyright works.

In March 2023, Albania adopted an act to make the functioning of CMOs more transparent and in June 2023, guidelines were adopted on the criteria and procedures of licensing and renewal of licensing of CMOs and the criteria and procedures for suspension and revocation of collective management license. In July 2023, the government adopted a decision on the list of equipment, fees and the right to remuneration for the reproduction of copyright works for private or other personal use. Albania is not yet aligned with the Directives on online transmissions of broadcasting organisations and retransmissions of television and radio programmes (SatCab II Directive), on copyright and related rights in the Digital Single Market (DSM Directive), and on the collective management of copyright and related rights and multi-territorial licensing.

On **industrial property rights**, the 2022-2025 national intellectual property strategy is being implemented. Albania needs to further align its legislation with the *acquis* on patents, trade marks.

In 2022, 1 165 national and 2 072 international applications to register trade marks were filed with the General Directorate of Industrial Property (compared with 1 404 and 2 107, respectively, in 2021). In 2022, 19 applications to register industrial designs were submitted to the General Directorate of Industrial Property (compared with 49 in 2021). There were 21 applications for national patents in 2022, compared with 23 in 2021.

The State Inspectorate for Market Surveillance (SIMS) is responsible for monitoring the **enforcement** of intellectual property rights. In 2022, the copyright division of SIMS carried out 350 inspections, resulting in 44 administrative sanctions. The SIMS industrial property division carried out 107 inspections in 2022, resulting in 28 administrative sanctions. The

SIMS division on industrial property rights adopted in April 2023 a manual on intellectual property inspection. In 2022, the customs administration suspended the release of 2 140 products suspected of infringing IPR (compared with approximately 3 000 products in 2021).

Chapter 8: Competition policy

EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of a dominant position, and also include rules on concentrations between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.

Albania is **in between some and moderate level of preparation** in competition policy. There was **no progress** during the reporting period, including on legislative alignment with the EU *acquis* in the area of State aid. Despite recommendations in previous years, the operational independence of the State Aid Commission (SAC) has not yet been ensured. Its enforcement record needs to be significantly improved. Last year's recommendations remain valid.

In the coming year, Albania should in particular:

- ensure the operational independence of the SAC and significantly increase the administrative capacity of the SAC's secretariat;
- further align the legislative framework in the area of State aid with the EU *acquis*;
- step up efforts to raise awareness of the SAC with respect to line ministries and regional and local authorities to ensure prior notification of aid measures and strengthen the enforcement of State aid rules.

Antitrust and mergers

Albania's **legislative framework** is broadly in line with the EU *acquis* and the SAA. The Law on the protection of competition is largely aligned with Article 101 TFEU (restrictive agreements) and Article 102 TFEU (abuses of dominant position). It also provides for prior control of mergers, in line with the Merger Regulation. Implementing legislation is broadly in line with the relevant EU regulations and Commission guidelines. In June 2023, the Albanian Competition Authority adopted a decision on an informal guidance aiming at alignment with the relevant Commission Notice on novel or unresolved questions concerning Articles 101 and 102 of the TFEU that arise in individual cases.

Regarding the **institutional framework**, the Albanian Competition Authority (ACA) is responsible for implementing the Law on the protection of competition. It is an operationally independent authority reporting to parliament. It can adopt implementing legislation, impose fines and remedies, prohibit mergers or authorise them, with or without conditions. Parties may appeal against the ACA's decisions before the courts. On **enforcement capacity**, the ACA has maintained the total number of staff at 46, and staff have benefited from relevant workshops and training. On **implementation**, in 2022 the ACA took 99 decisions, including five on prohibited agreements, eight on abuse of a dominant position and 50 authorising concentrations. In the first half of 2023, ACA took 35 decisions, including two on a prohibited agreement and 23 authorising concentrations. In 2022, ACA assessed 30 draft legal assessments, mostly concerning legislation in the energy and gas market. During the reporting period, the ACA has carried out the preliminary and in-depth investigation procedures, in several sectors of the economy where dawn raids were conducted, including higher education, non-banking financial entities, digital production, transport-taxi services,

market of concrete production and importing and trade of vegetable oil. The ACA should continue to strengthen its enforcement of competition rules.

State aid

On the **legislative framework**, the Law on State aid largely reflects Articles 107 and 108 TFEU. The implementing legislation is partially aligned with the EU *acquis* only in some areas e.g. the General Block Exemption Regulation. Further alignment with EU implementing legislation on State aid control is needed.

Regarding the **institutional framework**, the SAC is responsible for implementing the Law on State aid. Its operational independence, which is required by the SAA, has yet to be guaranteed, given that it is an arm of the Ministry of Finance and Economy. The SAC can order the recovery of illegal and incompatible aid but has not done so to date. Its decisions can be appealed in the courts.

The SAC's **enforcement capacity** remains insufficient as the staffing of its secretariat needs to be significantly increased. On **implementation**, in the second half of 2022, the SAC approved four decisions on the authorisation of State aid. In June 2023, the SAC approved a decision on authorising State aid in the field of photovoltaics. No negative or recovery decision was taken. The enforcement track record on State aid control needs to be significantly improved. Advocacy activities among grantors need to be stepped up to ensure prior notification of aid measures.

Liberalisation

The Law on State aid applies to all legal and natural persons performing an economic activity. There has been no investigation of State aid for public undertakings or undertakings with special or exclusive rights.

Chapter 9: Financial services

EU rules aim to ensure fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.

Albania is **in between moderate and a good level of preparation** in the area of financial services. **Some progress** was made on last year's recommendation on improving collateral execution by bailiffs, as the pending legal issue on service fees was addressed, and there was also progress on the alignment of national capital market legislation with the relevant EU *acquis*, and on incorporating sustainable financing principles both in banking and non-banking strategic policies and objectives. The country should make further efforts to align with the financial services *acquis*, focusing on the priorities identified based on the current state of play. Some of last years' recommendations remain valid.

In the coming year, Albania should:

- continue the work towards full alignment of the banking regulation with the revised versions of the EU *acquis* on CRR/CRD and BRRD;
- step up efforts to further align the legislation in the fields of private pensions and on capital markets with the relevant EU *acquis*;
- continue to work towards alignment with the Solvency II Directive;

On **banks and financial conglomerates**, the Bank of Albania (BoA) continued to align its banking regulation with Basel III, especially on the capital adequacy ratio. It adopted

legislation designed to be aligned with the *acquis* on the internal liquidity adequacy assessment process, providing a regulatory framework to ensure adequate levels of liquidity reserves. National legislation on the capital adequacy ratio and on the net stable funding ratio of banks was further aligned with the *acquis* on new credit risk requirements.

Albania's legislation is partially aligned with the EU *acquis* on the recovery and resolution framework for banks. Albania should continue working towards full alignment with BRRD II. Regarding the implementation of the framework, as all banks now have resolution plans, the BoA carried out on-site bank inspections to strengthen their resolvability, and issued recommendations to the banks concerned. A 2023-2025 strategy on administration and supervision of financial risks related to the climate of financial sector was adopted in May 2023.

Albania's legislation is partially aligned with the EU *acquis* on deposit guarantee schemes. Non-aligned areas include the maximum level of coverage, depositors excluded from coverage and pay-out period.

In 2023, the Bank of Albania was invited by the Single Resolution Board to participate in resolution college meetings, for two banking groups with subsidiaries operating in Albania. As it was on the FATF list of jurisdictions under increased monitoring (*see also chapter 4: Free movement of capitals for more details*), Albania has not been assessed for banking equivalence under the Capital Requirements Regulation.

The non-performing loan ratio continued to decrease (5% in December 2022 compared with 5.6% in December 2021). The full implementation of the bankruptcy law enables further execution of the non-performing loan resolution strategy. The legal decision on bailiff fees also made it possible to adopt the collateral execution procedure.

Eleven banks are currently operating in Albania (including two systemic banks which are subsidiaries of foreign groups), which has a system to identify systemically important banks in place that is similar to EU practice. The BoA has an investment policy on the financial assets of the resolution fund. The supervision and regulation system of the financial sector is ensured by the BoA and by the national financial supervisory authority (AFSA), which are independent institutions that are accountable to parliament. In 2022, BoA ensured 13 on-site supervision inspections (compared with 16 in 2021). Three more full-scope inspections on banks were conducted during the first half of 2023 and one partial inspection focusing on the implementation of the national standards on financial reporting. Four more partial inspections took place in the third quarter of 2023. There have been 81 on-site inspections between 2018 and 2023, leading to recommendations to the respective entities. Albania needs to step up efforts to align its legislation on capital markets with the relevant EU *acquis*. In April Albania adopted a policy document on capital market development 2023-2027, and in August 2023 AFSA adopted a 2023-2027 strategy for the financial supervisory authority for financial literacy and financial inclusion.

In the area of **insurance and occupational pensions**, national legislation on compulsory insurance in the transport sector is designed to align with the relevant EU *acquis*. National law provides for voluntary implementation of the *bonus-malus* (no claims bonus) system by insurance agencies. There is only a limited possibility to insure agricultural production against natural disasters (floods, droughts and fires). In September 2023, Albania adopted a Law on private pension funds, designed to be aligned with the EU *acquis* on the activities and supervision of institutions for occupational retirement provision (IORP II).

The insurance market continues to be dominated by the non-life insurance companies (eight out of 12 insurance companies are non-life insurers, one of which carries out reinsurance

activities). Insurance market results were positive in 2022, mainly due to the good performance of the non-life insurance sector. Since March 2022, AFSA is a member of the International Association of Insurance Supervisors via an international supervisory cooperation and information exchange agreement. In June 2023 Albania completed a self-review of the level of compliance with the IAIS core principles. This concluded that Albania is fully compliant with 10 out of 24 principles and in other 12 as largely observed them. In May 2023 AFSA adopted a risk-based supervision manual for the insurance market. During the reporting period, AFSA signed two bilateral memorandums of understanding (MoUs) on the exchange of information and cooperation with their equivalents in Malta, Luxembourg and Austria. There are five pension funds in Albania that offer a voluntary private pension scheme. They had 36 518 registered members in 2022, an increase compared with 2021. Albania needs to step up efforts to align its legislation on private pensions with the relevant EU *acquis*.

On the **financial market infrastructure**, the Albanian Stock Exchange, which is a private entity, only deals with government bonds. After its suspension in April 2022, the stock exchange is no longer registered as a licensed financial operator and is not operational. A central securities depository (AFISAR) remains in place, operated by the BoA. The Albanian securities registry (ALREG), a private company, ensures the settlement of non-government securities. ALREG is an indirect participant in the BoA's Albanian interbank payment system. The agreement between the BoA and AFSA stipulates that the BoA is responsible for minimising systemic risk, and AFSA is responsible for investor protection. AFSA adopted the guarantee fund's regulation, making the post-trade infrastructure fully operational.

Albania's legal framework on capital markets is partially aligned with MiFID II and with the *acquis* on transparency, market abuse, prospectuses, settlement and central securities depositories. During the reporting period, Albania adopted four pieces of implementing legislation designed to further align its capital market legislation with the EU *acquis* on transparency, on prospectuses and on investment firms.

Albania's capital market has two segments: i) government securities and ii) bonds issued through private placement. Thirteen entities currently operate in the Albanian capital market, all are banks apart from one central securities depository and the non-operational securities exchange.

On the **securities markets and investment services**, AFSA continues to supervise securities markets in accordance with Albania's Law on capital markets. Security markets in Albania consist mainly of government securities and bonds issued through private placements. The amount of bonds with private placements registered at ALREG reached EUR 90.5 million in December 2022. The launch of a digital platform in August 2022 makes it possible to provide investment services (the offering of treasury bills).

In the area of **sustainable and digital finance**, while the 2023-2027 AFSA strategy includes priority actions with green/sustainable financing aspects, Albania should take further steps to accommodate sustainable finance aspects in its regulatory and legal financial framework. In addition, Albania should incorporate sustainable considerations in its disclosure regime for both non-financial and financial companies, in order to improve the availability of reliable data on banks' credit risk exposures and, therefore, fully implement the Bank of Albania's Medium-Term Strategy on the management and supervision of climate-related financial risks in the banking sector. The Bank of Albania is also cooperating with international institutions, such as the World Bank and the International Monetary Fund, to further integrate green/sustainable finance aspects in its regulatory framework. Albania should incorporate

sustainable and digital financing principles both in banking and non-banking strategic policies and objectives.

Chapter 28: Consumer and health protection

EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats, including communicable diseases.

Preparations are at an **early stage** in the area of consumer and health protection. There was only **limited progress** on last year's recommendations, which remain relevant, via alignment to the EU *acquis* on serious cross-border health threats (though the implementing legislation remains to be adopted) and its integration in the EU COVID-19 surveillance system,. Significant progress still needs to be made to implement the One Health approach and all-hazard health preparedness, to strengthen the policy framework and ensure that everyone in Albania has quality healthcare coverage. Alternative dispute resolution bodies in regulated sectors are also now being ensured.

In the coming year, Albania should in particular:

- further align its legislation with the EU health *acquis* on substances of human origin, on medicines for human and veterinary use, and on tobacco control, and accede to the WHO's Framework Convention Protocol to Eliminate Illicit Trade in Tobacco Products;
- increase the financial and human resources in the health sector, specifically in primary healthcare and all-hazard health emergency preparedness, based on the lessons learnt from the COVID-19 pandemic to strengthen responses, both at central and local level;
- guarantee equal access to quality health services for vulnerable populations, including Roma and Egyptian minorities, older people, people with pre-existing mental health problems, people with disabilities, rural or remote populations, in particular for women and girls who belong to these groups, who are often subjected to multiple forms of discrimination.

Consumer protection

On **horizontal aspects**, Albania needs to adopt its 2023-2030 cross-cutting strategy on consumer protection and market surveillance setting out its current consumer policy. The national legal framework in this area are Albania's Laws on consumer protection and on general safety of non-food products, and relevant national implementing legislation. However, national legislation is not yet aligned with the EU *acquis* on package travel and linked travel arrangements or with the recent EU *acquis* on digital content. It is also not yet aligned with the revised EU *acquis* on the sale of goods or with the changes in the EU *acquis* brought by the Directive on better enforcement and modernisation of Union consumer protection rules. Consumer policy and legislation are implemented by the Consumer Protection Commission (CPC), the State Inspectorate of Market Surveillance (SIMS), the financial supervisory authority, alternative dispute resolution bodies in regulated sectors, local government, the civil aviation authority and the legal authorities. CPC held three meetings in 2022 and addressed 22 cases, and 10 more cases were addressed during its meeting on April 2023. The CPC respective decisions were published in its website. Albania needs to increase human resources and capacity in many of these bodies, and improve

coordination between them. Albania is currently negotiating to join the EU consumer protection programme, under the EU single market programme.

On **enforcement and redress**, Albania has not yet updated its legal measures to further extend the investigative and enforcement powers of competent authorities to align with Regulation 2017/2394 on cooperation between national authorities responsible for the enforcement of consumer protection laws. It is also not yet aligned with Directive 2013/11 on consumer alternative dispute resolution.

On **product safety**, Albania's Law on the general safety of non-food products is designed to be aligned with the EU *acquis*, apart from aspects only relevant to EU Member States, notably concerning obligations linked to Safety Gate, which is the EU rapid alert system for dangerous non-food products previously called 'RAPEX'. Albanian legislation has a limited level of alignment with the *acquis* on product liability. The State Inspectorate for Market Surveillance was restructured in June 2020 and, although the number of posts increased from 69 to 80 (69 staff are currently employed) it is still understaffed. It should continue to increase the number of staff, including inspectors. In 2022, over 11 000 market surveillance inspections were carried out in Albania, resulting in 179 fines, 38 urgent measures, and 58 products being taken off the market.

Public health

On **public health**, Albania is implementing its 2021-2030 health policy and 2020-2025 action document on primary healthcare; the latter aims to tackle health inequalities. The level of public spending on health remains low, at 3.04% of GDP and 9.47% of total government spending (according to 2022 government data), and is lower than in most countries in south-eastern Europe and the EU. Health funding prioritises curative care over preventive care and hospital-based treatment over primary healthcare. In Albania, average life expectancy at birth is higher for women than men (80.5 years versus 77.4 years), but women have shorter healthy lives than men (51.9 years versus 54.6 years), even though women are less exposed to some of the key health risk factors, such as smoking or alcohol abuse. Neonatal mortality in 2021 was 7 per 1 000 live births, an improvement on 2020 (8 per 1 000) but still high compared with other countries in the region.

The Ministry of Health and Social Protection and the National Agency of Information Society (NAIS) are responsible for **e-health**. The Ministry of Health and Social Protection operates an electronic system for collecting and reporting health information from medical records, based on the European Core Health Indicators. Albania's e-prescription covers the description, registration, execution and reimbursement of prescriptions, and there is an e-warehouse system for pharmaceutical products. Albania also has an e-visit system to record patients' visits to primary healthcare centres, an e-referral system to digitalise referrals, and an e-report system to automate electronic medical reports, which makes it possible to send electronic reports to employers and employees, and which includes e-signatures by doctors. Health statistics, health infrastructure, equipment and human resources remain inadequate, especially in rural areas.

Albania's legislation on **blood, tissues, cells and organs** is not fully aligned with the relevant EU *acquis*, and there is no system in place to report alerts, serious adverse reactions or events or to provide feedback. Albania has a national blood transfusion centre, regional blood centres and blood banks for collection and distribution, comprising 31 entities in total. Albania has a kidney transplant programme in place, as well as a national protocol on the issue. Albania does not yet have the capacity for transplants from deceased donors or for corneal donations.

On **tobacco control**, national legislation on tobacco products is designed to be aligned with the EU *acquis*, but Albania still needs to accede to the World Health Organization's Framework Convention Protocol to Eliminate Illicit Trade in Tobacco Products, and to further align its other tobacco legislation with the EU *acquis*.

In the field of **serious cross-border health threats including communicable diseases**, the legal base is designed to be in line with the EU *acquis*, but relevant implementing legislation still remains to be adopted. While Albania has an antimicrobial resistance action plan, the **COVID-19 pandemic** demonstrated significant shortcomings. It stretched the system's capacity to provide immediate access to medical supplies, protective equipment, and stretched the digital infrastructure required to maintain essential services and protect healthcare personnel and patients, demonstrating a lack of resources. Albania is a signatory to the EU Joint Procurement Agreement on medical countermeasures. It is part of the European COVID-19 Surveillance Network, reporting COVID-19 data to the European Surveillance System (TESSy) managed by the European Centre for Disease Prevention and Control (ECDC). It is also part of the European Centre's viral respiratory disease surveillance networks, in which it reports on several communicable diseases. Albania should, however, improve the timeliness and completeness of the reported data it provides. In late 2022, Albania introduced HPV vaccination for 13 year-old girls.

Albania's legislation on **patients' rights in cross-border healthcare** is not yet aligned with the EU *acquis*, while its legislation on **medicines for human and veterinary use** is partly aligned. There was no significant progress on standards in the pharmaceutical sector. There is still no specific legislation to address the risk of counterfeit medicines in the legal supply, although some provisions are in place to address this risk. Additional efforts are needed to protect the public from counterfeit medical products and to improve cross-border cooperation on sustainable access to medicines and their correct use. There were no developments or expertise available on paediatric medical products, medical products for diagnosis, orphan medical products, medical products based on genes (gene therapy), cells (cell therapy) or tissues (tissue engineering). Albania needs to increase investment and capacity building in this sector.

On **preventive measures**, a national **cancer** control plan is in place. Appropriate structures for cancer screening are in place, but a cancer registry has still not been created. There is a breast cancer screening programme, which includes systematic examinations for women between 50 and 60 years of age, along with free, on demand, clinical breast examinations. Screening for colorectal cancer is conducted as part of a free check-up programme offered annually to all Albanian citizens aged between 35 and 70 years of age. In September 2023 Albania adopted the 2023 – 2026 **mental health** action plan, which aims to promote care mental health and well-being for all citizens.

On **nutrition and physical activity**, malnutrition remains a critical issue, especially for children and pregnant women. Albania needs to develop a nutrition plan and raise awareness in schools and community centres of the risks of malnutrition. On **drug abuse prevention and harm reduction**, prevention activities are only sporadic, and should be conducted in a more systematic way. The National Drug Observatory, established in 2011, should be given adequate resources to function fully.

On **health inequalities**, implementation of the 2020-2025 primary healthcare strategy should provide better access to healthcare services for vulnerable communities, as well as increased community primary healthcare coverage, giving priority to vulnerable groups. Health inequalities have a particular impact on women, especially women from rural areas and disadvantaged communities, women with disabilities, Roma and Egyptian women (who face

problems of access to abortion), LGBTIQ people and migrant women. Further efforts are needed to provide healthcare to people with disabilities and to populations in rural and remote areas, and to improve mental health services for children. The national plan for equality, inclusion and participation for Roma and Egyptians 2021-2025, designed to improve their access to healthcare, is ongoing. There has been a slight increase in the number of Roma and Egyptians in informal settlements benefiting from health services. However, the recently established post of Roma and Egyptian health mediator is not yet operational and they continue to face barriers in accessing health services. Health insurance coverage for Roma and Egyptians remains low.

On anti-corruption regarding consumer protection, agencies and the customs administration that ensure market surveillance have rules on transparency, ethics and conflicts of interest, and are subject to audits. As regards public health there are specific anti-corruption measures in place for cosmetics, and there are systems in place to control pharmaceutical manufacturers and to track veterinary medicine stocks. The national medicines agency has a range of anti-corruption and whistle blower provisions in place.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers: digital transformation and media (Chapter 10); taxation (Chapter 16); economic and monetary policy (Chapter 17); social policy and employment (Chapter 19); industrial policy (Chapter 20); science and research (Chapter 25); education and culture (Chapter 26); and customs union (Chapter 29).

There is a moderate level of preparation in Albania in many areas linked to competitiveness and inclusive growth, namely digital transformation and media, taxation, social policy and employment, enterprise and industrial policy, education and culture and customs union. Albania has some level of preparation science and research. The country has made good progress in digital transformation and media, by joining the digital Europe programme in 2023, and on enterprise and industrial policy as well as limited progress in the area of taxation. The country is in between a moderate and a good level of preparation on economic and monetary policy, as the governance and monetary policy of the Bank of Albania were appropriate and effective to deal with the crisis caused by Russia's war of aggression against Ukraine; more efforts are required regarding its independence. With only limited progress made on the customs union, more efforts are required as well in pursuing the fight against smuggling, corruption and imports of counterfeit products.

This cluster and the reforms concerned have significant links to Albania's economic reform programme. Socio-economic reforms must be pursued to help address the existing structural weaknesses, low levels of competitiveness, high unemployment, and the economic impacts of the Russian war of aggression against Ukraine.

Chapter 10: Digital transformation and media

The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.

Albania is **moderately prepared** in the field of digital transformation and media. **Good progress** was made on following up the recommendations of last year's report, with the implementation of the 2022-2026 digital agenda and e-government services offering 95% of public services online. A Law on electronic communication is yet to be adopted to align with the new European Electronic Communications Code. The Law on audiovisual media was amended in May 2023, to align with the 2018 EU Directive on audiovisual media services

ensuring country's continuous participation in Creative Europe Programme. The Law on electronic identification and trust services is yet to be adopted. In 2023, Albania signed the association agreement joining the Digital Europe programme and introduced coding as a subject for students in the first grade.

In the coming year, Albania should in particular:

- complete the extension of the 112 emergency number to the whole country;
- adopt relevant legislation to implement the new European Electronic Communications Code and enact the law on cybersecurity to ensure closer alignment with the EU Directive on measures for a high common level of cybersecurity across the Union (NIS II);
- improve the collection of statistical data on digital performance and digital competitiveness.

On **electronic communications and information and communications technologies (ICT)**, limited progress was made in implementing the 112 single European emergency number. An interinstitutional working group was set up to prepare a draft Decision for the Council of Ministers on rolling out 112 across the country.

In 2022, fixed internet broadband reached 585 285 entities (535,049 household subscribers and 50,236 businesses), up 5% from 2021. The penetration rate was about 21% of the population, with 80% of households covered by fixed broadband connections. There is still a gap in fixed internet broadband penetration between urban and rural areas. Only 20% of total number of fixed broadband connection is in rural area, while the rural area population is about 40%. The mobile penetration rate at the end of 2022 was 77% compared with 73% at the end of 2021. By the end of 2022, there were 2.14 million active users of mobile broadband, slightly up from 2021 (2 million).

In the area of **information society services**, the strategic documents of the 2022-2026 digital agenda of Albania are in line with the EU Digital Decade programme. Authorities need to adopt the new Law on Electronic Communications to align with the 2018 European Electronic Communications Code Directive.

Albania concluded an agreement for its association to the Digital Europe Programme in June 2023. On digital skills, coding has been introduced in 100 schools from the first grade for the 2022-2023 academic year, by setting up 100 smart labs in schools across the country.

As regards **online public services**, during the reporting period 95% of applications for 1 217 public services were done online, with 7 833 332 e-sealed documents downloaded in 2022 by more than 2.8 million registered users on the e-Albania portal. Of these, only about 1.5 million are active users. This adds up to 14 276 256 individual uses of e-services in 2022. Authorities need to ensure and facilitate equal access to online services for all citizens and to enhance efforts to align with the Digital Services Act and Digital Markets Act.

Albania concluded discussions on the allotment of bandwidth with neighbouring countries in September 2022, while the migration strategy was also developed in 2022. The Ministry of Infrastructure and Energy (MIE), along with the Electronic and Postal Communications Authority, made an assessment on the building permit for electronic communication networks. Amendments to the Decision of the Council of Ministers on building permits for electronic communications networks were adopted, aiming to simplify the process to grant permits for the deployment of the 5G network. In July 2022 an interinstitutional working group on the release of Digital Dividend 2 was set up, which is responsible for coordinating activities and for proposing to the competent bodies all the pieces of implementing legislation

that will be necessary to carry out this initiative including the release of the 700 MHz band. In December 2022, Albanian operators signed the cooperation agreement to reduce data roaming charges between the Western Balkans and the EU. The Law on electronic identification and trust services, needs to be adopted.

In response to the large-scale cyber-attacks that were detected in July and September 2022, the government has begun to considerably strengthen its cybersecurity architecture, including by appointing a National Coordinator for Cybersecurity, setting up a government Cybersecurity Operations Centre, developing a new, yet to be adopted, Law on cybersecurity aiming to further align with the NIS2 directive. The list of critical information infrastructures and important information infrastructures, as approved by the Decision of the Council of Ministers, has increased from 140 to 289, and now covers sectors such as government, energy, health, finance, transport, digital and water supply. The 2020-2025 national strategy for cybersecurity and its action plan are in place. The National Authority on Electronic Certification and Cybersecurity is preparing to set up a national operations centre for cyber defence, including by appointing a National Coordinator for Cybersecurity and allocating additional resources. A government cybersecurity operations centre was created within the National Agency for Information Society and is responsible for cybersecurity incidents and crises within governmental systems. Albania concluded agreements on cybersecurity with Israel, Saudi Arabia and the United Arab Emirates. Authorities need to further strengthen cyber security capacities including through awareness raising activities and trainings. Stronger cooperation with the private sector and civil society is needed.

Albania still needs to improve the collection of statistical data on digital performance and digital competitiveness.

On **audiovisual policy**, in May 2023 authorities adopted amendments to the Law on audiovisual media, aligning with the EU's 2018 Audiovisual Media Services Directive, thus ensuring the country's continued participation in the Media and Cross-sectoral strands of the Creative Europe programme. In July 2023, the Audiovisual Media Authority approved the new Broadcasting Code defining principles, rules, requirements and practices of audio and audiovisual broadcasting in Albania.

In March, the MIE approved the action plan on integrity risk management for 2022-2025, while the National Authority on Electronic Certification and Cybersecurity, the Electronic and Postal Communications Authority and the MIE have in place their respective transparency programmes.

Chapter 16: Taxation

EU rules on taxation cover value-added tax, excise duties as well as aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.

Albania is **moderately prepared** in the area of taxation. **Limited progress** was made, through some streamlining of excise rates, consolidation of the scope of the fiscalisation process and in the effective implementation of financial account information with EU Member States in line with the OECD Global Standard. The adoption of the new income tax law aims at partial alignment with the anti-tax avoidance and merger directives. The country remained on the FATF's list of jurisdictions under increased monitoring as the draft tax and criminal amnesty law that Albania sent to them in early 2022 did not comply with FATF principles or best practices. In June 2023 FATF decided to propose an on-site visit, which took place in August and led to Albania's delisting in October. Nevertheless, Albania should ensure that any future VTC law (including potential criminal amnesties) complies with the

EU *acquis* and international standards. Albania committed to amend or abolish the industrial incentive regime by 31 December 2023, since it has been identified as a potentially harmful tax regime within the scope of the Forum on Harmful Tax Practices.

In the coming year, Albania should in particular:

- reduce tax expenditures, in particular due to exemptions;
- simplify the taxation system to further encourage more tax compliance;
- amend or abolish by 31 December 2023 the industrial incentives regime, considered as a potentially harmful tax regime within the scope of the Forum on Harmful Tax Practices.

On **indirect taxation**, the standard VAT rate is 20% and the reduced rates are 6% and 10%. There remains a substantial number of exemptions not foreseen in the EU *acquis*. In 2022, in response to the energy price crisis, Albania exempted from VAT the import and sale of electricity through the Albanian power exchange. In addition, the import and supply of firewood were also exempted from VAT until the end 2023. The quarterly total of VAT refund arrears is published regularly. The total of outstanding VAT reimbursement arrears was almost entirely cleared by the end 2021, and this has remained so in 2022, thanks in part to the use of an automated risk-based procedure.

Excise taxation is partially aligned with the EU *acquis*. As of July 2022, the excise level for liquefied gas is unified, irrespective of purpose of use. In 2023, the reduced rates for small producers of beer and spirits were abolished. The excise duty for accumulators was removed in 2022.

The new calendar for cigarette excise rates, approved in November 2021, continued to be applied. It envisages a 15% increase over 4 years to approximately EUR 65 per 1 000 cigarettes by 2026, thus gradually aligning with the EU minima, which currently stands at EUR 90 per 1000.

On **direct taxation**, financial institutions are legally required to calculate, withhold and declare income tax on income from savings. On corporate income tax, a number of provisions are partially aligned with the Anti-Tax Avoidance Directive. In March 2023, Albania adopted the Law on Income Tax in March 2023, which is partially aligned with provisions of EU Directives on anti-tax avoidance and mergers.

Albania has committed to amend or abolish by 31 December 2023 the industrial incentives regime.

Although the Financial Action Task Force assessed that Albania has substantially completed its 2020 action plan, the country remained on the FATF's list of jurisdictions under increased monitoring as the draft tax and criminal amnesty law that Albania sent to them in early 2022 did not comply with FATF principles or best practices. In June 2023 FATF decided to propose an on-site visit, which took place in August and led to Albania's delisting in October. Nevertheless, Albania should ensure that any future VTC law (including potential criminal amnesties) complies with the EU *acquis* and international standards'. On **administrative cooperation and mutual assistance**, Albania ratified a Double Taxation Agreement with Finland in 2023 and signed a double taxation agreement with Slovakia in May 2023. Albania is yet to conclude double taxation agreements with Denmark, Cyprus, Lithuania, Portugal.

The Law on automatic exchange of information on financial accounts is partially aligned with the relevant 2014 EU Directive. Albania has automatically exchanged financial account information with 77 jurisdictions (including 24 EU Member States) in 2022 and has received

information from 68 jurisdiction (of which 21 EU member States) within the framework of the OECD common reporting standard.

Regarding **operational capacity**, the number of vacancies in the tax administration remains high, up from 155 vacancies in 2022 to 181 in March 2023. The annual training programme is needs-based and 1 040 employees of the General Directorate of Tax (GDT) received training in 2022. **Computerisation** of the fiscalisation process is considered fully complete. All B2G, B2B and B2C transactions are carried out only through the fiscalisation system and the information is reported in real time to the tax administration. Efforts need to be kept up to ensure and increase compliance and to increasingly use the available data in tax monitoring and risk assessments.

Chapter 17: Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

Albania is **in between moderate and a good level of preparation** in the area of economic and monetary policy. It made **some progress** as the governance and monetary policy of the Bank of Albania were appropriate and effective to deal with the crisis caused by Russia's war of aggression against Ukraine. It made progress on last year's recommendations to improve government's policy coordination and consultation mechanism with non-governmental stakeholders, though it still needs to improve the effectiveness of its stakeholder consultations. The lower number of budget amendments improved the credibility of the budget process. However, alignment of the Law of the Bank of Albania with the EU *acquis* was postponed. Alignment of government and national accounts to ESA2010 increased, and Excessive Deficit Procedures notifications improved (Albania regularly submits this on a best-effort basis). However, significant improvements are still needed to achieve full compliance with ESA 2010.

In the coming year Albania should, in particular:

- align the legislation on the personal independence of the Bank of Albania's governor as well as on monetary financing of the public sector with the EU *acquis*;
- improve intra-governmental coordination mechanisms and the effectiveness of its non-governmental stakeholders consultations;
- begin reporting on long-term fiscal sustainability of its social security system.

On **monetary policy**, the Law on the Bank of Albania (BoA) sets out BoA's primary objective as achieving and maintaining price stability. The inflation target is 3%. The BoA is financially independent, with sufficient instruments, competence and administrative capacity to conduct an effective monetary policy. It has a fully operational supervisory council, appointed by and accountable to the parliament which act independently. However the personal independence of the central bank governor is only partly aligned with the EU *acquis*. Monetary policy is conducted within a free-floating exchange rate regime using a standard set of instruments: i) open market operations; ii) standing facilities; and iii) required minimum reserves. Albanian legislation allows the BoA to provide limited financing to the government under certain conditions, which is not in line with the EU *acquis*, though this option was not used since 2010. The planned alignment with the EU *acquis* was postponed in view of the recent external shocks, the shallow secondary market for government securities and persisting high short-term government debt roll-over needs.

The BoA continued to normalise its monetary policy in response to inflation overshooting its target since March 2022 by gradually increasing the main policy rate up to 3% in March 2023, and raising the rates for overnight deposit and lending facilities by 1.9pps and 3.1pps respectively. It continued to provide liquidity to the economy (the unlimited provision of liquidity to the economy was stopped early 2022), and continued to publish the calendar as well as quarterly statements of its interventions in the foreign exchange and money markets. Increasing interest rates for commercial bank loans and deposits indicate the effective transmission of the monetary policy normalisation.

In November 2022, the supervisory council of the BoA approved the bank's updated 2023-2025 Medium-Term Development Strategy, as well as its 2023-2025 budget. This includes the objective to strengthen BoA's independence, governance, transparency and accountability in accordance with the gradual alignment with of the EU *acquis*. In particular, it aims at further aligning its governance standards on its internal audit by including the use of updated International Financial Reporting Standards (IFRS), operational risk management, business continuity management. It also foresees promoting the further development of the secondary market for government securities, to improve the general conditions for domestic government financing. Given the changed external and financial situation, BoA stated that it will continue its intermediary activity of buying and managing of Government securities accounts from households, revising its plan of the 2022 strategy to phase out this activity. On 1 March 2023, BoA approved its 2022 annual report, which includes its externally audited financial statements, and subsequently presented to the national parliament's economic and financial committee.

In the area of **economic policy**, Albania has complied with its set of fiscal rules since 2016. It added a new numerical rule to achieve a neutral or positive primary balance from 2024, which considerably strengthens the fiscal rules framework. The 2023-2025 medium-term fiscal framework foresees compliance with all fiscal rules. Albania has no independent fiscal institution to monitor compliance with its fiscal rules and the quality of its forecast, instead it is obliged by law to use the IMF's forecast for nominal GDP as basis for calculating the public debt-to-GDP ratio and other fiscal indicators. This is not in line with the EU *acquis*. Budget implementation is regularly audited by the Supreme State Audit Institution. In 2022 Albania used secondary legislation four times, instead of the regular legislative process, to amend its budget, but did not introduce any budget amendment in the first half of 2023.

The presentation and publication of the annual budget includes a medium-term fiscal framework with a 3+ year horizon on a rolling basis, a forecast of government debt and of the macroeconomic development, as well as a fiscal risk statement. The accompanying "citizens budget" includes a list of public investment projects and PPPs. The budgetary framework's macro-fiscal analysis could be improved and the addition of long-term fiscal sustainability indicators. Budget preparation involves all governmental units, but the expenditure plans of local governments are not detailed in the framework. Budget planning improved in 2023, being based on the previous year's actual fiscal outcome, instead of using the previous year's budget plan.

Albania submitted its Economic Reform Programme (ERP) 2023-2025 on time and adopted it on 1 March 2023. The publication of the draft ERP for consultation was two weeks late and the lack of comments to the report underlines the need to upscale outreach to civil society and improve stakeholders' awareness of the ERP process. The mandatory publication of the government's draft documents, including notifications, regulatory impact assessment reports, explanatory notes and public consultation reports on the online platform increased governmental transparency. However, the lack of public comments on the platform shows

that the government also needs to organise direct exchanges with stakeholders and to demonstrate that they are taken into account. In this context Albania made progress by mapping the stakeholders of the line ministries by end 2022 in order to notify them about public consultations in their area of interest. In addition, oversight and quality control of the public consultation process are being reorganised within the government. Albania still needs to improve the overall effectiveness of its stakeholder consultation and its inter-institutional coordination mechanism.

National account statistics are partially in line with European System of National and Regional Accounts (ESA 2010), but substantial further work is necessary to improve alignment and compliance of both the annual sector accounts and financial accounts. Albania provides 12 of 14 indicators for the macroeconomic imbalances procedure (MIP scoreboard) of a medium compliance level. In cooperation with the Ministry of Finance and the Bank of Albania, the Albanian statistical office INSTAT is compiling the excessive deficit procedure statistics (EDP) and the government finance statistics (GFS). Work on both compilations is continuously progressing, but substantial further work is necessary to reach the full compliance with the ESA2010 requirements. Albania regularly submits most of the excessive deficit procedure notification tables to Eurostat on a best-effort basis but not for publication and without completed questionnaires. The Albanian statistical authorities should lift the embargo on publishing the GFS data submitted to Eurostat. From October 2022, Albania has transmitted EDP tables through the new “Albanian Integrated GFS Compilation System” (AIGCS), which aims to improve data consolidation across the government units and data consistency.

Chapter 19: Social policy and employment

EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at EU level.

Albania is **moderately prepared** on social policy and employment and made **good progress** during the reporting period, increasing the quality and effectiveness of labour market institutions and improving access to jobs. In line with last report’s recommendations, the new 2023-2030 national employment and skills strategy was adopted. It focuses on the quality of jobs, skills development and better matching of demand with supply in the labour market. The national implementation plan for the Youth Guarantee scheme was approved, as an annex to the 2023-2030 national strategy. Efforts should continue on strengthening the social protection system, alongside the labour market measures.

In the coming year, Albania should:

- adopt the new 2023-2030 strategy for occupational health and safety, with a focus on strengthening institutional capacity to effectively enforce compliance with the legislation, and adopt the 2024-2030 national social protection strategy;
- begin piloting the Youth Guarantee targeting youth unemployment, especially young people who are not in education, employment or training (NEETs), and start to roll it out into full implementation;
- increase the budget allocation, implementation and monitoring of the social fund, strengthen the capacity of local government, and revise the procurement procedures for social care services.

On **labour law**, implementation of the law as amended by the 2015 Labour Code is ongoing. On **labour inspection activities**, 22% of the planned inspections during the previous year were first time inspections while the total number increased significantly in 2022 to 10 154 (up from 7 039 in 2021), detecting 1 799 undeclared workers (1 092 in 2021). Progress was made on promoting the e-inspection platform, which increased the quality of labour inspections, however more efforts are needed to reduce informality. In 2022, 13.4% of inspection cases found no violation. Although the State Labour and Social Services Inspectorate stepped up efforts to build human resource capacity through training and monitoring, the capacity of the social services inspectorate remains very limited. In 2022, 135 inspections of social care services were carried out.

On **child labour**, the system for monitoring child labour and other forms of exploitation, and the coordination of law enforcement between the Agency for the Protection of Children's Rights and the Labour Inspectorate, is weak.

On **health and safety at work**, efforts need to be stepped up to ensure the further alignment of the national legislation with the EU acquis. Authorities need to strengthen their institutional capacities and inspections processes. Albania needs to develop a new 2023-2030 strategy for occupational health and safety in line with the EU strategic framework on health and safety at work 2021-2027 and its priorities.

On **social dialogue**, in May 2022 the Council of Ministers approved the Decision 'On the determination of employers' organisations and trade union organisations in the National Labour Council', and in July 2022 the Ministry of Finance and Economics issued an order 'On the appointment of members and candidates of the National Labour Council, and representatives of employers' and employees' organisations. Progress was made on strengthening the capacity of the newly assigned staff of the National Labour Council's secretariat. However, the specialised commissions of the National Labour Council are yet to become operational. Efforts were made to enhance the tripartite collaboration between the State Labour and Social Services Inspectorate, trade unions and business organisations.

On **employment policy**, Albania is implementing the new 2023-2030 national employment and skills strategy, adopted in March 2023.

Labour market indicators improved in 2022. Employment increased by 3.9% on average in 2022, up from a 0.5% increase in 2021. All sectors have experienced higher employment rates. During the fourth quarter of 2022, the employment rate of people aged 15-64 was 65.5%, up from 62.1% in the fourth quarter of 2021. Despite the improvement in the employment rate in recent years, Albania lags EU averages. The employment rate has especially improved among women (61.4% in Q4-2022), but the unemployment rates of women and young people remain high. Gender inequality in employment remains problematic, with the employment rate for men exceeding the rate for women by 10.4%. In the fourth quarter of 2022, the employment rate for young people aged 15-29 was 44.6% (47.5% for men and 41.8% for women). Despite an increase of 1.8% compared with the previous year, youth employment lags the rest of the adult population.

The **unemployment** rate in the fourth quarter of 2022 was 11.0% (11.0% for men and 11.1% for women) decreased by 0.4% compared to the fourth quarter of 2021. The structure of the Ministry of Finance and Economy (MoFE) was revised in 2023 to add resources to the General Department for Employment and Skills. MoFE still needs to fill all vacant positions.

The National Agency for Employment and Skills (NAES) filled 70% of its vacancies by the end of 2022. In 2022, 15 658 adult participants attended vocational training out of which 7 191 were females. In 2022, 26 808 registered unemployed jobseekers found a job through

labour offices compared with 24 158 in 2021. As of May 2023, 17 935 young people not in employment, education or training (NEETs) were registered in the NAES database. In 2022, Albania continued to implement the reformed employment promotion programmes packages in all regions, with a focus on the most vulnerable people. A new programme to subsidise the development of digital skills was adopted and began operating. Progress has continued with the Social Employment Fund, which aims to help persons with disabilities to find work.

According to the Albanian National Institute of Statistics (INSTAT), in 2022 23.4% of **young people** registered as **neither in employment, education or training (NEET)** were looking for work, up from 22.9% in 2021. The relevant authorities adopted the action plan to implement the Youth Guarantee, which focuses on NEETs. The official unemployment rate in 2022 for young people aged 15-29 was 20.7%, compared with 20.9% in 2021. It rose by 0.9% in the fourth quarter of 2022 compared with 2021.

On the **employment of persons with disabilities**, the 2023-2030 national employment and skills strategy states that the levy on employers who do not fill their quota of employees with disabilities will be collected through the tax system.

On **social protection and inclusion**, the MoHSP continued its efforts to consolidate the economic aid scheme (a scheme for social assistance payments to households experiencing poverty), implementing a new biopsychosocial evaluation system for persons with disabilities, and to reform the system social care service. MoHSP needs to finalise the evaluation of the current social protection strategy and progress with the design of the new 2024-2030 national strategy on social protection, in consultation with stakeholders. Progress was made on the implementation of the exit strategy for recipients of economic assistance (Ndihma Ekonomike). A protocol for making referrals is in place and the regional actors are profiling beneficiaries of working age.

There is some progress in implementing the strategy on **social protection**, in terms of rolling out the reform of the biopsychosocial assessment of persons with disabilities and reaching more beneficiaries through social care services. The total budget in 2023 of the social protection programme has increased by 5% compared with 2022. The effectiveness of the targeting of the economic aid scheme needs to be assessed through field research and by using microdata from Eurostat on income and living conditions and from household budget surveys, to identify groups in need that do not yet benefit from the scheme. Authorities need to finalise the impact assessment of the adequacy of exit strategy benefits, increase their amounts, establish a mechanism for their annual indexation and implement the roadmap on the revision of benefits that will be based on this assessment. With the amendments to the Law on social assistance, adopted in 2022, additional social protection measures were introduced to mitigate the effects of Russia's war of aggression against Ukraine. The social resistance package approved in March 2022 included EUR 48 million as an additional contingency fund for vulnerable groups. The percentage of population receiving basic package of social care services has been increased from 0.2% in 2019 in 1.5% in 2023.

The MoHSP needs to strengthen its efforts on monitoring the 2021-2025 national action plan on **persons with disabilities**. Since 2023, reform of the biopsychosocial evaluation is being implemented throughout the country, with 36 multidisciplinary commissions in 12 regions.

On the inclusion of **Roma and Egyptians**, following the approval of the new 2021-2025 national action plan for equality, inclusion and participation of Roma and Egyptians in Albania, in 2023 employees in line ministries, regional directorates, municipalities and other local institutions were trained on how to report progress indicators in the ROMALB electronic system (242 officials are active users). However, the institutional capacity of

MoHSP, in charge of the coordination of Roma-related policies, remains weak in terms of human resources. Roma and Egyptians continue to face skills-related challenges in the labour market. A significant proportion of unemployed people registered for economic assistance have not completed primary education. The inclusion of Roma in jobs in the public administration needs to improve.

The MoHSP prioritised the reform of the digitalisation of social care services through the National Electronic Register of Social Care Services, which has not been fully operational since July 2022 due to the cyberattack on all government data systems.

All 61 municipalities have approved local social care plans. Authorities need to ensure that social services are established and functioning across all municipalities. . During 2022, 27 community-based social care services at municipality level have been set up and 13 specialised services at county level. For 2023, 13 community-based social care services at municipality level and 13 specialised services at county level have benefited the continuation of financial support. For 2023, the Social Fund's budget increased to EUR 2.8 million, 50% increase compared to 2022. Nevertheless, local governments, frequently lack the funding and resources to effectively set up manage and implement social services.

On **non-discrimination in employment and social policy**, Albania and the ILO signed the 2023-2026 decent work country programme, which aims to address key problems around working conditions and social protection such as the work accidents, effective protection at work by setting up effective mechanisms to tackle violence and harassment, low levels of wages, and insufficient coverage of the social security system.

On **equality between women and men in employment and social policy**, according to INSTAT's labour force statistics for the fourth quarter of 2022 there is a gender employment gap of 11.6% for the group aged 15-64 years old. 69.1% of women participate in the labour force, compared to 80.7% of men. In 2022, the labour force participation rate for women increased by 5.9% for women and 3.0% for men compared with the same (fourth) quarter of 2021. The National Council for Gender Equality approved in June 2023 the Action Plan for the implementation of 'Women, Peace, Security' 2023 – 2027 resolution.

On **fighting corruption**, in April 2022 the MoHSP adopted its integrity strategy. The Institute of Social Security has a code of ethics in place. Authorities use online services in order to increase transparency such as the Economic Aid System platform which manages the state database for economic assistance and the process to apply for and grant economic assistance.

Chapter 20: Enterprise and industrial policy

EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).

Albania is **moderately prepared** in the area of enterprise and industrial policy. **Some progress** was made on the implementation of the recent legislation on micro, small and medium enterprises, on start-ups, and on the continuation of the business support programmes in line with the business and investment development strategy. Despite these improvements, and the government's ongoing efforts to tackle the informal economy and corruption, the recommendations in the 2022 report were only partly addressed.

In the coming year, Albania should, in particular:

- further address the main challenges to the business environment by reducing the regulatory burden, increasing the participation of businesses in the funding programmes, reducing the informal economy and corruption, and increasing business support services;
- accelerate the full alignment of national legislation with the EU *acquis* on late payments;
- adopt the unified investment Law and address the challenges to competitiveness and growth that were highlighted in the joint recommendations of the economic reform programmes of 2023-2025.

Albania continues to implement its 2021-2027 business and investment development strategy, which focuses on SME development and innovation; investment, attractiveness and internationalisation; and human capital development. It is also implementing its 2020-2024 inclusive and sustainable industrial development programme. Together, the business and investment development strategy and the inclusive and sustainable industrial development programme create the strategic framework for Albania's **enterprise and industrial policy**. Albania follows the implementation of the EU Small Business Act (SBA) and takes SBA recommendations into account when drafting SME policy. A 3-year action plan (2022-2024) to implement the mining strategy was also adopted in June 2022. Albania is implementing its 2017 national strategy on innovation and technology and is currently drafting a smart specialisation strategy. The Law on start-ups in innovation was amended to set up the state start-up agency, and to cover digital nomads.

The business community asserts that the key persistent challenges that harm the business climate are corruption; the informal economy and unfair competition; the lack of transparency in public procurement procedures (especially for public-private partnerships); the lack of predictability of legislation; bureaucracy, and an inefficient public-private consultation mechanism. Lengthy court procedures also remain a concern, despite progress on justice reform. Issues with property titles remain a persistent obstacle to foreign investors. Other areas that need to be addressed include the weak diversification of exports and a high dependency on imports. Businesses also face obstacles due to a lack of skilled workers and access to finance. They in turn need to adjust to modernisation and green process, digitalisation, innovation, and to e-commerce.

Despite the increased business costs, companies have responded positively to the government's decision to increase the minimum wage, as a way to keep workers, particularly in labour-intensive companies. The tax administration continued its efforts to tackle the informal economy by expanding the taxpayer base, enforcing compliance and working to create a level-playing field for economic operators, including in the tourism and construction sectors. According to Labour Inspectorate data for 2022, the tourism (hotel, bar and restaurant sector had the highest exposure to informal employment accounting for 44% of total cases identified, followed by manufacturing with 25% and construction with 21%. Due to intensified efforts to tackling informal employment, the number of identified informal workers increased by over 64% in 2022 compared 2021. More efforts are also required to increase productivity in the economy and to improve the business climate.

Albania continues to privatise state assets, partly through privatisation vouchers which are currently valid until December 2023. The Law on the establishment and operation of economic zones and the Albanian Investment Corporation enable the environment to develop projects to revitalise old state-owned sites by attracting investment, though no progress has been made on the adoption of the unified investment Law. In November 2022, a government decision established the Tirana Economic Development Area (TEDA), which is expected to attract investors in the automotive, information and communication technology, and

electronic equipment industries. In June 2023 the wining company to develop TEDA was chosen after a competitive procedure. During the reporting period the national strategic investment committee, chaired by the Prime Minister, continued to adopt decisions on cases of investors benefiting from the status of strategic investor, mainly in the area of tourism.

In the area of **enterprise and industry policy instruments**, the Albanian Investment Development Agency operates an online platform to help businesses access information on financing opportunities. The agency also provides training on e-commerce and has published a digital self-assessment tool and guidance to help SMEs start e-businesses and e-commerce. Regarding entrepreneurs skills, intensive trainings for startupperes are offered by the Albanian Information Society Agency through ‘TechSpace’, and entrepreneurship has been added into the pre-university curriculum. Albania is implementing a 2021-2024 action plan on the facilitation and development of e-commerce, through establishment of an inter-ministerial working group, in line with the commitments among CEFTA parties.

Further amendments to the Law on late payments entered into force in May 2023 in order to regulate late payments on transactions between farmers and the agro-companies that collect, process and export agricultural products. This is expected to also help to formalise transactions in this sector. Further alignment with the EU *acquis* needs be ensured as soon as possible, especially to address issues related to proof of property ownership property (titles), and recovery procedures for unchallenged claims. Albania’s definition of SMEs is partly aligned with the EU one, on the number of employees, however national capacity to support SMEs remains limited. On policy instruments, negotiations on Albania’s participation in the EU “Single Market Programme” are underway.

On **sectoral policies**, Albania continues to implement the 2019-2023 national strategy and action plan for sustainable development and tourism, and in June 2023 it launched the mobile application for tourism events in Albania (TEA). Some progress was made in identifying niche markets in the export area. Issues related to transport costs, simpler export procedures, market research and advice on improving product diversification, are all areas that need to be further addressed. Albania continued to provide incentives for the agro-processing industry which faces challenges including labour shortages and low levels of mechanisation, digitalisation and innovation. In June 2023, the government introduced fiscal relief measures for export-oriented businesses who faced high costs due to local currency (ALL)’s appreciation against Euro by almost 7 % between January-May 2023, allowing for postponement of profit tax payment in 2024. Albania also adopted a 2022-2026 cross-sectoral strategy and action plan on the digital agenda. Investors are increasingly interested in renewable energies, particularly since the adoption of the Law on renewables and the establishment of the Albania Power Exchange. Further clarity on the categorisation of land used for agricultural purposes and land that can be rented or used to produce renewables were introduced in the amended Law on protection of agriculture that was adopted in July 2023.

Chapter 25: Science and research

The EU provides significant support for research and innovation. All EU Member States can participate in the EU’s research and innovation programmes and benefit from them, especially where there is scientific excellence and solid investment in research and innovation.

Albania has some level of preparation in the area of science and research. Some progress was made over the reporting period, by setting up a national team to develop the smart specialisation strategy and by strengthening innovation support measures such as ensuring sufficient funding to the start-up fund and further progressing the entrepreneurial discovery

process of the smart specialisation strategy. Last year's recommendations have not been fully addressed and therefore remain valid.

In the coming year, Albania should in particular:

- increase investment in research, in line with its own commitments and the new European Research Area priorities;
- complete the smart specialisation strategy, adopt the 2023-2030 national strategy on scientific research and innovation and adopt the new law on scientific research;
- produce statistics and reliable data on science and technology.

On **research and innovation policy**, the interinstitutional working group monitoring the implementation of the 2017-2022 national strategy for scientific research, technology and innovation recommended open online access for all scientific publications financed by public funds. The working group also recommended revising the implementing legislation to create legal and fiscal incentives to encourage businesses to finance scientific research. The new 2023-2030 national strategy on scientific research and innovation, which aiming at addressing these recommendations (which are in line with the new European Research Area), needs to be adopted. Albania needs to adopt the new law on scientific research.

Albania increased funding for scientific research to 0.08% of GDP in 2023, up from 0.05% in 2022 and 0.04% in 2021, however this is still far below the target 1% of GDP by 2030. Research funding as a percentage of public expenditure amounted to 0.17 % of GDP in 2022. INSTAT needs to produce a complete data set on scientific research and innovation.

The methodology to increase funding for research and science needs to be further developed and aligned with the EU *acquis*. Information on the budget allocated for R&D has not yet been published due to the poor quality of data. In April 2023, for the first time, the National Agency for Science Research and Innovation launched a call for proposals to implement the university-business cooperation programme. Albania needs to further strengthen its research and innovation capacity at national level, by promoting links between academia, industry and government, and in the fields of open access and open data. A new Law on the creation, organisation and operation of technology and science parks was also adopted in July 2022. Since 2022, the start-up fund has been managed by the Minister of State for the Protection of Entrepreneurship. The fund granted EUR 2.5 million to 58 beneficiaries in 2022.

The qualitative and quantitative phase was completed for the development of a **smart specialisation strategy**. However, the second phase of the entrepreneurial discovery process remains to be finalised. The Deputy Prime Minister's Office is now responsible for coordinating the development of the smart specialisation strategy.

On the **EU framework programmes**, Albania is fully associated to Horizon Europe. Its participation in the programme in 2022 has improved since Albania has been participating in the EU's Framework Programmes for Research and Innovation (9 projects with a total funding of EUR 1.7 million). The authorities need to make efforts to further increase participation of the private sector in Horizon Europe. National innovation efforts should be aligned with the new European innovation agenda. Albania needs to strengthen its efforts in participating in the activities of the European Institute of Innovation and Technology (EIT).

Regarding transparency, the Ministry of Education and Science has created an electronic register for inquiries recording 45 exchanges in the first quarter of 2023. Authorities have established a contact point to denounce corruption and abuse of EU funds.

Albania needs to make further efforts to produce reliable data on research and innovation. Albania was included for a second consecutive year in the European Innovation Scoreboard as an emerging innovator facing however a decrease in its score from 41.7% in 2022 to 41.1% of the EU average in 2023.

Chapter 26: Education and culture

The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policies through the 'open method of coordination'. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

Albania is **moderately prepared** in the field of education and culture. **Some progress** was made, with further strengthening the new National Agency for Employment and Skills, and the continued restructuring of the National Agency for Education, Vocational Training and Qualifications. The new 2023-2030 national strategy on employment and skills and the new 2022-2029 national youth strategy place an emphasis on improving the quality of Vocational Education and Training (VET) and increasing the skills of young people. Further efforts are required to strengthen the quality and inclusiveness of education, while appropriate resources should be allocated to ensure that the new policy reforms are implemented. The implementing legislation of the Law on cultural heritage and museums is still to be finalised.

Some of last year's recommendations were not fully addressed and remain valid. In the coming year, Albania should in particular:

- ensure sufficient resources for the optimisation of the VET system in line with the needs of the labour market;
- improve the professional development and training of teachers and trainers, with a focus on pedagogical skills related to the implementation of the competence-based inclusive approach and digitalisation from pre-primary to university level, including VET education;
- adopt the implementing legislation for the Law on cultural heritage and museums.

On **education and training**, the reconstruction of the educational facilities damaged by the 2019 earthquake remained a priority. During the reporting period, 17 education facilities were repaired. Currently, 79 educational institutions have been either reconstructed or repaired, while work is ongoing on 105 institutions. The Ministry of Education and Sports (MoES) has based its **anti-corruption policy** on transparency through digitalisation, by implementing its transparency programme, by monitoring and auditing through internal and external audit mechanisms, and by strengthening integrity with the adoption of integrity plans for the MoES and the Ministry of Culture in April 2022. Greater efforts are needed to efficiently manage the resources offered by donors and funding from the state budget.

The MoES planned the progressive design and implementation of information and communication technology (ICT) programmes for the first time, starting from the first grade in 2022. 100 schools in Albania were equipped with smart labs, and 1 200 ICT teachers were trained. The authorities need to make further efforts to reduce the digital divide across all communities and among vulnerable people. Authorities need to strengthen efforts towards effective, coherent and inclusive digital transformation of the education and training systems in Albania, including the capacity of the systems to develop digital skills.

The MoES reported that **public spending** on education represented 3.2% of GDP in 2022, while the forecast for 2023 and 2024 is 2.9% and 2.8% respectively (considerably lower than

the EU average 5%). The MoES developed guidelines on career education in the pre-university education system, which includes activities and job descriptions for career guidance in schools. The Agency for Quality Assurance in Pre-University Education carried out the evaluation of 34 pre-university education institutions.

The net **enrolment rate** (NER) in primary education in 2021-2022 was 88.3%, slightly down on the year before (90.5%). The NER for lower secondary education was 87.4% in 2021-2022 compared with 87.1% in the previous year. There has also been a decline in the NER of students in upper secondary education, at 77.6% in 2021-2022 compared with 78% in the year before. The NER of children in pre-primary education in 2021-2022 was 78.8%, up from 72.9% the year before.

On inclusive education, the number of children with disabilities in public and private educational institutions (starting from preschool education) has increased to 4 748 students. In 2022-2023, the number of assistant teachers for students with disabilities in the public pre-university education system went up by about 17% compared with the previous year (1 300 assistant teachers in total). The need remains for more assistant teachers and a better quality of education, especially in remote non-urban areas. In 2023, Albania amended the Law on pre-university education including provisions on students with disabilities and on transforming schools into resource centres. In 2022, the MoES offered 141 scholarships in pre-university education to children at risk of dropping out. Since the school year 2022-2023, ICT oriented secondary education is offered in Albanian sign language.

Gender gaps still exist in education as, according to INSTAT, the enrolment rate in compulsory education is 98.7% for boys and 92.7% for girls. Participation in upper secondary education is higher for boys than girls, at 98.7% and 89.9% respectively. whereas for higher education the participation rate is higher for girls (73.2%) than for boys (49.6%). In **vocational education**, approximately 82% of graduates are males. VET providers must follow the code of ethics in accordance with the national legislation, while ethics committees have been set up in all education providers.

The participation of **Roma and Egyptian children** increased in pre-university (13 499 in 2022-2023 against 13 086 in 2021-2022) and decreased in early childhood education (2 150 in 2022-2023 in both public and private sectors against 2 514 2021-2022). The measures planned to facilitate access to universities (such as the quota system and waiving university fees) are in general not being implemented. Greater efforts are needed to improve coordination between the local and central levels on preschool education.

The 2022-2029 national strategy for **youth** was adopted in October 2022. It integrates the empowerment through self-defence approach as part of the extra-curricular programs of public schools. This approach aims to promote behavioural changes in communities, in relation to issues such as gender-based violence, by fostering skills that promote the emotional, psychological and physical safety of young women and men. The selection of Tirana as European Youth of Capital 2022 enhanced the local and national ecosystem for the development of youth policies.

The 2023-2030 national strategy on **employment and skills**, adopted in 2023, prioritises the systematic engagement of the private sector in vocational education and training, and the development of green and digital skills through a lifelong learning system that allows for effective upskilling and reskilling activities.

On vocational education and training (VET), the authorities consolidated the relevant institutional framework, by further reinforcing the National Agency for Employment and Skills, and by further restructuring the National Agency for VET and Qualifications and

increasing its resources. Further efforts are needed to ensure adequate staffing in both agencies; to improve the quality assurance framework and to strengthen planning and monitoring at central level. In 2023, several VET providers were restructured. The optimisation plan for VET providers, endorsed in 2020, lacked the necessary resources to be implemented. Despite promotional activities and support to help students from rural areas participate in VET, attendance fell in the 2022-2023 school year, with 16 811 students enrolled in vocational schools (2 634 female and 14 177 male) compared with 18 279 students (2 714 female and 15 656 male) in 2021-2022. The authorities need to take action to address the skills mismatch and to intensify efforts to make VET more relevant to the needs of the labour market. In January 2023, the MoES approved a career orientation guide for students in the ninth grade to improve information, education and career counselling in schools. Enrolment of vulnerable groups in VET also decreased to 6 022 (1 743 female) from 9 392 (1 330 female) in 2021-2022.

Albania continued to participate in Erasmus+ and the European Solidarity Corps. Albania benefits from the international dimension of the 2021-2027 Erasmus+ programme. In 2022, approximately 900 higher education staff members and 1 280 students from Albania were selected to undertake a mobility period in EU Member States or associated third countries to the programme. The number of higher education capacity-building projects selected for funding increased from 12 in 2020 to 17 in 2022. For the first time, higher education institutions were eligible to participate in the call for proposals for the European universities initiative. Albania is participating in the European Education Area working groups 2021-2025.

Regarding the **culture sector**, the 2019-2025 national strategy is being implemented. During the reporting period the national register of Albanian intangible cultural heritage was published. This was created pursuant to the Convention for the Safeguarding of the Intangible Cultural Heritage, and published for the first time in an online format. The relevant authorities adopted implementing legislation on the creation and administration of the database of stolen cultural assets, and rules on monitoring and evaluating entities that have cultural assets under administration. The authorities need to adopt the remaining implementing legislation of the Law on cultural heritage and museums to make the law fully operational.

Albania continued to participate in the EU 2021-2027 Creative Europe programme. Albania needs to accelerate the adoption of implementing legislation and to ensure the effective implementation of the Law on cultural heritage and museums, in line with the principles of the framework for actions for cultural heritage.

Chapter 29: Customs union

All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementing and enforcement capacity and access to the common computerised customs systems.

Albania is **moderately prepared** in the area of the customs union. **Limited progress** was made on the authorised economic operator programme and preparatory work for the development of the New Computerised Transit System. Last year's recommendations remain valid.

In the coming year, Albania should in particular:

→ approve legal provisions and develop the New Computerised Transit System;

- continue efforts in pursuing the fight against smuggling, corruption and imports of counterfeit products, including by strengthening administrative capacity and improving cooperation between the bodies involved;
- accede to the WHO Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products.

On **customs legislation**, Albania's customs code is broadly aligned with the EU *acquis*. However, the levying of scanning fees for each customs declaration continues to contravene the Stabilisation and Association Agreement, which prohibits customs duties or charges with an equivalent effect on trade between the EU and Albania.

Preparatory work for the development of a National Single Window and a New Computerised Transit System continued through cooperation with international experts in this area. A legal analysis has been carried out and procurement procedures have begun.

Albania is implementing its authorised economic operator programme, with 11 AEOs in June 2023 (and 9 applications under examination). Awareness raising activities on the benefits of the programme continued. Protocols for mutual recognition of authorised economic operators were signed with Serbia and North Macedonia in 2022. A memorandum of understanding was signed between the Albanian Customs Administration and the Italian Customs and Monopolies Agency in September 2022, improving customs cooperation with respect to goods transported by sea. A protocol was signed with Kosovo Customs allowing it to conduct the clearance of goods destined for Kosovo at offices in Durrës and Porto.

Since September 2021 Albania has been applying the new transitional rules of preferential origin of the Pan-Euro-Mediterranean Convention on bilateral trade with the EU.

The Customs Code's provisions on valuation are aligned with EU rules. The risk management system is automated and compares import, export and transit data against active risk profiles. The underlying automated system for customs data is being upgraded to improve risk analysis. The legislation on customs enforcement of intellectual property rights is harmonised with the EU *acquis*.

As part of the anti-fraud effort, it is recommended that Albania accedes to the WHO Framework Convention on Tobacco Control Protocol to Eliminate Illicit Trade in Tobacco Products.

The national rules on cash and goods transported in travellers' baggage still differ from the EU *acquis* as regards the amounts to be declared and the declaration form. The Albanian customs administration can impose sanctions for non-declarations or mis-declarations of cash at the border.

On **administrative and operational capacity**, so far five officials of the customs authority have been certified by the EU Agency for Law Enforcement Cooperation, as users of and trainers for the secure information exchange network application. The INES+ (intelligent adaptive traffic control) system has been operational for managing cases of infringement of intellectual property rights, with a view to stepping up the fight against imports of counterfeit products. By the end of 2022, 38 out of 41 customs services were accessible online through the e-Albania portal.

In terms of **prevention of corruption**, the customs authority's new structure entered into force in May 2022 to address challenges that had been observed, such as the lines of reporting to the anti-corruption coordinator. In May 2023 the customs authority published a 'green book reporting on progress in 2022 and highlighting priorities for the following year.

CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

This cluster covers: transport (Chapter 14); energy (Chapter 15); trans-European networks (Chapter 21); and environment and climate change (Chapter 27). Albania is in between moderate and a good level of preparation on energy. It has some level of preparation in the areas of transport, trans-European networks and environment and climate change. The country has made some progress in the areas of energy and trans-European networks, notably on the reform of the electricity market and in developing transport and energy networks. Limited progress was made in the areas of transport and environment and climate change.

Addressing the issues of climate change by strengthening green transition policies, pursuing efforts in sustainable hydropower generation and ensuring sustainable connectivity, constitute fundamental priorities for economic integration within the region and with the European Union. This cluster and the reforms concerned have significant links to Albania's economic reform programme, the Commission's economic and investment plan for the Western Balkans and the green agenda for the Western Balkans.

Chapter 14: Transport

The EU has common rules on technical and safety standards, security, social standards, State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

Albania has **some level of preparation** in the area of transport policy, with **limited progress** achieved in the reporting period. The recommendations from last year have been partly addressed, with some progress in adopting implementing legislation in the rail sector and with further measures to improve the quality and performance of the vessels under the Albanian flag. Albania has completed around 80% of the measures of the Roadmap for improving the performance of the Albanian fleet.

Continued efforts are needed to further align the legislation and to move the Albanian flagged fleet out of the black list under the Paris Memorandum of Understanding on port state control. The recommendations from last year remain valid.

In the coming year, Albania should in particular:

- adopt the new 2021-2025 national transport strategy and its action plan and adopt the new road safety strategy in compliance with the transport community road safety action plan;
- implement legislation on the railway sector reform, in compliance with the transport community rail action plan;
- accelerate concrete measures to improve the performance of maritime transport vessels under the Albanian flag.

Regarding the **general transport acquis**, the new national transport strategy and its action plan for 2021-2025 still needs to be adopted. On alignment of the transport policy with public service obligations and the *acquis* on public service contracts, guidelines remain to be adopted for further alignment with the *acquis* on public passenger transport services. More efforts are required to fully implement the intelligent transport systems (ITS) Directive, boost multimodality and implement relevant national laws in compliance with the Transport Community action plans. Albania continued the preparation of a national ITS strategy for rail and maritime modes. ITS equipment for roads has been procured and is to be installed in new premises, which are under construction. For larger transport agglomerations, sustainable urban mobility plans which respect environmental and social standards should be developed following EU practice.

Albania continued to actively participate in the work of the Transport Community Treaty (TCT). However, it has shown a slow implementation rate of the five TCT action plans and dedicated smart and sustainable mobility strategy for the Western Balkans.

Administrative capacity needs strengthening throughout the transport sector, particularly in the rail sector. Since January 2023, the Albanian Civil Aviation Authority has set-up a new organisational structure, aiming to better fulfil its duties and functions. Legislative updates are required to complement the reform of the Albanian Road Authority. In December 2022, the government approved the structure and the organisation chart of the National Investigation Authority for Rail and Maritime Accidents and Incidents. Available funds for road and railway infrastructure maintenance remain insufficient, resulting in continued deterioration of infrastructure conditions. Continued efforts are required to support the 2018-2022 rail maintenance plans.

When revitalising the ports in Albania, attention shall be paid to prevent corruption as an enabler to infiltrate transportation and logistics chain with criminal networks.

On road transport, further efforts are needed to align with the *acquis* on electronic road toll systems and road fee enforcement. Road safety remains a serious concern with casualties above the EU average, work is still needed to tackle the discrepancy between the national statistics and the significantly higher WHO estimate. Albania needs to allocate sufficient financial resources to establish a road crash data system in line with the Care Database. Further efforts are needed to improve the inter-institutional coordination mechanism including the establishment of a road traffic safety agency. Albania should also make further efforts to align with the EU *acquis* on social transport legislation, notably the Directive for posting of drivers in the road transport sector.

Albania completed the alignment of its legislation on periodic roadworthiness tests, but still has to further strengthen its inspection capacity. The rules of traffic on electric scooters and of bicycles have been unified, aiming to strengthen road safety of such new category of vehicles in road. Some efforts were made regarding road safety education. Action on road safety has been taken, including road signs and marking, to improve safety on road sections and intersections. Tendering has been completed for construction of the traffic monitoring centre and installation of ITS for 200 km of main road network, and is expected to be operational in 2024. Albania is partially aligned with the Directive 2008/96/EC on road infrastructure safety management.

On railway transport, the Railway Safety Authority began its operations in September 2023 by abolishing the Railway Inspection Directorate but it is not yet completely functioning since the staffing process is ongoing. The Railway Regulatory Authority is not yet functional, and the certificates and safety authorisations cannot be issued according to the EU *acquis*. Albania still needs to ensure full operability of the rail network and complete the institutional framework for the four new rail companies: infrastructure manager, passenger transport operations, freight transport operations and maintenance, based on the law adopted in July 2021.

Albania also needs to finalise and adopt the strategic framework for implementing ITS on the core rail network. Albania published its Network Statement in 2022 and this should also cover the part of the network located in port areas. Albania needs to complete the establishment of the electronic register of vehicles and the rail infrastructure asset management system (RIAMS). On train drivers, Albania adopted the Guideline on the professional training in the professional training centres of railway personnel who exercise

safety functions, conditions and procedures for testing, licensing and certification of drivers, which is partially aligned with the EU *acquis*.

On **maritime transport**, continued efforts are required to substantially improve the quality of the Albanian flagged fleet and to thereby reduce the detention rate of Albanian-flagged vessels, in order to remove Albania from its current position on the black list of poor flag performance. During last year Albania improved its position in the Paris Memorandum of Understanding on Port State Control, moving up from very high – risk to moderate, but still in black list.

While Albania has completed around 80% of the measures of the roadmap for improving the performance of the Albanian fleet, it has yet to fully align with the *acquis* on the EU vessel-traffic monitoring and information system (VTMIS), based on the strategic framework for implementing ITS on the core maritime network. Albania has made significant progress with respect to the implementation of the EU Port Services Regulation and efforts are underway to achieve the full compliance of its legal framework by 2025. There were still no new developments regarding **inland waterway transport**, which is limited to two lakes shared with neighbouring countries, and regulated by bilateral agreements. On **aviation**, to comply with the requirements for the first transitional phase under the European Common Aviation Area Agreement (ECAA), Albania still needs to address the findings raised by the EU Aviation Safety Agency (EASA) during its standardisation inspection in 2022 on air traffic management (ATM) and air navigation services (ANS).

The Albanian Civil Aviation Authority has a new structure since January 2023, aiming to improve its operability. Currently, oversight duties are covered by outsourced staff. New Ministerial Orders have been adopted on the approval of the national civil aviation security quality control programme and on the national civil aviation security training programme. Alignment with the EU ATM/ANS *acquis* is still not complete and, where the relevant rules are formally aligned, implementation is incomplete. Legislation on passenger rights is largely aligned with EU legislation.

On **combined transport**, Albania has not aligned with the related EU directive and has yet to provide references to national legislation that have been aligned with the EU *acquis*. The 2021-2025 national transport strategy, which includes the priority measures for intermodal and combined transport, is yet to be adopted.

Albania should increase efforts to align with and implement the EU **passenger rights** legislation.

Chapter 15: Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy and nuclear safety, radiation protection and nuclear safeguards.

Albania is **in between a moderate and a good level of preparation** in the area of energy. In the reporting period, there was **some progress** on reforming the day-ahead and intra-day electricity markets and progress in holding auctions for renewables projects.

Limited progress was achieved in the gas sectors and regional interconnection lines. In the context of the global energy crisis, these efforts, as well as energy-efficiency measures, should be accelerated, taking into account Albania's commitments under the Paris Agreement and the need to engage in the clean energy transition, in line with the Green Agenda for the Western Balkans.

Albania still needs to adopt all the missing implementing legislation on energy efficiency. No new energy-efficiency funding mechanisms have been put in place. The energy-efficiency agency's role, capacities and operations need to be further strengthened. Albania has adopted new energy and climate targets for 2030.

Last year's recommendations have not been addressed and remain valid. In the coming year Albania should in particular:

- ensure full access to the liberalised market for all customers connected to 20 kV in 2022, progressively extend this access to all customers and sell and buy electricity to cover distribution losses on the ALPEX power exchange;
- update and implement the 2020-2030 national energy and climate Plan (NECP), as part of the 2030 decarbonisation roadmap, and ensure that the Albanian renewable energy operator is operational by the end of 2023; strengthen the capacity of the Energy Efficiency Agency and continue drafting and adopting implementing legislation, including establishing the energy-efficiency obligation scheme, and adopting the labelling regulations. Proceed with the comprehensive assessment of the potential of high-efficiency cogeneration and district heating, in line with its obligations under the Energy Efficiency Directive;
- Transpose and implement the Electricity Integration Package adopted by the Energy Community Ministerial Council in December 2022.

On **security of supply**, Albania is still moderately prepared but its oil stock legislation is not in line with the EU *acquis*. Two regulations to align the existing industry-related model with the EU oil *acquis*, prepared in cooperation with the Energy Community, need to be adopted. Progress is needed to create a central stockholding body for oil. Albania should align with the *acquis* on the minimum stocks of crude oil and petroleum products required for security of supply. Furthermore, Albania's emergency oil stock model has not yet been amended.

In December 2022, the government adopted the national action plan for response to the energy crisis. This plan follows a series of measures undertaken by the government under the state of emergency for the supply of electricity, in force until 31 December 2023. The plan focused on vulnerable households and SMEs throughout the 2022-2023 winter, while continuing reforms towards energy sustainability and building resilience through diversified sources of energy.

Albania's electricity system has been connected to systems in Greece and Montenegro since 2014. The Albanian Power Exchange was established in October 2020, and it held its first day-ahead auction for the delivery of electricity on 12 April 2023. It aims to encourage more renewable energy investment, guarantee power selling and fill production gaps. In 2022, Albania's electricity distribution losses in the power grid remained at 19.7%, with a slight reduction (0.3%) compared with 2021. The Electricity Integration Package remains to be adopted.

Albania intends to connect the Vlora thermal power plant with the Trans-Adriatic Pipeline (TAP) through a natural gas pipeline, as well as through an LNG terminal, to improve energy security for the country and the region. Preliminary agreements for gas supply have been signed but no progress in terms of developing its own gas infrastructure took place in the reporting period. Such plans have raised concerns from civil society, in particular regarding protection for Vlora bay. Albgaz has been licensed and certified by the Energy Regulatory Authority (ERE) as the combined gas transmission and distribution operator. However, some

certification conditions are not yet fulfilled. Albgaz is an observer at the European Network of Transmission System Operators for Gas (ENTSO-G).

On the **internal energy market**, the transposition and implementation of the newly adopted electricity integration package is pending. The transmission system operator is unbundled and certified. Legal unbundling of the distribution system operator from the supply branch was completed by restructuring the former integrated utility OSHEE into a holding company with three subsidiaries, licensed respectively as a universal service provider (FSHU), electricity supplier (FTL) and distribution system operator (OSSH).

In December 2022, ERE approved the contract for providing compliance officer services for the distribution system operator, which was the last measure needed to ensure the functional unbundling of the distribution system operator. The Energy Community closed the infringement case ECS-4/17 on the lack of distribution system unbundling in 2023. With the go-live of the Albanian Energy Exchange in April 2023, unbundling brings Albania into a better position to develop its power market further. The establishment of the intra day market is pending. Further efforts are needed to strengthen the administrative capacity of the National Regulatory Authority (ERE).

Electricity prices are not fully liberalised. All customers connected to 35kV benefit from an unregulated market. The next step (de-regulating supply at all voltage levels, except the 0.4 kV level) has yet to be completed. Given the energy crisis, a transitional mechanism has been put in place to allow the Albanian Power Corporation (KESH) to purchase electricity abroad and introduce a price cap on electricity for domestic customers in 2021, which was extended until December 2023.

The ERE legal framework is in line with the EU *acquis*, except for the regulator's right to impose measures promoting competition, requiring transmission and distribution system operators to change their terms and conditions and raising the level of the penalties that ERE can impose. ERE still needs to develop its capacity to address shortcomings in the energy markets.

Albania's legislation is partly aligned with the **hydrocarbons** licensing directive. It has not been aligned with the Directive on the safety of offshore oil and gas installations.

Albania needs to update and implement the national energy and climate plan (NECP) adopted in 2021, in line with the 2030 energy and climate targets.

On **renewable energy**, the feed-in tariff (FIT) support scheme has been transformed into a contract for difference (CfD) for large producers to which the existing power purchase agreements (PPA) will be converted. A renewable energy operator (REO) should be established. A pricing methodology for consumers with installed capacity up to 500 kW was adopted in 2021 and is to be implemented by the end of 2023. The agency responsible for renewable energy has not yet been set up. This role is shared among the Ministry of Industry and Energy (MIE) and the National Agency for Natural Resources.

Albania reached its target of a 39% share of renewables in total final energy consumption for 2022, based on the national consolidated renewable energy action plan (NCREAP). Implementation for the two solar photovoltaic (PV) farms with a total installed capacity of 240 MW is ongoing (Karavasta 140 MW and Spitalla 100 MW).

An auction on wind farms, with an installed capacity of 10 MW to 75 MW, was launched in 2021. The first phase contracts were awarded in June 2023 while in July 2023 three bidders were awarded a total of 222.5 MW in capacity. To accelerate renewable electricity

production and facilitate the transition from hydropower to other renewables, more auctions should be conducted.

The Renewable Energy Sources Law (RES) aligned with the Renewable Energy Directive (EU) 2018/2001, was adopted in March 2023. The new Law brings a series of innovations to the electricity sector, including that a renewable energy community has the right to produce, consume and sell renewable energy, and offer aggregation, including power purchase agreements. It abolishes the feed in tariffs support schemes, so that all support measures will be granted via competitive procedures. The Law on bioenergy is still pending adoption.

Albania depends almost exclusively on hydropower for electricity generation, making it vulnerable to climate change. It is a net importer of electricity at a rate of 30% per year, as hydroelectricity is not sufficient to cover its needs. Progress is needed in power interconnection with neighbouring countries and setting up an integrated regional energy market, to strengthen security of supply and create opportunities for green energy development and trading. The deployment of its vast solar and wind resources would significantly improve Albania's energy security and reduce its vulnerability to climate change impacts. Albania plans to use more photovoltaic and renewable energy from wind, and this trend should be pushed forward, based on the NECP 2030 energy and climate targets.

The concession contracts for hydroelectric power plants (HPP) are not sustainable for Albania. The small plants have a significant impact on biodiversity and local communities, notably in protected areas, where around 100 concessions/private investments are located. Plans for hydroelectric power plants have been challenged by civil society during public consultations, questioning the regularity of concession processes and the validity of environmental impact assessments (EIAs).

Moreover, no strategic environmental assessments (SEAs) have been conducted. A large hydroelectric plant planned in Skavica on the Drin River raised concerns from local communities and environmentalists. Civil society organisations claim that there were no proper consultations on this plant in the decision-making process and no information on the resettlement plan. Such investment needs to be fully compliant with the national legislation and the environmental and Energy Community *acquis*, in particular regarding public consultations and the quality of environmental impact assessments and strategic environmental assessments. Further efforts are needed to give guidance on the development of hydroelectric plants and enforce environmental legislation.

The national **energy efficiency** action plan (NEEAP), is an integral part of the National Energy and Climate Plan. The NECP was revised based on recommendations from the Energy Community, aiming to reduce the final energy consumption by 9.4% and to start implementation in 2024. The Energy Efficiency Agency (EEA), created in 2018, needs further administrative capacity. An EU twinning project (i.e. technical assistance provided on the spot by EU-level experts) with this agency started in September 2023. The goal is to support further development of the legislative and institutional framework for implementing the EU *acquis* on energy efficiency, to support implementation of the 2015 Law on energy efficiency and to strengthen the capabilities of the Agency.

Energy-efficiency incentives are in place, including a household subsidy scheme for installing solar water heaters and improving energy efficiency for educational and public buildings. In October 2022, the Government introduced mandatory 15% energy saving targets for the public sector while Tirana Municipality is also supporting local residents with grants up to 50% of the insulation costs for their homes. Several implementing measures have been adopted in accordance with the Energy Efficiency First principle.

However, implementing legislation related to (i) the energy-efficiency obligation scheme, (ii) energy labelling, (iii) increasing the number of electric vehicles in the national car fleet and (iv) minimum energy performance of buildings, (v) energy efficiency measures related to purchasing by public authorities, remain to be adopted. Some progress was made in training experts for energy audits and issuing building energy performance certificates. Given the targets and the ongoing energy crisis, other financing incentives and mechanisms for energy efficiency should be put in place, and energy efficiency projects should also be accelerated.

Albania needs to ensure that implementable energy efficiency and renewable energy action plans are adopted within the scope of the NECP 2030, including the agreed 2030 targets on energy and climate.

Albania has made no further progress on **nuclear energy, nuclear safety and radiation protection**. The country is considering to join the European Community Urgent Radiological Information Exchange system (ECURIE) system.

On **nuclear safeguards**, upon accession, the existing systems of accountancy and control of nuclear materials in Albania would need to be adapted to accommodate for the safeguard provisions (chapter 7) of the Euratom Treaty.

Chapter 21: Trans-European networks

The EU promotes trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.

Albania has **some level of preparation** in trans-European networks. **Some progress** was made in developing transport and energy networks since work to prepare projects is ongoing. Albania needs to make further efforts to address the recommendations from last year that are still valid.

In the coming year, Albania should, in particular:

- continue developing the core transport and energy networks in line with the national strategies for transport and energy and infrastructure investment prioritisation, under the single project pipeline;
- continue to align its legal framework with EU *acquis* and the regulations on TEN-T (trans-European transport networks) and TEN-E (trans-European energy networks), including fully aligning guidelines for trans-European energy infrastructure and strengthening the institutional framework and administrative capacity for developing and monitoring TENs;
- strengthen capacity for and ensure progress in implementing the Economic Investment Plan for the Western Balkans projects on transport and energy, in line with the agreed timetable within the Western Balkans Investment Fund platform, while contributing to the Green Agenda.

Albania has made some progress on its strategic framework for **transport networks**. The draft national transport strategy for 2021-2025 and its action plan are yet to be adopted. This national transport strategy include the regional and EU priorities, the Green Agenda, the EU Economic Investment Plan for the Western Balkans, the strategy for smart and sustainable transport for the Western Balkans, as well as all action plans that are part of the Transport Community Treaty cooperation. (See Chapter 14 - Transport).

Albania proposed that rail Corridor VIII be part of the extension of the TEN-T corridors to the Western Balkans region. A relevant high-level agreement on indicative maps for TEN-T in the Western Balkans was signed in June 2023. The amended maps for the new European Western Balkans corridor will be part of the revised TEN-T Regulation, which is currently being discussed by co-legislators. Corridor VIII will be part of the new European Transport corridor, linking South-East Europe with the centre of Europe through the Western Balkans region.

Investment needs to be made in accordance with the cost/benefit analyses carried out in line with EU best practice. The Design of the Adriatic Ionian Road connection – section from border with Montenegro till Lezha is progressing. The Albanian government has been launched different Public Private Partnership (PPP) schemes and works are ongoing on different sections from Thumana till Fieri. Tirana bypass is under final preparation and planned to start in 2024. Projects are channelled through a single project pipeline, confirming the country's strategic orientation towards TENs. Robust measures to improve the road infrastructure from a road safety point of view, particularly to eliminate identified road accident blackspots, which cause fatalities and injuries, should continue implementation following the road safety inspections and road safety audits.. The road core network is now covered by 5-year maintenance programmes. Adoption of the multiannual maintenance plans for the rail core network still remains a challenge, given the state of rail infrastructure.

Work to prepare road, rail and port infrastructure projects, especially along the Adriatic-Ionian road connection and Corridor VIII (Varna–Durrës) has shown progress as well.

Concerning rail, work to rehabilitate the Durrës-Tirana line and to build a new line to the international airport is progressing in line with contractual obligations (48% of the civil works are completed). Further efforts and strengthening of project programming and management capacity are needed to avoid bottlenecks and make the investment grants awarded under the Western Balkans Investment Fund platform operational, and in particular to start working on the construction of the Tirana Bypass and the Vore-Hani Hotit rail line, connecting Albania with Montenegro. Both projects are expected to start in 2024.

In December 2022, the government presented its plans for creating the Porto Romano port, 12 kilometres north of Durrës. All the cargo activities currently at the ports of Durrës and Vlora would be relocated to this new port. A new eight kilometres railway line is to be constructed, to link the Porto Romano port with the existing rail network. This investment will take place in phases, and according to the authorities, phase 1 will be completed in 2027, including the container terminal, dredging and filling, the northern breakwater and the supporting infrastructure.

Kukës airport in the north of Albania started normal operations in July 2021, focusing on low-cost airlines. Construction work on a commercial airport in the Vjosa-Narta protected landscape is ongoing. This causes significant concern about threats to the environment, the habitat, migratory birds and other living species.

On **energy networks**, efforts are still necessary to adopt the strategic environmental assessment (SEA) and project identification plan under the gas master plan, since it is strongly interlinked with the development of TEN-E projects. The planned development, and interconnections between the LNG terminal in Vlora and regional gas pipelines (the existing Trans-Adriatic Pipeline and the envisaged Ionian Adriatic Pipeline) would increase regional energy security. More work is needed for the implementation of the above pipelines, as well as for the development of a gas market in Albania. Such initiatives should be implemented following environmental impact assessments and strategic environmental assessments, as

well as transparent public consultations that cover all stakeholders, including the local population, environmental groups and civil society organisations.

Progress was made on improving the infrastructure for electrical power transmission. Companies from Kosovo have joined the Kosovo-Albania control block and are participating in the Albanian Energy Exchange, which became operational in April 2023, following the successful implementation of the platform operator.

Concerning the construction of a 400kV interconnection line between Fier in Albania and the North Macedonia border, work is expected to start during 2023.

Albania's participation in the EU strategy for the Adriatic-Ionian region remains a priority for both transport and energy networks and it is important that the country continues its active involvement.

Chapter 27: Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

Albania shows **some level of preparation** in this area. **Limited progress** was made in further aligning policies and legislation with the EU *acquis* in areas such as water management, chemicals, environmental crime and climate policy.

Albania made progress in the area of civil protection since it joined the EU Civil Protection Mechanism in 2022 and it has prepared a national disaster risk reduction strategy and action plan for 2023-2030. Albania needs to continue working to further improve its civil protection system. Significant efforts are needed on implementation and enforcement for waste management, water and air quality and climate change, to strengthen its administrative and inspection capacities and implement structural, cross-sectoral reforms.

Most of 2022 recommendations remain valid and in the coming year, in addition to addressing the shortcomings set out below, Albania should, in particular:

- adopt the new law on water services; substantially increase the budget resources and implementation capacity of its key national water agencies; adopt the River Basin Management Plans (RBMPs) for the Ishem, Erzen and Mati rivers and complete these RBMPs for the Shkumbini and Vjosa rivers;
- take immediate measures to review and improve the quality of environmental and strategic impact assessments of projects, plans and programmes, especially in the hydropower, construction, tourism, transport and mining sectors (and ensure public participation and consultation in this process); take immediate measures to fight environmental crime and achieve full alignment with the Environmental Crime Directive and with the Environmental Liability Directive and increase policy and law enforcement for nature and biodiversity protection, especially in the protected areas;
- set up flood vigilance mechanisms and risk management plans in all river basins; implement the national strategy on climate change and the related action plans on mitigation and adaptation, adopt the relevant legislation and implement its integrated national energy and climate plan in line with Energy Community obligations.

Environment

In terms of **horizontal legislation**, Albania still needs to step up efforts to achieve full alignment and implementation in most areas. The implementation of the Directives on Environmental Impact Assessment (EIA) and strategic Environmental Assessment (SEA) needs to be significantly improved

The EIA quality and the relevant processes need to be improved, Recommendations from EIAs are rarely implemented; they should be enforced and then monitored. Public participation and consultation in decision-making need to be improved, particularly at local level.

The EIA for Vlora Airport was broadly criticised by civil society and other stakeholders. One of the issues was the lack of consideration for the ‘protected area’ status of the selected site.

Implementation of the EU Directive on protecting the environment through criminal law needs to be improved, although convictions for environmental crime increased to 79 in 2022 (from 65 in 2021).

The implementation of the polluter-pays principle in implementing legislation is weak. Further progress is needed to achieve full alignment with the Directive on environmental liability. Inspections and enforcement capacity should be rapidly strengthened, especially to address environmental crimes more effectively. The state budget for environment and climate change remains very limited in 2023, and not sufficient to implement the EU *acquis*. Frequent staff turnover and hiring of staff without relevant expertise, has further eroded the capacity of the central administration and related agencies in this area. The recent replacement of some directors in the regional administration of protected areas across the country has attracted particular attention and raised concerns about the management of these areas. Corruption cases, identified by the Specialised Anti-Corruption Structure (SPAK) during the award procedures for the construction concession for the incinerator in Elbasan (in 2021) and the Fier waste incinerator (in 2022), are being investigated, and the former Minister of Environment and former Secretary General of the Ministry of Environment have been indicted.

More efforts are needed to align with the EU **air quality** *acquis*, including extending and improving the air monitoring system. The implementation of the 2014 national air quality strategy is still pending and the 2019 national plan on air quality management does not provide a functional monitoring system. There are only seven automatic air monitoring stations in the whole country (located in the main cities) but data is not reported in real time and monitoring is not carried out during the whole year. The plan focuses mostly on transport measures, while air quality monitoring still not in line with EU standards. Implementation of the action plan for air quality and of the Directive on sulphur content in certain liquid fuels is ongoing, while implementation has not yet started for the Directives on controls on volatile organic compound (VOC) emissions and stage II petrol vapour.

The legal framework for **waste management** is only partially aligned and substantial efforts to achieve full alignment are needed. Closing non-compliant landfills and dumpsites, as well as littering, remain significant challenges. Separate collection of waste streams and economic instruments to promote recycling and reuse and prevent waste generation are still insufficient. The construction of a new incinerator in Tirana poses growing concerns in terms of compliance with the EU waste *acquis*, including with the waste hierarchy and recycling targets. Moreover, Albania’s waste management policies do not aim to reach EU 2030 recycling targets.

Albania should do more to promote the circular economy and incentivise the prevention, reduction and recycling of waste. In particular, it should invest further in composting, to cut down landfills. The first three local composting facilities in the country have been built with donor funding, and started operation in 2022-2023, in the municipalities of Cerrik, Roskovec and Belsh.

The implementation of the waste streams legislation should be speeded up. The enforcement and compliance-checking role of the institutions should be clarified and strengthened, and they should be given appropriate staffing and budget. In January 2023, a unit on circular economy was set up within the Ministry of Tourism and Environment, and is awaiting proper staffing. In March 2022, Albania adopted legislation that bans the use of certain categories of plastic bags, and has partially aligned with the Directive on single-use plastics. However, the implementation of this ban is inconsistent. Further alignment with this Directive is needed, namely banning the other single-use plastic items. The entire legislation on waste needs to be reviewed and upgraded.

On **water quality**, the level of alignment remains incomplete and two laws on water resources and marine waters should still be adopted as early as possible. Directive-specific implementation plans for the Drinking Water Directive and Urban Waste Water Treatment Directive – where major investment is required for compliance – were prepared in 2022. Following the 2020 adoption of the Drini-Buna and Semani River Basin management plans, Albania should complete and adopt the remaining five RBMPs for the Ishem, Erzen, Mati, Shkumbini and Vjosa rivers.

In line with the Green Agenda for the Western Balkans, Albania should increase efforts to strengthen transboundary basin management with neighbouring countries. This concerns the Drini-Buna and Vjosa river basins. A transboundary approach with Greece is encouraged during the future development of the Vjosa management plan, acknowledging the high ecological value and eco-tourism potential of the river and its national park status in Albania.

To ensure progress on the EU water *acquis*, Albania needs to substantially increase the budget resources and implementation capacity of the key national water agencies and adopt a capacity development plan. In addition, water quality and quantity monitoring is insufficient. The Water Resources Management Agency, together with the National Environment Agency and other water monitoring agencies, should urgently plan and implement a national water monitoring programme with sufficient resources.

The performance of the water supply and sewerage services sub-sector remains overall low.

Albania should amplify and accelerate further its water reform measures. The National Strategy of the Water Supply and Sewage Sector for the period 2023-2030 was approved by the Albanian Government on July 2023. The new law on water supply and sewerage and the revised water code should be adopted and implemented as soon as possible. There is also a need to ensure full alignment with the urban waste water treatment Directive, extend sewerage networks, license and apply adequate tariffs for all waste water treatment plants and build new ones, in particular in urban and coastal areas with high tourism development. The strategic institutional development plan of the National Agency **for Water Supply Waste Water and Waste Infrastructure (AKUM)** needs to be adopted and enforced, to drive and support the implementation of the water reform and the new 2030 strategy.

Alignment with the EU *acquis* on **nature protection**, in particular the Habitats and Birds Directives, is advanced. The legislation on strategic investment raises concerns for the protection of biodiversity, as it may lead to extensive tourism and industrial investment in protected areas. Construction work for the new Vlora Airport within the Pishe Poro-Narta

Protected Area (former Vjosa-Narta Protected Area), which started in December 2021, is ongoing. In September 2023, the Standing Committee of the Bern Convention recommended to Albania to suspend the construction of Vlora Airport until a new and sufficient Environmental Impact Assessment (EIA) procedure is conducted. In September 2023, the Ministry of Tourism and Environment started implementing a monitoring plan in order to minimise the environmental footprint of the Vlora Airport in the protected area, including through on-site verifications, though without a prior updated EIA. Progress was made in March 2023 with the upgrade of the status of the Vjosa River - from a Nature Park (Category IV) into a National Park (Category II). The upgrade of the status of the Vjosa River took the form of also including the tributaries of this river, which is among the last of Europe's wild rivers. Faster implementation of the rules for managing revenues generated by fees paid in Protected Areas should be considered.

In 2022-2023, the government of Albania increased the total areas under protection by creating two new protected areas, the Porto-Palermo Bay Nature Park and the Albanian Tulip Nature Monument. However, the capacity and funding for proper management of all protected areas are very limited. Albania still does not adequately enforce the forest and logging laws: despite a moratorium on logging, this practice continues unchecked. Prosecutions of arsonists or other people causing forest fires are rare, considering the high number of intentional and unintentional fires in 2022. No convictions have been reported in these cases. The moratorium on hunting was extended by an additional five years but, for conservation purposes, a law and a plan to enforce the moratorium should also be adopted. Similarly, hunting continues to take place, despite a moratorium being in place. There has still been no decision by the Elbasan court on the case of the poaching of a lynx in Elbasan in 2020. Albania should ensure that its administration has adequate capacity to prevent and inspect wildlife crimes.

The Skavica hydropower plant project that is under preparation is expected to have a significant environmental and socio-economic impact on the area, and impact the Balkan lynx populations that use this corridor to migrate between Albania and North Macedonia. The preliminary environmental impact assessment for this project has been completed, but the representatives of the affected communities claim that no locals were invited to attend the consultations. Investment in the road sector rarely includes in practice the obligatory planting and restoration of roadside slopes, and no wildlife crossing has so far been planned and implemented in Albania.

In February 2022 Albania joined the High Ambition Coalition for Nature and People, pledging to protect at least 30% of its land and seas and promote nature-based solutions within the UN framework convention on climate change.

Alignment with EU legislation on **industrial pollution and risk management** is still at an early stage. Capacity and financial constraints are hampering progress in implementing legislation on the prevention of major accidents involving dangerous chemicals.

On **chemicals**, Albania has a legislative basis for alignment with the EU regulation on the registration, evaluation, authorisation and restriction of chemicals (REACH), but the implementing legislation has yet to be adopted and adequate administrative structures have not yet been established. In October 2022, Albania further aligned its legislation with the new EU Regulation on persistent organic pollutants.

Albania performed urban **noise** monitoring in several cities and municipalities, in line with the national monitoring programme and according to WHO and national standards. Albania

should strengthen its administrative capacity for preparing strategic noise maps and action plans.

On **civil protection**, Albania made progress in building its civil protection capabilities and has undergone a comprehensive reorganisation of its national civil protection system. In 2022, it joined the EU Civil Protection Mechanism (UCPM), demonstrating its commitment to contribute to the Mechanism and make further progress on civil protection. Albania also prepared a national disaster risk reduction strategy and action plan for 2023-2030.

Nevertheless, the country should work on further improving its civil protection system. Considering the increased frequency of national disasters in the last decade and the intensified impacts of climate change, Albania should review its emergency plans and substantially increase its operational capacities, infrastructure and systems for early warning, prevention, preparedness and response.

Albania needs to build efficient civil protection and disaster risk reduction (DRR) systems, to increase the country's resilience to natural disasters and crisis. The country should improve its management of flood risks in accordance with the EU floods Directive, and formulate new measures for to reduce the damage caused by flooding.

This includes boosting implementation by developing and adopting flood risk management plans in all basins. And further improving flood forecasting and the sustainability of the network of national monitoring stations, as well as urgently regulating its early warning and hydrometric-meteorological services.

Albania is also encouraged to develop river basin drought management plans, and forest fire risk assessments and management plans. And it should establish secure trans-European services for telematics between administrations (TESTA).

Climate change

Albania has some level of preparation for tackling climate change, but alignment with the EU *acquis* still remains limited. Albania pledged climate neutrality by 2050 at COP26, in line with the EU ambition. It also joined the Global Methane Pledge. The country presented its Fourth National Communication to the UN Framework Convention on Climate Change (UNFCCC) on November 2022. Albania is committed to taking measures to reduce greenhouse gas emissions from different economic sectors such as transport, agriculture, land use and forestry, industrial processes and waste, according to its updated National Determined Contribution (NDC). Albania's revised contribution to mitigation aims to decrease emissions by 20.9% by 2030 compared to the Business as Usual scenario. In February 2023 a ministerial decision approved the national strategy for development and European integration (NSDI) 2022-2030, which sets out a series of priority measures like adoption of climate secondary legislation, climate budgeting, and nature-based solutions. In addition, by December 2022 the country had partially aligned with the Regulation on the governance of the energy union and climate action. The level of emission reductions planned for 2021-2030 in the NECP is 18.7%.. The plan relies significantly on sequestration of CO₂ by forests, but there are very limited financial means and capacity allocated to protecting and managing forests, including measures to promote reforestation and manage forest fire risks. This should be urgently tackled.

The national strategy on climate change will need to be updated to take into account the new climate targets set out in the revised NDC and, closer to accession, the new climate targets set by the EU. The implementation of the 2020 climate Law requires further implementing measures to be initiated under the Minister for the environment. Capacity in the public

administration for interpreting the climate change impacts on Albania and incorporating climate change into sectoral strategies and plans remains very limited; capacity building is very much needed in this regard. No emissions register is in place.

Substantial investment and efforts are needed for climate adaptation, as Albania is highly exposed to the consequences of climate change. Sea level rise as well as floods/droughts are expected to substantially affect the society, public infrastructure and economic activities. Climate risk management plans need therefore to be adopted at all levels, and major vital infrastructures need to be climate-proofed, to increase the country's resilience to climate change impacts.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

This cluster covers: agriculture and rural development (Chapter 11); food safety, veterinary and phytosanitary policy (Chapter 12); fisheries and aquaculture (Chapter 13); regional policy and coordination of structural instruments (Chapter 22); and financial and budgetary provisions (Chapter 33).

The cluster comprises policies linked to sustainable and inclusive regional development and the EU's funding system; particular preparation is needed in this respect to develop the capacity required of a future Member State. Albania has some level of preparation in most areas linked to resources, agriculture and cohesion, namely agriculture and rural development, veterinary and phytosanitary policy, and financial and budgetary provisions. The country is moderately prepared regarding fisheries and aquaculture as well as regional policy and coordination of structural instruments.

Albania has made some progress in agriculture and rural development, notably in developing administrative capacity for the instrument for pre-accession assistance for rural development programme (IPARD III). Some progress was also observed on fisheries and aquaculture. Albania made limited progress on financial and budgetary provisions.

Chapter 11: Agriculture and rural development

The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.

Albania has **some level of preparation** in agriculture and rural development. **Some progress** was achieved with regard to (i) developing administrative capacity to prepare the instrument for pre-accession assistance for rural development (IPARD III) programme and (ii) the adoption of the law on wine and (iii) adopting an implementation plan for the setting up of the farm accountancy data network (FADN).

Some of the Commission's recommendations from 2022 were not fully implemented and remain valid.

In the coming year, Albania should in particular:

→ ensure the necessary administrative capacity is available for the setting up of the farm accountancy data network (FADN);

- Ensure that the administrative capacity required for the entrustment of budget implementation tasks under the IPARD III programme is in place, in line with the principles of sound financial management;
- complete the legal frameworks on quality policy and organic food production; ensure that the institutional and administrative capacity for their implementation is in place.

On **horizontal issues**, a farm register was put in place and should be improved to fully align with EU *acquis*. Registration of farms is required and performed by the advisory services, both under national schemes and under relevant IPARD measures. The farm register is an important first part of the future integrated administration and control system (IACS) and it will support the implementation of IPARD III programme. There was no progress in establishing a land parcel identification system (LPIS). An implementation plan, with specific details of the timeline and resource allocation to set up the FADN was adopted in April, and the necessary administrative capacity now needs to be deployed.

Direct payments to farmers are coupled to production and not subject to cross-compliance rules. All support measures need to be brought in line with the EU *acquis*. In spite of a slight increase, as compared with the previous year, the national agriculture budget remains low. Implementation of the strategic action plan for the reform of the advisory system has started, but implementation capacity remains low.

There was limited progress on setting up a **common market organisation (CMO)**. Legislation on vineyards and wines aligning with the EU *acquis* was adopted, including implementing legislation setting rules for registration in the vineyards register and for declarations and information collection by operators. Further efforts in this area are needed. Institutional capacity for implementation is still low.

On **rural development**, implementation of the IPARD II programme continued but increased capacity building and oversight is needed to ensure completion of the IPARD II programme and the efficient implementation of the IPARD III in full compliance with the principles of sound financial management.

Legislation on **quality policy** is partly aligned with the EU *acquis*.

On **organic farming**, additional effort is needed to adopt the legislation on organic production, which has been drafted in line with the recent reform of EU *acquis*. Albania continued to provide national support for organic farming.

Chapter 12: Food safety, veterinary and phytosanitary policy

EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with the quality of seeds, plant protection material, the protection against harmful organisms and animal nutrition.

Albania has **some level of preparation** in the area of food safety, veterinary and phytosanitary policy. **Limited progress** was achieved over the reporting period, particularly on alignment with the *acquis* on official controls, animal and plant health. The work has started but significant further efforts are needed. Albania made progress on designing and adopting the food safety national sectoral policy.

The Commission's recommendations from last year were not fully implemented and remain valid. In the coming year, Albania should in particular:

- work on alignment of national legislation with the *acquis* under the framework of their national sector policies, specifically for relevant laws on official controls, animal health and plant health;
- finalise the staffing of the veterinary service in order to ensure it is fully operational;
- strengthen the capacity to implement effective surveillance and vaccination programmes on the main infectious animal diseases, including rabies; continue to efficiently implement the rabies vaccination programme in 2024.

There was limited progress in implementing the *acquis* on **general food safety**. Some progress took place at the National Food Authority by revitalising the AKU-net system on inspection statistics, data management and transparency. Significant work is still needed to reduce the administrative burden for planning and reporting on risk-based official controls and to ensure the national data are transparent. Despite setting up of the Scientific Panel in June 2022 and February 2023, the results of its work are not yet public.

Albania has made limited progress on **veterinary policy**. Following the reorganisation of the Ministry of Agriculture and Rural Development in May 22, further structural reforms are still necessary to have a clear chain of command and line of communication/reporting, in line with the EU *acquis*. Adequate human resources should be ensured by filling vacancies in the general directorate dealing with food safety, veterinary and plant protection.

Moreover, while the National Veterinary and Plant Protection Authority increased its veterinary staff, the reform of the veterinary sector remains uncomplete. Significant work is still needed to establish the necessary capacity on passive and active surveillance, including reliable assessments of the prevalence of diseases. Substantial work is also required on data analysis and on the design, planning, and implementation of effective systems for disease prevention and/or eradication.

Albania continued its work on animal diseases through two vaccination campaigns against rabies and the implementation of control and eradication programmes for monitoring brucellosis and tuberculosis in cattle herds, brucellosis in small ruminants and anthrax. While countrywide verification and registration of the number of animals in Albania continued, substantial work is required to upgrade the animal register with additional information on other animals, such as swine, equine animals and poultry, as referred to in the EU *acquis*, to ensure that solid traceability systems are established for food of animal origin.

Regarding the **placing on the market of food, feed and animal by-products**, while Albania has made some progress in aligning its legislation with the EU *acquis*, implementation of its national residue monitoring plan remains an issue. In particular as regards veterinary medical products, pesticide residues, heavy metals and mycotoxins in live animals and products of animal origin. No validated screening methods are yet in place to guarantee the reliability of results for the relevant species and commodities. Limited progress was made in developing capacity and accreditation and validation methods for Albania's laboratory network. No progress was made on the legal basis of animal by-products. Preliminary work started on categorising food establishments but further work is required to align with the *acquis*.

Concerning **food safety rules**, Albania continued to align with the *acquis* on food additives and identification of maximum levels for certain contaminants in food. Raw milk testing was included in the 2023 official control plan but more progress is needed on developing a roadmap to improve milk quality.

Progress on **phytosanitary policy** remains limited. Albania approved an action plan for the sustainable use of plant protection products but the plant health law remains to be adopted.

Albania continued to update the list of active substances in plant protection products, in line with the *acquis*.

No progress was made on **feed or genetically modified organisms** and the legislation is yet to be adopted.

Chapter 13: Fisheries and aquaculture

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

Albania is **moderately prepared** in fisheries and aquaculture. It made **some progress**, specifically on keeping the vessel monitoring system (VMS) operational and allocating human resources to monitor and report on activity by fishing vessels. There was limited progress on filling vacancies in the fishery directorate. The administrative capacity of the inspectorate and central administration need to be further improved. As a contracting party of the General Fisheries Commission for the Mediterranean (GFCM), Albania is fully implementing the recommendations to control its fishing effort.

The Commission's recommendations from 2022 remain largely valid. In the coming year Albania should in particular:

- build up the necessary administrative capacity in the fishery sector, notably by completing staffing, strengthening data collection and scientific advice and implementing national policies in line with EU's common fisheries policy (CFP) and international agreements;
- take concrete steps to implement the regional plan of action for small-scale fisheries;
- continue its active participation in the GFCM inspection scheme in the Adriatic Sea.

Regarding **resource and fleet management and structural measures**, the vessel register has improved and fishery production data are regularly maintained and updated. Albania continues to implement the legal acts related to managing commercial fishing capacity. Ministerial orders have been issued in line with the recommendations of the GFCM for the sustainable exploitation of fish stocks. Regarding small-scale fisheries, no significant step was taken. The government continued to implement financial support measures for the fishery and aquaculture sector as part of its 2022-2023 national funding programme for agriculture and rural development.

Inspection and control capacity has improved. The vessel monitoring system (VMS) is functional and operational. Two patrol boats for fishery inspectors were purchased and delivered. The legal basis for the electronic reporting system (ERS) was prepared and approved by the Council of Ministers and financial resources earmarked in the budget for setting it up. The Ministry of Agriculture has six system operators at the central level of the Directorate of Fisheries and Aquaculture Service; these monitor and report on the activity of fishing vessels, in addition to the fisheries monitoring centre (IMOC). Sufficient inspection and control capacity is in place to monitor marine fishing activity for all vessels over 12 metres long 24/7, to control fishing activities, to prevent, reduce and eliminate illegal, unreported and unregulated fishing (IUU). The inspection and control capacity to fight against IUU was strengthened through cooperation with the European Fisheries Control Agency (EFCA).

The capacity to interpret and implement the national legislation in this field or the EU common fisheries policy remains weak and data collection needs to be improved, in particular on scientific capacity and data management. The structure and human resources of the Fishery Directorate central administration remain to be improved.

The adoption procedure of the plans on the allocated zones for aquaculture (Shengjin, Durrës and Vlora) is ongoing, plans are currently under public consultation. Efforts to prepare such zones for inland waters have started.

On **market policy**, the wholesale market for fishery products and aquaculture in Shengjin fishing port and in Vlora are not yet fully operational. On **State aid**, support was made available in 2022 for replacing fishing vessels and equipment (50% co-funding). A fuel compensation scheme for fishing vessels operators was implemented. In 2023 State aid is provided under the national supporting scheme, as a separate financing measure for the fisheries sector.

Regarding **international agreements** on fisheries and aquaculture management, two cooperation agreements are in force: with North Macedonia for joint fisheries management in Lakes Ohrid and Prespa and with Montenegro on joint fisheries management of Shkodra/Skadar Lake and the Buna/Bujana river. Albania is a contracting party to the GFCM and has fully implemented the recommendations of this body on controlling its fishing effort. Albania should continue to actively participate and implement GFCM measures and recommendations, notably (i) implementing the multiannual management plans for the conservation and sustainable exploitation of small pelagic and demersal fisheries in the Adriatic Sea, and (ii) increasing activities to implement the regional action plan of action for small-scale fisheries in the Mediterranean and the Black Sea (RPOA-SSF).

As regards the **wider blue economy**, to ensure the optimal development of all sea-related activities in a sustainable manner, Albania is encouraged to promote regional maritime cooperation with partner countries in the Adriatic-Ionian sea.

Chapter 22: Regional policy and coordination of structural instruments

Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU acquis elements such as environmental or public procurement legislation.

Albania is **moderately prepared** as regards regional policy and coordination of structural instruments. **Limited progress** was made over the reporting period. However, the adoption in July 2022 of implementing legislation based on the Albanian Law on regional development and cohesion with the setting up of the National Committee for Regional Development and Cohesion are worth noting.

The recommendations for 2022 remain partly valid. In the coming year, the country should, in particular:

- prepare for effective implementation of the EU *acquis* under Chapter 22 and factor in the requirements of the future structural and cohesion funds in the institutional set-up and the financial management and control systems, ensuring that all its instruments and funds are gradually made compliant with EU requirements in terms of programming and partnership principles;

- implement the national strategy for regional development and cohesion (2021-2027) and complete the regional development plans (2021-2024). These two measures should foster development potential through decentralised intervention based on local and/or regional integrated plans and strategies;
- clarify responsibilities between central and local authorities, and further strengthen administrative capacity in central, regional and local bodies, by ensuring adequate staffing, revising the local government salary structure and keeping fiscal decentralisation high on the agenda.

Regarding the **legislative framework** for regional policy, implementing legislation was adopted in July 2022 regarding the creation, organisation and operating rules of the National Committee for Regional Development and Cohesion under the Prime Minister's office.

The Law on regional development and cohesion divides the territory of Albania into four development regions, each of them covering three counties. Efforts should be pursued to draft the national and regional plans (2021-2024) as part of the national strategy for regional development (2021-2027).

The Albanian Development Fund (ADF) is responsible for implementing the Law on regional development. It also has a mandate to prepare the national plan for regional development, as well as regional plans for the four development regions, to be implemented through a national operational programme for regional development with ADF as managing authority.

On the **institutional framework**, relevant by-laws on establishing a comprehensive regional development system need to reflect the role and responsibilities of each of the bodies involved and ensure coordination between them. An inter-institutional working group for Chapter 22 negotiations was established, chaired by the Ministry of Interior. The authorities should strengthen regional policy dialogue by making it more inclusive and improving coordination among ministries and with autonomous local governments. Capacity to manage public funds locally has to be strengthened. (*See above under Political Criteria - Governance*).

Albania also needs to address issues with strategic planning, implementation and monitoring capacity for infrastructure projects financed by the Western Balkans investment fund (WBIF) under the economic and investment plan (EIP).

On **administrative capacity**, the staff of the bodies involved in indirect management should continue to receive training, especially those that are new to managing EU funds. Strengthening human resources should remain a focus, along with an adequate staff retention policy. The administrative capacity for coordinating and monitoring sectoral reform through integrated policy management groups and sectoral steering committees has slightly improved. The involvement of development partners, local governments and civil society organisations in sectoral dialogue still needs some improvement.

On **programming**, efforts should continue to develop autonomous programming capacity for the period ahead. In December 2022, a decision was adopted to align strategic priorities and the medium-term budget. The national single project pipeline of investment, including for regional development, remains to be adopted. A key element for regional development will be to ensure ownership by public and private bodies at national and sub-national levels.

Albania continues to gain experience in programming and implementing regional policy cooperation through participation in cross border cooperation, transnational and interregional cooperation programmes. Albania participates in the EU strategy for the Adriatic Ionian

region (EUSAIR), which promotes cooperation and synergies among participating EU and non-EU countries.

On **monitoring and evaluation**, the sectoral monitoring committee issue operational recommendations for all IPA sectors and strategic issues are being discussed at the IPA monitoring committee. The work to ensure adequate monitoring of all programme activities by the State Agency for Strategic Programming and Aid coordination (SASPAC) should continue. The support offices of the National Authorising Officer and the National IPA Coordinator have yet to establish a list of key performance indicators for evaluating performance.

On **financial management, control and audit**, an evaluation of indirect management by the beneficiary country under IPAlI found that the Albanian Law on the audit authority needs to be amended, to ensure that management powers remain with the General Director and are not subordinated to the Supervisory Council. The National Authorising Officer (NAO) needs to ensure that its management declaration adequately reflects the results of its supervision and monitoring of management and control systems. The NAO support office will also have to strengthen its work with a view to Monitoring the implementation of sectoral operational programmes in indirect management by newly appointed bodies. The Officer's support office has yet to establish procedures to ensure immediate dissemination and implementation throughout the institutions, regarding internal control by the Commission. Irregularities still need to be registered completely and without delay in the irregularity management system, and internal control weaknesses and non-compliance events should be systematically reported in a dedicated registry.

Chapter 33: Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.

Albania has **some level of preparation** on financial and budgetary provisions. **Limited progress** was made in aligning with the EU *acquis* in the underlying policy fields that affect the functioning of the EU funding system.

Methodological improvements continued concerning alignment with ESA 2010 standards (European System of Accounts), and improving data transmission of the excessive deficit procedure (EDP) tables through the Albanian Integrated Government Financial Statistics compilation system (AIGC).

Last year's recommendations remain valid, as more progress is needed. In the coming year, the country should in particular:

- continue aligning data on National Accounts to ESA 2010 and improving the comprehensiveness of data transmission to Eurostat, including on the excessive deficit procedure;
- align its legislation with the EU provisions on VAT and customs duties and strengthen efforts to tackle fiscal evasion and informality;
- enhance administrative capacity and coordination mechanisms among key stakeholders in the own-resources system.

There was some progress in the underlying policy areas that indirectly affect the own-resources system (*for progress in these areas, see Chapters 16 – Taxation, 18 – Statistics, 29 – Customs union, and 32 – Financial control*).

On **traditional own resources**, a new Law on income taxes was adopted in March 2023, which will enter into force in 2024. Albania does not yet have in place a medium-term revenue strategy. Current legislation remains partly aligned with the relevant EU directives. Amendments were made to the VAT and excise legislation, aiming to align it with the respective EU directives, reduce some tax exemptions and upgrade excise fees.

Regarding the **Gross National Income** (GNI) resource, the Institute of Statistics (INSTAT) continued the regular transmission of GNI and GDP data to Eurostat, in the framework of the ESA 2010 transmission programme. However, significant improvement is still needed to achieve full compliance, mainly in the approach to quarterly GDP by income and population and employment data, and the GNI inventory should be updated. Work continued to improve the full set of non-financial accounts data, the estimation components for the non-observed economy, and the regional accounts, as well as to fully integrate the supply and use tables into national accounts.

Albania continued to align its legislation with ESA 2010 standards and publish the inventory of resources and methods used in the national accounts. The country remains partly in line with ESA 2010. INSTAT provided a draft inventory of the methods, procedures and sources used to compile deficit and debt data and the underlying government sector accounts, according to ESA.

However, further efforts are needed to improve compliance with ESA 2010 and to set up the GNI Inventory in full alignment with Eurostat recommendations. The benchmark revision of national accounts is postponed to 2024 and the new GNI Inventory is going to be provided after its implementation. INSTAT continued its work to improve the EDP data and the submission of questionnaires and pilot estimations to Eurostat, following the ESA 2010 and the manual on government deficit and debt (MGDD), but substantial efforts are needed to reach the full compliance with ESA 2010 requirements.

Albania continued its preparations for improving the estimation of its non-observed economy. A pilot project to improve the exhaustiveness adjustments of GDP/GNI estimates, designed in particular to develop new experimental estimates of illegal activities and fiscal audits, was implemented. Efforts continued to improve the exhaustiveness of estimates of national accounts. Based on the ESA 2010 methodology (European System of Accounts) and the data sources available, a direct estimation of the non-observed economy was achieved, but it doesn't include all types of exhaustiveness adjustments. A GDP revision is planned in 2024, as a result of ongoing methodological improvements implemented in recent years.

On **administrative infrastructure**, Albania needs to continue the work on creating the relevant institutions involved in the own-resources system and an own-resource coordination body, and on implementing rules. These are needed to ensure that, when it joins the EU, Albania will be able to calculate, forecast, account for, collect, pay, control, and report to the EU on own resources, in line with the EU *acquis*.

As part of the 2008 Law on management of budgetary system, Albania has in place legal provisions which define the criteria for initiating public financial inspection, in cases of any irregularities, and serious financial mismanagement situations. Furthermore, the general tax directorate and the general customs directorate continued their work on identification of tax evasion and fraud. (*See also chapter 16, 29 and 32 on actions against corruption*). Continued

efforts are needed to formalise the informal economy, improve the exhaustiveness of the national accounts and GDP/GNI calculations and combat tax evasion and customs duty fraud.

CLUSTER 6: EXTERNAL RELATIONS

There are two chapters in this cluster: external relations (Chapter 30) and foreign, security and defence policy (Chapter 31). Albania has a good level of preparation in both.

As regards Chapter 31, during the reporting period Albania made good progress, maintaining full alignment with all relevant EU decisions and declarations of the EU's Common Foreign and Security Policy, including with the EU's restrictive measures following Russia's invasion of Ukraine.

As a non-permanent member of the UN Security Council since January 2022, Albania continues to be actively engaged in promoting and defending the rules-based international order.

Albania made some progress on external relations, in particular in further aligning with the EU *acquis* its legislation on preventing trade in certain goods that could be used for capital punishment and torture.

Chapter 30: External relations

The EU has a common commercial policy towards non-EU countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.

Albania has a **good level of preparation** in external relations. **Some progress** was made during the reporting period, particularly regarding alignment of the legislation with the relevant EU *acquis* on preventing trade in certain goods that could be used for capital punishment and torture.

Last year's recommendations were partly implemented; therefore, in the coming year Albania should focus on:

- continuing to implement CEFTA additional protocol 5 on trade facilitation and additional protocol 6 on trade in services, and make progress with preparations to adopt additional protocol 7 on dispute settlement;
- establishing a legal framework covering international cooperation and development policy as well as humanitarian aid, in line with EU policies and principles.

On **common commercial policy**, Albania continued to coordinate its positions and align its policies closely with those of the EU, including within the World Trade Organization (WTO) and its Dispute Settlement Body. In December 2022, Albania adopted its Law on accession to the WTO Joint Initiative on Services Domestic Regulation. Albania also adopted in March 2023 the Agreement on Fisheries Subsidies in its Council of Ministers, which was ratified by Parliament in June 2023.

Albania continued to implement Central European Free Trade Agreement (CEFTA) commitments related to additional protocol 5 on trade facilitation and additional protocol 6 on services. A memorandum of understanding was signed in September 2022 between the governments of Albania and Italy to enable the extension of the green lanes between the Western Balkan countries and the bordering EU Member States.

Albania continued its awareness campaign with private sector representatives regarding the procedures and benefits involved in applying for authorised economic operator status, and

has so far registered 18 applications from local businesses. The first eight authorised economic operators were certified by the General Directorate of Customs and were positively assessed by the CEFTA validation committee. Albania continued to participate in the negotiations on CEFTA additional protocol 7 on dispute settlement.

Albania has yet to align its national control list of dual-use goods with the Commission delegated Regulation of 21 October 2022 on the list of dual-use items. In April 2023, Albania adopted its Law on goods that could be used for capital punishment or torture, which provides for partial alignment with the *acquis* on trade in certain of goods that could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.

There has been no progress on export credit guarantees, although Albanian second-tier banks do provide guarantees such as payment guarantee, performance/contract guarantee and bid guarantee. There is no state-supported export credit insurance provider.

Albania has 40 **bilateral investment treaties** in force, 22 of which are with EU Member States. Albania is negotiating with China a memorandum of understanding concerning investment cooperation in the digital economy, with Azerbaijan in the field of economic, industrial and technological cooperation and with India an agreement on establishing an intergovernmental commission on economic cooperation.

Albania has no **development policy** framework for cooperation/aid or agency for development cooperation. It is encouraged to establish a legal framework covering international cooperation and development policy as well as humanitarian aid for non-EU countries, in accordance with EU policies and principles. In March 2023, Albania became a member of the OECD Development Centre.

The 2001 Law on non-profit organisations recognises the potential activities of such organisations in the field of **humanitarian aid**, and allows them to carry out development and humanitarian aid activities in Albania and elsewhere. Two decisions by the Council of Ministers were adopted in March and June 2022 to address humanitarian aid issues for Ukrainians coming to Albania, following Russia's invasion of Ukraine, and on the financial aid to be provided to the Ukrainian government for that country's reconstruction.

Chapter 31: Foreign, security and defence policy

Member States must be able to conduct political dialogue under the EU foreign, security and defence policy, align with EU statements, take part in EU actions, and apply agreed sanctions and restrictive measures.

Albania has a **good level of preparation** in the field of foreign, security and defence policy. **Good progress** was made as the country continued, in the reporting period, its track-record of full alignment with relevant High Representative statements on behalf of the EU and relevant Council Decisions, including with the EU restrictive measures following Russia's war of aggression against Ukraine.

Furthermore, as a non-permanent member of the UN Security Council since 2022, Albania has continued to be actively engaged in promoting and defending the rules-based international order, in particular in the context of Russia's war against Ukraine.

Some progress was made in implementing the national strategy on small arms and light weapons and in aligning with the EU *acquis* in this field, but Albania remains both a destination and a transit country for light firearms. Albania continued to participate in EU crisis management missions and operations under the Common Security and Defence Policy

In the coming year, Albania should in particular:

- maintain its alignment with EU foreign, security and defence policy and strengthen its implementation in all international fora and its enforcement capacity regarding restrictive measures;
- consider stepping up its participation in EU crisis management missions and operations ;
- continue to implement its national strategy on small arms and light weapons as well as the corresponding action plan and step up the investigation and prosecution of firearms trafficking.

The **political dialogue** between the EU and Albania on foreign and security policy issues continued, including through Albania's active engagement in the EU-Western Balkans Common Foreign and Security Policy dialogue, at political directors' level. Albania supports the Global Strategy for the EU's Foreign and Security Policy of June 2016 and the Strategic Compass for Security and Defence.

Albania's Ministry for Europe and Foreign Affairs has appropriate structures to participate in the **common foreign and security policy**, while the Ministry of Defence deals more specifically with the common security and defence policy. When invited during the reporting period, Albania aligned with all (100%) of relevant Council Decisions and High Representative declarations on behalf of the EU, including all EU restrictive measures against Russia and Belarus following Russia's war of aggression against Ukraine. This is a strong signal of the country's strategic commitment to its EU path.

Albania made efforts to implement EU **restrictive measures**. However, the technical implementation and enforcement of the increasingly complex EU sanctions regimes pose a challenge. The authorities should continue to strengthen their capacity in this regard. In March 2023, Albania, North Macedonia, Kosovo and Montenegro launched the informal "Western Balkan QUAD – 100% alignment with EU CFSP", a platform aimed at facilitating their full alignment with the EU's CFSP.

Albania's priorities as a non-permanent member of the UN Security Council in 2022-2023 are in line with important EU priorities, including strengthening the agenda for women, peace and security, human rights and international law, countering violent extremism, and climate and security. The new national action plan on Women, Peace and Security was finalised. Albania has closely cooperated and coordinated with the EU and with the EU Member States in the UN Security Council, including on the international response to Russia's war of aggression against Ukraine. In March 2023, Albania became a member of the OECD Development Centre. While Albania generally aligns with the EU's positions in international organisations, implementation of a fully common approach is yet to be achieved.

Albania maintains a bilateral immunity agreement with the United States, granting US citizens exemptions from the jurisdiction of the **International Criminal Court**. In doing so, it does not comply with the EU common positions on the integrity of the Rome Statute or with the related EU guiding principles on bilateral immunity agreements. Alignment with the EU position is therefore needed.

On **conflict prevention**, during its current mandate as elected member of the UN Security Council, Albania has vocally addressed the importance of promoting peace and security through resolution of current crises, peaceful conflict settlement and mediation. Albania continued supporting EU measures and documents on conflict prevention.

Regarding **non-proliferation**, Albania continued to implement its national strategy on small arms and light weapons (SALW), adopted in February 2019, and the related action plan for 2022-2024. Albania also remained actively engaged in implementing the 2018 regional

roadmap and other regional forms of cooperation such as the European multidisciplinary platform against criminal threats (EMPACT) on firearms.

Albania continued to participate in some, but not all, international export control arrangements and non-proliferation instruments. It started procedures to join the Wassenaar Arrangement in September 2020 and should conclude the process rapidly. Albania continued to implement the national strategy against proliferation of weapons of mass destruction and its action plan, adopted in January 2020. Since May 2022, Albania has been serving as a member of the Executive Council of the Organisation for the Prohibition of Chemical Weapons (OPCW) for the 2022-2024 period, actively contributing to the effective implementation of the Chemical Weapons Convention.

Albania continued active **cooperation with international organisations**. In October 2023, Albania was elected to the UN Human Rights Council for the 2024-2026 term.

In terms of **security measures**, Albania has progressed on the path to full implementation of its security of information agreement with the EU.

Regarding civil and military crisis management, Albania continued to participate in EU crisis management missions and operations under the **common security and defence policy**, notably EUFOR Althea in Bosnia and Herzegovina.

Albania takes part in the European Peace Facility Balkan Medical Task Force assistance measure.

Regarding **hybrid threats**, Albania completed the EU's hybrid risk survey with the objective of identifying systemic vulnerabilities and continues to address the recommendations. A follow-up exercise to establish the state of implementation of the recommendations, which date back to 2020, was held in Tirana in September 2022 by the EEAS and the Commission.

In response to the large-scale cyber-attacks that were detected in July and September 2022, the government has begun to significantly strengthen its cybersecurity architecture – *see under Chapter 10 – Digital transformation and media*.

Albania needs to continue efforts on closing space for foreign interference and information manipulation, including disinformation and take actions towards building societal resilience against it and other forms of hybrid threats.

ANNEX I – RELATIONS BETWEEN THE EU AND ALBANIA

Albania is a candidate country since 2014. The first Intergovernmental Conference on **accession negotiations** took place on 19 July 2022, following the approval of the negotiating framework by the Council. On the same day the Commission launched the analytical examination of the acquis - the “**screening**” process, which progresses smoothly. All sessions on Cluster 1 (Fundamentals), Cluster 2 (Internal market), Cluster 3 (Competitiveness and inclusive growth) and Cluster 4 (Green Agenda and sustainable connectivity) have taken place. Explanatory sessions on Cluster 5 (Resources, agriculture and cohesion) and Cluster 6 (External relations) have been completed and bilateral sessions on these are ongoing. The remaining screening meetings are scheduled until November 2023.

Albania has been participating in the **Stabilisation and Association process** since 1999. The **Stabilisation and Association Agreement** (SAA) between Albania and the EU came into force in April 2009. The transitional period of the SAA ended on 31 March 2019 and since 1 April 2019, Albania is fully associated with the EU. In the reporting period, Albania continued to implement, overall, its commitments under the SAA. Regular political and economic dialogue has continued through the relevant joint bodies under the SAA. The Stabilisation and Association Council took place on 16 March 2023, for the first time in Tirana. Discussions focused on progress in SAA implementation as well as of the most important reforms developments. The Stabilisation and Association Committee did not meet during the reporting period. The Stabilisation and Association Parliamentary Committee met on 1 December 2022 and 19-20 July 2023.

The SAA and its Interim Agreement, applied since 2006, have allowed progressive trade liberalisation and mutual duty-free access for most goods. Since 2000 Albania has also been benefiting from the ‘autonomous trade measures’. The EU is the main trading partner of Albania, followed by CEFTA countries. Trade integration with the EU is high. In 2022 the EU remained the main trading partner of Albania, accounting for 59% of Albania’s total trade in goods (73% of total exports and 52% of total imports). EU-Albania trade rose by 19% in 2022, demonstrating continued recovery from the impacts of the COVID-19 pandemic. Albania’s total trade in 2022 was worth EUR 12.1 billion. The country’s trade deficit with the EU amounted to EUR 1.1 billion in 2022. In comparison, Albania’s trade with CEFTA represented around 10.7% of total trade as compared to 10.1% in 2021, which demonstrates ongoing regional integration.

Visa liberalisation for citizens of Albania travelling to the Schengen area has been in force since December 2010. A readmission agreement between the EU and Albania has been in force since 2006. The Commission’s December 2022 fifth report under the visa suspension mechanism¹⁴ concluded that Albania continues to meet the visa liberalisation requirements.

Albania has continued to fully align with all EU **common foreign and security policy** positions and declarations during the reporting period. Albania continued to actively participate in EU crisis management missions and operations under the common security and defence policy, notably EUFOR Althea in Bosnia and Herzegovina.

Under the **Instrument for Pre-accession Assistance 2021 – 2027 (IPA III)**¹⁵, a second financing Decision of EUR 80.6 million for the Annual Action Plan 2022 supports the process of re-evaluation of judges, democracy, law enforcement, EU integration, water and youth. At the EU-WB Summit in Tirana in December 2022, the Commission put forward an

¹⁴ COM(2022) 715 final

¹⁵ Official Journal L 330, 20.9.2021

Energy Support Package of EUR 1 billion for the Western Balkans to address immediate, short-term, and medium-term needs in the region in the context of the energy crisis and of Russian war of aggression against Ukraine. Following this announcement, a EUR 80 million budget support programme for Albania was adopted at the end of 2022 (annual action plan 2023) to cushion the energy price increase to SMEs and vulnerable households and to accelerate energy diversification. These programmes are complemented by a significant package of multi-country programmes and the rural development programme IPARD III with EUR 112 million, which provide a significant contribution to kick-start the implementation of the Economic and Investment Plan for the Western Balkans and the Green Agenda. Albania participates also in cross-border cooperation programmes, transnational cooperation programmes and Union programmes.

On-going programmes under IPA II (2014-2020) are still providing significant support for the social and economic development of the country and contribute to key reforms. On the fundamentals, progress was made with the implementation of the justice reform for instance in the process of reevaluation of judges and prosecutors (“vetting”), in supporting the specialised structures against corruption and organised crime, as well as in fighting money laundering. EU programmes have supported public administration reform, public finance, decentralisation and service provision to the citizens. In addition, civil society has been a strong partner in advancing the priority areas of the fundamentals agenda. Significant EU financial assistance has been allocated to Albania for protecting the environment and boosting the connectivity with the EU transport systems.

Albania is the only country from the region that has signed cooperation agreements with all justice and home affairs agencies of the EU. Albania participates in five **cross-border cooperation programmes**, as well as in transnational cooperation programmes. Albania participates with IPA support in the EU programmes Erasmus+, Creative Europe (Culture and Media strands), Employment and Social Innovation, Horizon 2020, Customs 2020, Fiscalis 2020, Competitiveness of Enterprises and Small and Medium-Sized Enterprises Programme (COSME), Justice, Europe for Citizens and EU Fundamental Rights Agency (FRA) (observer). To improve the accountability of public administration in the country, Albania is participating as an observer in a pilot project under the Technical Support Instrument.

The **Western Balkans Investment Framework** (WBIF) has supported Albania in the amount of EUR 217.8 million provided as IPA III grants for flagship projects in the area of clean energy, environment and climate, digital future, and sustainable transport.

The EU provides support via IPA and the Foreign Policy Instrument to strengthen Western Balkans partners’ resilience to face hybrid threats including cyber and foreign information manipulation and interference.

STATISTICAL DATA (as of 31/08/2023)
Albania

Basic data	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		2 919 s	2 877 s	2 870 s	2 862 s	2 846 s	2 830 s
Total area of the country (km²)		28 748 w	28 748 w	28 748 w	28 748 w	28 748 w	28 791 e

National accounts	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million national currency)		1 239 645	1 550 646	1 636 731	1 691 903	1 647 431	1 856 172 p
Gross domestic product (GDP) (million euro)		8 997	11 559	12 828	13 754	13 310	15 157 p
GDP (euro per capita)		3 090	4 020	4 480	4 820	4 690	5 390 p
GDP per capita (in purchasing power standards (PPS))		7 287	8 771	9 153	9 506	9 213	10 296 p
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		29.3	29.9	30.2	30.4	30.7	31.7
Real GDP growth rate: change on previous year of GDP volume (%)		3.7	3.8	4.0	2.1	- 3.5 p	:
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		20.7	21.8	21.1	21.0	21.9	21.1 p
Industry (%)		13.8	12.8	14.1	13.8	12.8	12.9 p
Construction (%)		14.9	10.5	10.3	9.8	10.2	10.9 p
Services (%)		50.8 s	54.9 s	54.6 s	55.4 s	55.2 s	55.2 ps
Final consumption expenditure, as a share of GDP (%)		89.3	91.1	90.4	91.3	92.5	88.6 p
Gross fixed capital formation, as a share of GDP (%)		28.4	24.6	23.9	22.3	22.6	24.4 p
Changes in inventories, as a share of GDP (%)		1.9	0.5	0.0	0.7	0.3	0.5 p
Exports of goods and services, relative to GDP (%)		28.0	31.6	31.6	31.3	22.7	31.3 p
Imports of goods and services, relative to GDP (%)		48.6	46.6	45.2	45.0	37.2	44.7 p
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)	1)	57.0 w	81.4 w	96.6 w	95.5 w	89.5 w	113.0 w
Number of active enterprises (number)	2)	72 599 w	97 352 w	97 272 w	93 563 w	92 008 w	:
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)	3)	16.0 w	15.3 w	12.5 w	10.8 w	10.4 w	12.6 w
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:

People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)	2)	83.5 sw	80.5 sw	80.2 sw	81.2 sw	81.3 sw	:
Value added by SMEs (in the non-financial business economy) (EUR million)	2)	1 560 sw	2 520 sw	2 881 sw	3 263 sw	3 103 sw	:
Total value added (in the non-financial business economy) (EUR million)	2)	2 462 w	3 687 w	4 187 w	4 511 w	4 184 w	:

Inflation rate and house prices	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)		:	3.2 d	1.8 d	1.7 d	2.2 d	2.3 d
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		:	- 870.6	- 865.7	- 1 089.2	- 1 153.3	- 1 166.2
Balance of payments current account: trade balance (million euro)		:	- 2 823.1	- 2 869.7	- 3 144.1	- 2 982.1	- 3 828.9
Balance of payments current account: net services (million euro)		:	1 086.8	1 110.3	1 263.8	1 056.2	1 795.8
Balance of payments current account: net balance for primary income (million euro)		:	18.3	- 13.6	- 180.3	- 227.6	- 211.0
Balance of payments current account: net balance for secondary income (million euro)		:	847.5	907.2	971.3	997.1	1 077.9
Net balance for primary and secondary income: of which government transfers (million euro)		:	69.6	67.1	67.1	58.2	48.6
**3 year backward moving average of the current account balance relative to GDP (%)		:	- 7.9	- 7.3	- 7.4	- 7.8	- 8.1
**Five year change in share of world exports of goods and services (%)		:	:	:	:	5.3	21.7
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		788.5 w	992.4 s	1 023.6 s	1 037.1 s	893.6 s	988.8 s
Foreign direct investment (FDI) abroad (million euro)		4.8 w	23.4	69.1	114.2	76.4	53.3
of which FDI of the reporting economy in the EU-27 countries (million euro)		:	14.6 w	32.4 w	39.1	28.5	27.3
Foreign direct investment (FDI) in the reporting economy (million euro)		793.3 w	1 017.0 w	1 092.1 w	1 150.5 w	970.2 w	1 043.3 w
of which FDI of the EU-27 countries in the reporting economy (million euro)		:	404.7 w	248.0 w	649.4	535.3	679.8
**Net international investment position, relative to GDP (%)		:	- 47.1 w	- 49.4 w	- 48.4 w	- 53.9 w	- 49.9 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		7.7 sw	5.5 s	5.2 s	5.1 s	5.1 s	5.0 ps

Public finance	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)	4)	- 3.1 w	- 2.0 w	- 1.6 w	- 1.9 w	- 6.8 w	- 6.8 fw
General government gross debt relative to GDP (%)	4)	54.0 w	66.9 w	64.9 w	63.3 w	72.7 w	76.7 fw
Total government revenues, as a percentage of GDP (%)	4)	26.2 w	27.8 w	27.5 w	27.2 w	26.3 w	28.1 fw
Total government expenditure, as a percentage of GDP (%)	4)	29.3 w	29.8 w	29.1 w	29.1 w	33.2 w	35.0 fw

Financial indicators	Note	2010	2017	2018	2019	2020	2021
Gross external debt of the whole economy, relative to GDP (%)		45.6 sw	68.8 s	65.1 s	59.9 s	64.2 s	64.4 ps
Gross external debt of the whole economy, relative to total exports (%)		162.6 w	217.6 w	205.8 w	191.3 w	283.1 w	205.3 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		1 998.9 w	3 440.8 w	3 752.1 w	4 259.5 w	5 149.2 w	5 727.5 w
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		4 387.2 w	5 508.2 w	5 732.2 w	6 160.4 w	6 967.3 w	7 507.8 w
Money supply: M3 (M2 plus marketable instruments, million euro)		7 114.3 w	9 444.2 w	9 906.4 w	10 717.6 w	11 771.8 w	12 929.3 w

Total credit by monetary financial institutions to residents (consolidated) (million euro)		3 481.5 w	8 690.6	9 462.0	10 095.6	10 696.1	12 220.4
**Annual change in financial sector liabilities (%)		:	5.7	3.2	2.3	7.5	11.6
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	59	54	54	58	55 p
Interest rates: day-to-day money rate, per annum (%)	5)	5.37 w	1.34 w	1.24 w	1.10 w	0.73 w	0.65 w
Lending interest rate (one year), per annum (%)	6)	11.29 w	5.98 w	5.66 w	6.25 w	6.05 w	5.91 w
Deposit interest rate (one year), per annum (%)	7)	6.40 w	0.75 w	0.73 w	0.49 w	0.40 w	0.48 w
Euro exchange rates: average of period (1 euro = ... national currency)		137.790	134.150	127.590	123.010	123.770	122.460
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		1 904.8 w	2 995.9 w	3 399.0 w	3 359.6 w	3 942.4 w	4 972.2 w

External trade in goods	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		3 328	4 648	5 026	5 269	4 860	6 545
Value of exports: all goods, all partners (million euro)		1 169	2 026	2 431	2 426	2 190	3 012
Trade balance: all goods, all partners (million euro)		- 2 160	- 2 622	- 2 596	- 2 843	- 2 670	- 3 533
Terms of trade (export price index / import price index * 100) (number)		102.1 sw	99.8 sw	103.6 sw	99.2 sw	104.1 sw	104.5 sw
Share of exports to EU-27 countries in value of total exports (%)		70.2 s	77.0 s	75.9 s	76.4 s	74.7 s	72.2 s
Share of imports from EU-27 countries in value of total imports (%)		65.5 s	60.8 s	60.0 s	57.7 s	57.9 s	54.4 s

Demography	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		4.8	3.0	2.5	2.3	0.2	- 1.2
Infant mortality rate deaths of children under one year of age (per thousand live births)		9.6	8.0	8.9	10.3	10.0	8.4
Life expectancy at birth: male (years)		:	77.1	77.4	77.6	75.2	73.6
Life expectancy at birth: female (years)		:	80.1	80.5	80.7	79.6	77.7

Labour market	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		69.7 ew	73.9 w	74.8 ew	75.9 ew	75.3 ew	75.1 ew
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		60.3 ew	63.9 w	65.6 ew	67.1 ew	66.3 ew	66.3 ew
Male employment rate for persons aged 20–64 (%)		71.5 ew	72.1 w	73.9 ew	74.7 ew	74.0 ew	74.6 ew
Female employment rate for persons aged 20–64 (%)		49.8 ew	55.6 w	57.4 ew	59.7 ew	58.8 ew	58.3 ew
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		48.3 ew	55.5 ew	58.2 ew	60.4 ew	60.3 ew	60.0 ew
Employment by main sectors							
Agriculture, forestry and fisheries (%)		:	38.2 ew	37.4 ew	36.4 ew	36.1 ew	33.8 ew
Industry (%)		:	12.5 ew	12.7 ew	13.1 ew	13.4 ew	13.8 ew

Construction (%)		:	6.9 ew	7.0 ew	7.0 ew	7.0 ew	8.1 ew
Services (%)		:	42.4 ew	42.9 ew	43.5 ew	43.5 ew	44.3 ew
People employed in the public sector as a share of total employment, persons aged 20–64 (%)		:	16.4 ew	15.9 ew	15.3 ew	15.5 ew	16.3 ew
People employed in the private sector as a share of total employment, persons aged 20–64 (%)		:	83.6 ew	84.1 ew	84.7 ew	84.5 ew	83.7 ew
Unemployment rate: proportion of the labour force that is unemployed (%)		14.0 ew	13.7 ew	12.3 ew	11.5 ew	11.8 ew	11.6 ew
Male unemployment rate (%)		12.6 ew	14.6 ew	12.7 ew	11.6 ew	11.6 ew	11.4 ew
Female unemployment rate (%)		15.9 ew	12.6 ew	11.9 ew	11.4 ew	12.0 ew	11.8 ew
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		30.5 ew	31.9 ew	28.3 ew	27.2 ew	26.5 ew	27.1 ew
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		10.6 ew	8.9 ew	8.3 ew	7.3 ew	7.0 ew	7.3 ew
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		10.9 ew	11.2 ew	9.2 ew	8.6 ew	9.6 ew	9.8 ew
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		:	11.7 ew	11.5 ew	9.7 ew	10.0 ew	8.4 ew

Social cohesion	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)	8) 9)	44 375 ew	48 967 ew	50 589 ew	52 380 ew	53 662 ew	57 190 ew
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)	9)	:	101 ew	102 ew	105 ew	105 ew	110 ew
GINI coefficient		:	37	35	34	33	:
Poverty gap		:	33.4	32.4	28.6	26.0	:
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		31.9 ew	19.6 w	17.4 w	16.3 w	15.6 w	17.4 w

Standard of living	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		101.0 sw	145.0	161.0	176.0	191.0	210.0
Number of mobile phone subscriptions relative to population size (number per thousand population)	10)	1 584.4 w	1 934.4 w	1 445.6 w	1 183.8 w	1 176.2 w	1 239.1 w
Mobile broadband penetration (per 100 inhabitants)	10)	:	:	:	62.7 w	70.4 w	73.1 w
Fixed broadband penetration (per 100 inhabitants)	10)	:	11 w	13 w	15 w	17 w	20 w

Infrastructure	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km ²)		13.9 sw	11.6 sw	11.6 sw	5.9 sw	7.8 sw	7.8 s
Length of motorways (kilometres)		:	z	z	z	22	25

Innovation and research	Note	2010	2017	2018	2019	2020	2021
Public expenditure on education relative to GDP (%)		3.4 sw	3.1 sw	3.2 psw	3.3 sw	3.3 psw	3.1 sw
*Gross domestic expenditure on R&D relative to GDP (%)		:	:	:	:	:	:

Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	:	:
Percentage of households who have internet access at home (%)		:	:	83.6	85.5	87.2	90.9

Environment	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)		:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		229.1	219.2	209.4	204.2	196.3	:
Electricity generated from renewable sources relative to gross electricity consumption (%)		74.6	91.0	92.5	93.0	100.0	94.4
Road share of inland freight transport (based on tonne-km) (%)		:	:	:	:	:	:

Energy	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		1 620	1 642	2 015	1 736	1 494	1 823
Primary production of crude oil (thousand TOE)		744	959	911	1 005	758	712
Primary production of solid fuels (thousand TOE)		2	76	161	52	69	131
Primary production of gas (thousand TOE)		12	37	32	58	41	44
Net imports of all energy products (thousand TOE)		622 s	920 s	503 s	753 s	793 s	553 s
Gross inland energy consumption (thousand TOE)		2 152	2 375	2 366	2 355	2 183	2 298
Gross electricity generation (GWh)		7 568	4 526	8 553	5 206	5 313	8 963

Agriculture	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		1 200.9	1 174.1	1 174.0	1 174.1	1 165.7	1 165.6
Livestock numbers: live bovine animals (thousand heads, end of period)		:	475.2	467.3	415.6	362.6	336.8
Livestock numbers: live swine (thousand heads, end of period)		:	180.1	184.1	183.9	158.4	159.2
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	2 858.6 s	2 781.0 s	2 621.2 s	2 332.2 s	2 255.8 s
Raw milk available on farms (thousand tonnes)		:	:	:	:	:	:
Harvested crop production: cereals (including rice) (thousand tonnes)		:	:	678.2	666.1	684.0	691.4
Harvested crop production: sugar beet (thousand tonnes)		:	0.0	27.5	30.7	27.0	24.4
Harvested crop production: vegetables (thousand tonnes)		:	:	:	:	:	:

Source: Eurostat and/or the statistical authorities in Albania

: = not available

d = definition differs

e = estimated value

f = forecast

p = provisional

s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) Activity B_D
- 2) Based on NACE Rev. 2. Coverage is Divisions 05 to 82 and 95.
- 3) A Directive made some farmers part of the SBR. Reform by the Albania Government to reduce the informal economy as well as the registration of farmers resulted in the SBR keeping just enterprises registered within the year and not newly created enterprises. As a result the birth rate can not be calculated from these data.
- 4) Forecasts of the Ministry of Finance and Economy.
- 5) Annual average of the Tribor rate – interbank rate for overnight loans.
- 6) Average weighted rate applied to new 12-month loans over the respective month, on 12-month maturity.
- 7) Deposit interest rate represents the average weighted rate for newly accepted deposits over the respective month, on 12-month maturity.
- 8) Public sector only.
- 9) Source of information: General Directorate of Taxation, social insurance contributors; INSTAT's calculation
- 10) The data are updated with the average population data for 2020.



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Bosnia and Herzegovina 2023 Report

Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions**

2023 Communication on EU Enlargement policy

{COM(2023) 690 final} - {SWD(2023) 690 final} - {SWD(2023) 692 final} -
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1. INTRODUCTION

1.1. CONTEXT

Following its application for EU membership in February 2016, Bosnia and Herzegovina must fulfil **14 key priorities** as set out in the **Commission's Opinion**¹ of May 2019 covering democracy/functionality, the rule of law, fundamental rights, and public administration reform. Once the Commission assesses that Bosnia and Herzegovina has achieved the necessary degree of compliance with the membership criteria and in particular has met the key priorities, the Commission will recommend opening EU accession negotiations. On the basis of the December 2019 conclusions of the Council of the European Union², the Commission focuses its annual reports on Bosnia and Herzegovina's implementation of the 14 key priorities.

On the basis of a recommendation by the Commission³, in December 2022 the European Council granted Bosnia and Herzegovina the status of **candidate country**⁴. The positive momentum that followed the granting of candidate status resulted in limited progress on the Opinion's key priorities. Positive developments at state level were in stark contrast to negative developments at the level of the *Republika Srpska* entity, impacting the country as a whole.

Following the October 2022 elections, state and entity-level legislative and executive bodies were set up by May 2023. The Commissioner and the Chairwoman of the Council of Ministers co-chaired a **High-Level Political Forum** in Sarajevo on 17 May to monitor the implementation of the steps in the recommendation, report on further progress on the ground and discuss reform efforts along the EU path. At the Political Forum the authorities reconfirmed their commitment to the strategic goal of EU accession.

Following the granting of candidate status, the **public commitment** of political parties to the strategic goal of **European integration** brought positive results. Important steps and commitments were made towards the fulfilment of the key priorities, despite negative legislative developments at entity level. The formation of a state-level coalition government at record speed is an important proof of a new political dynamism and will.

To address the **steps** specified in the Commission recommendation for candidate status, in the reporting period Bosnia and Herzegovina took the following actions. The Council of Ministers adopted strategies to counter organised crime, made an updated risk assessment and an accompanying action plan on anti-money laundering and combating the financing of terrorism, adopted strategies and action plans on migration and on terrorism, and appointed a supervisory body for the implementation of the national war crimes processing strategy. The contact point with Europol finally started operations in June 2023. The Council of Ministers endorsed a set of draft laws, notably on: integrity in the judiciary; torture prevention (designating the Ombudsman as national preventive mechanism); foreigners; and freedom of access to information. These were adopted by Parliament in August and September 2023.

The Council of Ministers also endorsed the legal basis for conducting negotiations on the southern and eastern gas interconnections, and the cooperation agreement with Eurojust. The Council of Ministers also endorsed the organisation of the Digital Summit of the Western

¹ SWD(2019) 222 final, COM(2019) 261 final.

² <https://www.consilium.europa.eu/en/press/press-releases/2019/12/10/council-conclusions-on-commission-opinion-on-bosnia-and-herzegovina-s-application-for-membership-of-the-european-union/>

³ COM(2022) 528 final, p. 38-39.

⁴ <https://www.consilium.europa.eu/media/60872/2022-12-15-euco-conclusions-en.pdf>

Balkans, held in Sarajevo in October 2023, the establishment of the Computer Emergency Response Team (CERT), and the procurement of helicopters for the Ministry of Defence and the Armed Forces. A state budget for 2023 was adopted in March. Bosnia and Herzegovina has launched ratification of two regional mobility agreements and needs to do the same for the agreement on free travel with identity card.

Recent developments, mainly in the *Republika Srpska* entity, are going against the positive momentum. Notably, the entity called for constitutional judges to resign and adopted a law decreeing that Constitutional Court decisions would not be implemented, calling into question the authority, integrity and the unimpeded functioning of the Constitutional Court and breaching the constitutional and legal order of the country. The entity also reintroduced criminal penalties for defamation, which severely impact the environment for civil society and restrict freedom of expression and media freedom, representing a major step backwards in the protection of fundamental rights. A draft law targeting civil society groups as ‘foreign agents’ was adopted in the first reading by the entity assembly. If finally adopted, this law would further undermine the effective functioning of democracy and would mark another regrettable and undeniable major step backwards.

Bosnia and Herzegovina continues to implement the **Stabilisation and Association Agreement** (SAA) which, together with its Interim Agreement applied since 2008, has enabled progressive trade liberalisation with the EU and mutual duty-free access for most goods. Continued protectionist measures are, however, a cause of increasing and serious concern regarding implementation of the SAA.

Policy dialogue under the SAA was restored after political blockage in 2021 and early 2022. The cycle of sectoral subcommittees opened in 2020 was completed in June 2023. A Stabilisation and Association Council took place in July 2023.

Bosnia and Herzegovina received the first 90% of the EUR 70 million energy support package in May 2023. The Council of Ministers needs to urgently appoint a National IPA Coordinator (NIPAC) for IPA III.

1.2. SUMMARY OF THE REPORT⁵

As regards **political criteria**, elections took place in October 2022. The High Representative intervened multiple times in electoral matters, including on the evening of the election day, which according to OSCE/ODIHR challenged legal certainty.

All state and entity-level legislative and executive bodies were set up by May 2023. A new state-level Council of Ministers took office in late January, supported by a ruling coalition including SNSD, HDZ BiH, and the ‘trojka’ (SDP, NiP, *Naša Stranka*). A state budget for 2023 was adopted in March. The new Council of Ministers took significant steps to adopt EU reforms following the granting of candidate status: it adopted the strategy on organised crime, an updated risk assessment and accompanying action plan on anti-money laundering and combating terrorism financing, as well as the strategies and action plans on migration and on terrorism. It also appointed a supervisory body for implementation of the national war crimes

⁵ This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from Bosnia and Herzegovina, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law. The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

processing strategy. The contact point with Europol finally started operations in June 2023. The Council of Ministers also endorsed a set of draft laws, notably on: integrity in the judiciary; torture prevention (designating the Ombudsman as national preventive mechanism); foreigners; and freedom of access to information. These were adopted by Parliament in August and September 2023.

A number of Constitutional Court decisions have yet to be fully enforced, including on state property. The Constitutional Court suspended or quashed several legal and political acts by the *Republika Srpska* entity. The entity leadership determined to enforce such laws nevertheless, endangering legal certainty. The entity assembly called on state-level constitutional judges to resign, and in June 2023 it legalised the non-publication of decisions of the High Representative and the non-implementation of the rulings of the Constitutional Court, calling into question the authority and integrity of the Constitutional Court and breaching the constitutional and legal order of the country. Both entities' assemblies should appoint judges swiftly to the vacant judges' seats and ensure the full composition of the Constitutional Court.

Constitutional and electoral reforms are still needed to bring the Constitution into line with the European Convention on Human Rights, complying with the *Sejdić-Finci* case law.

No steps were taken to develop socio-economic reforms in line with Commission recommendations and with the joint conclusions of the economic and financial dialogue. The continued protectionist measures are a matter of concern in the implementation of the SAA. Policy dialogue under the SAA was restored after its political blockage in 2021-2022. Bosnia and Herzegovina has not yet developed a national plan for the adoption of the EU *acquis* (NPAA), as required by the SAA.

Some progress was made on the alignment with the common foreign and security policy (CFSP). Bosnia and Herzegovina significantly improved its alignment with EU foreign policy. *Republika Srpska* entity authorities and parties advocated for a neutral stance on Russia's aggression against Ukraine, contesting the country's alignment with EU statements and obstructing the full implementation of restrictive measures against Russia. Bosnia and Herzegovina has launched ratification of two regional mobility agreements and needs to do the same for the agreement on free travel with identity cards. Bosnia and Herzegovina is at an early stage of preparation and made some progress on **public administration reform** (PAR). Some positive steps were taken by (i) adopting the PAR coordination arrangement ('common platform'), including a political decision-making body; (ii) implementing comprehensive and countrywide public finance management, (iii) improving capacity for public consultation at state level and on regulatory impact assessment in the *Republika Srpska* entity, (iv) adopting a strategy on human resource management in the Federation entity, (v) improving the professional development and performance appraisal in the Federation entity and at state level, and (vi) adopting a Law on freedom of access to information, aimed at fostering proactive disclosure and transparency. Some five years after adoption, the PAR action plan has been implemented only to a limited extent. Civil service laws are still not harmonised with each other and merit principles are not enshrined in recruitment procedures. The monitoring of human resources is not effective in detecting irregularities. A political decision-making body, included in the 'common platform', still needs to become operational to steer reforms effectively. The capacity of entity-level PAR coordinators remains weak. Bosnia and Herzegovina needs to complete essential steps to improve the overall functioning of the public administration by ensuring a professional and depoliticised civil service and a coordinated, countrywide approach to policymaking.

Bosnia and Herzegovina is at an early stage of preparation as regards its **judiciary**. Some progress was made in this area. In September 2023, Bosnia and Herzegovina amended the Law on the High Judicial and Prosecutorial Council (HJPC) with the aim of establishing a system to verify the asset declarations of judges, prosecutors and HJPC members, albeit with changes compared to the version on which the Venice Commission was consulted. Such changes hamper the effectiveness of the asset-declaration system and therefore need to be amended. The Council of Ministers also appointed a new supervisory body overseeing the implementation of the national war crimes strategy. The independence and impartiality of the judiciary did not improve. Executive and legislative authorities failed to adopt additional safeguards. Inconsistency and overly broad discretion persist in applying the rules on appointment, disciplinary responsibility, career advancement and conflict of interest of judges and prosecutors. Persistent and evident signs of deterioration continue to require urgent measures to strengthen integrity and regain the public's trust in the judiciary. The poor functioning of the judicial system continued to undermine citizens' enjoyment of rights and the fight against corruption and organised crime. The *Republika Srpska* entity assembly called on state-level constitutional judges to resign and legalised the non-implementation of the rulings of the Constitutional Court, calling into question the authority and integrity of the Constitutional Court and breaching the constitutional and legal order of the country.

Bosnia and Herzegovina is between an early stage and some level of preparation in the prevention of and **fight against corruption and organised crime**. No progress was made in the fight against corruption. Some progress was made in the fight against organised crime. The Council of Ministers adopted a strategy on organised crime, a strategy and action plan on terrorism, an updated risk assessment and an accompanying action plan on anti-money laundering and combating the financing of terrorism. The contact point for cooperation with Europol started operating in June 2023. The Ministry of Justice is yet to submit a draft state-level law on the prevention of conflict of interest in line with European standards to the Council of Ministers for adoption. Although there were some indictments pertaining to high-level corruption, the overall track record on preventing and repressing corruption (including at high level) remains insignificant due to operational inefficiency and political interference. There are systemic shortcomings in the operational cooperation between law enforcement agencies fighting organised crime, due to non-harmonised criminal legislation, weak institutional coordination, and a very limited exchange of intelligence. Criminal organisations take advantage of legal and administrative loopholes. The police is vulnerable to political interference. Financial investigations and asset seizures are also largely ineffective. A proactive approach remains fundamental to countering criminal infiltration in the political, legal and economic systems. Cooperation with Eurojust and the European Public Prosecutor's Office (EPPO) still needs to be stepped up. Building upon some operational successes in 2023, Bosnia and Herzegovina needs to continue its efforts in the fight against terrorism and drug trafficking and must increase its capacity to do so. A new law on anti-money laundering and terrorism financing in line with the EU *acquis* urgently needs to be adopted.

The legislative and institutional framework on **fundamental rights** is largely in place. In August 2023 the Parliament adopted a Law on freedom of access to information and amended the Law on the human rights Ombudsman to designate it as the national preventive mechanism against torture and ill-treatment. Significant reforms are still needed to ensure that all citizens can exercise their voting rights and to ensure non-discriminatory, inclusive and quality education for all, including by overcoming the practice of 'two schools under one roof'. Pride marches have been held regularly since 2020, and an action plan on the rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons was adopted in July 2022. The gender action plan was adopted in October 2023. Gender-based violence, ill-

treatment of detainees and inadequate protection of minorities, including the Roma⁶, continue to cause concern.

There was backsliding in guaranteeing freedom of expression and freedom of the media by protecting journalists from threats and violence and ensuring the financial sustainability of the public broadcasting system. Criminal penalties for defamation, reintroduced in the *Republika Srpska* entity in July 2023, severely impact the environment for civil society and restrict freedom of expression and of the media. In September 2023, a draft law targeting civil society groups as ‘foreign agents’ was also adopted in first reading in the *Republika Srpska* entity assembly; if fully adopted, it would mark another regrettable and undeniable major step backwards.

Bosnia and Herzegovina continued to take steps to improve **migration** management. Bosnia and Herzegovina adopted a new strategy and action plan on migration and asylum and now needs to implement them. A Law on foreigners was adopted in September 2023. Major weaknesses still undermine the provision of necessary assistance. Bosnia and Herzegovina needs to urgently step up efforts to ensure access to asylum and strengthen border management. Bosnia and Herzegovina is satisfactorily implementing the integrated border management strategy and should adopt in good time the strategy and action plan for 2024-2029.

As regards **economic criteria**, Bosnia and Herzegovina is at an early stage of establishing a functioning market economy. Cooperation and coordination of economic policymaking at state level and among the entities have further deteriorated. As a result, the country’s internal market remains fragmented, adversely affecting the business environment. Unemployment remains very high and labour out-migration persists. The country’s economic reform programme (ERP) continues to be of poor quality and implementation of reforms is limited. The ERP does not contain sufficient credible countrywide measures to address the major structural economic challenges in relation to the business environment, the informal economy, public enterprises, the green and digital transitions and unemployment. Overall, Bosnia and Herzegovina’s economic performance remains below its potential, as policymaking is hindered by political stalemate, an overly short-term approach, and lack of focus on policy measures to build growth.

Bosnia and Herzegovina is between an early stage and some level of preparation in terms of **capacity to cope with competitive pressure and market forces in the EU**, and made limited progress in this area. The quality of education has remained low and the country continues to lag behind in the energy and digital transition. In response to changes in global demand, some structural adjustment took place, with the focus of value-added moving towards services, such as trade, IT and tourism. Economic integration with the EU remains high, but overall trade is below potential.

Bosnia and Herzegovina is in between an early stage and some level of preparation in its ability to take on the **obligations of EU membership**. It needs to significantly step up alignment with the EU *acquis* and implement and enforce the necessary legislation. Limited to no progress was made on most EU *acquis* chapters during the reporting period.

Bosnia and Herzegovina has some level of preparation and made limited progress in the area of **public procurement** with the adoption of certain bylaws. The legislation needs to be further aligned with the EU *acquis*, including in the area of concessions. There was limited progress on **statistics**; preparations for the next census have hardly progressed and the

⁶ In line with the terminology of European institutions the umbrella term ‘Roma’ is used here to refer to a number of different groups, without denying the specificities of these groups.

production of macroeconomic statistics continues to deviate from the EU *acquis*. Some progress was made on public internal **financial control (PIFC)** in terms of implementing PIFC strategies in the entities and at state level.

Major steps are needed to align the legal framework across the country with the EU *acquis* on the **internal market** (free movement of goods, workers, services and capital, company law, intellectual property, competition policy, financial services, consumer and health protection) as well as to establish an internal market within the country. Bosnia and Herzegovina made no progress in this cluster. Procedures and legislation that differ between the entities create obstacles to competitiveness and growth and hinder enforcement. Bosnia and Herzegovina should improve coordination among the relevant authorities in all areas to achieve a countrywide approach and improve their enforcement record. It should abolish ethnic-based voting procedures in the Competition Council and State Aid Council and set up a financial stability fund as part of the bank resolution framework. This cluster is key for Bosnia and Herzegovina's preparations to meet the EU single market requirements and is very important for early integration with and the development of the Common Regional Market, as well as for the country to benefit from the Economic and Investment Plan and the New Growth Plan for the Western Balkans.

Bosnia and Herzegovina made limited or no progress in the areas of **competitiveness and inclusive growth** (taxation, digital transformation and media, social policy and employment, enterprise and industrial policy, science and research, education and culture and customs). It showed no progress in other areas (economic and monetary policy) where it is at an early stage or has some level of preparation. These areas have significant links to the economic reform programme. The country needs to introduce socio-economic reforms to address structural weaknesses, including low competitiveness and high unemployment. Bosnia and Herzegovina made some or limited progress in the **green agenda and sustainable connectivity** cluster, where it is at an early stage on energy, environment and climate change. It has some level of preparation in the areas of transport and trans-European networks. Further steps are needed on connectivity reform measures and in aligning with the Trans-European Transport Network (TEN-T) and Trans-European Networks for Energy (TEN-E) Regulations. The green transition and sustainable connectivity are key to economic integration within the region and with the EU. The implementation of the Economic and Investment Plan⁷ and the Green Agenda for the Western Balkans⁸ needs to be accelerated.

Bosnia and Herzegovina made no progress in the areas of **resources, agriculture and cohesion** (agriculture and rural development, food safety, veterinary and phytosanitary policy, fisheries and aquaculture, and financial and budgetary provisions), where preparation is mostly at an early stage. It must step up its efforts to prepare and adopt a post-2021 countrywide strategy for rural development, align its legislation on food safety, veterinary and phytosanitary policy and strengthen its administrative capacity. The administrative capacity of laboratories and central databases has yet to be strengthened. More efforts are also needed to prepare and adopt a countrywide strategy on fisheries and aquaculture and harmonise data collection. Bosnia and Herzegovina should start preparing a countrywide regional development strategy.

Bosnia and Herzegovina has some level of preparation in the cluster on **external relations**. Its alignment with the EU Common Foreign and Security Policy (CFSP) significantly improved, notably on High Representative statements on behalf of the EU and Council

⁷ COM(2020) 641 final.

⁸ SWD(2020) 223 final.

decisions on restrictive measures following Russia's war of aggression against Ukraine, although the implementation of sanctions remains a challenge. Bosnia and Herzegovina again unilaterally introduced and continued export restrictions breaching the terms of the SAA, a matter of concern for trade and commercial policy. The country needs to implement the additional protocols to the Central European Free Trade Agreement (CEFTA) on trade facilitation and trade and services, and swiftly adopt the additional protocol on dispute settlement. Bosnia and Herzegovina continued to actively participate in **regional cooperation** and to maintain good neighbourly relations. It needs to swiftly ratify the three regional mobility agreements.

In 2022, Bosnia and Herzegovina benefited from EUR 45.5 million under the **Instrument for Pre-accession Assistance 2021-2027 (IPA III)**⁹, providing support for programmes in justice, public administration reform, public finance management, EU integration, environment and climate change, employment and social protection. This set of programmes, complemented by a package of multi-country programmes, significantly contributes to the implementation of the **Economic and Investment Plan** for the Western Balkans and the **Green Agenda**.

The 2023 annual action plan consists of the **energy support package** for the Western Balkans and provides EUR 70 million to reduce the socio-economic impact of rising energy prices, in particular on small and medium-sized enterprises and households, and to support the transition to renewable energy sources, in line with the priorities of the EU's Economic and Investment Plan for the Western Balkans.¹⁰

Adopting countrywide sector strategies remains a key requirement for Bosnia and Herzegovina to benefit fully from IPA funding in the future. The Council of Ministers urgently needs to appoint the National IPA Coordinator (NIPAC) for IPA III.

1.3 ASSESSMENT OF THE IMPLEMENTATION OF THE 14 KEY PRIORITIES FOR OPENING EU ACCESSION NEGOTIATIONS AND OF THE STEPS SPECIFIED IN THE COMMISSION RECOMMENDATION FOR CANDIDATE STATUS

Key priority 1: *Ensure that elections are conducted in line with European standards by implementing OSCE/ODIHR and relevant Venice Commission recommendations, ensuring transparency of political party financing, and holding municipal elections in Mostar.*

The electoral frameworks remains to be aligned with European standards and recommendations. The High Representative imposed several changes to the electoral framework, including on the evening of the election day (2 October 2022), which according to OSCE/ODIHR challenged legal certainty. Municipal elections were held in Mostar in December 2020.

Key priority 2: *Ensure a track record in the functioning at all levels of the coordination mechanism on EU matters including by developing and adopting a national programme for the adoption of the EU acquis.*

Step: *ensure a track record in the functioning at all levels of the coordination mechanism on EU matters including by developing and adopting a national programme for the adoption of the EU acquis.*

⁹ C(2022) 9167 final.

¹⁰ C(2022) 9158 final.

There was no action on this key priority and step. The Council of Ministers should improve the functioning and make effective use of the coordination mechanism (collegium and ministerial conferences), and develop a national programme for the adoption of the EU *acquis* (NPAA). The programme for EU integration, prepared by DEI is still pending approval by the Council of Ministers. The Council of Ministers needs to urgently appoint the national IPA coordinator (NIPAC) for IPA III.

Key priority 3: *Ensure the proper functioning of the Stabilisation and Association Parliamentary Committee.*

The Stabilisation and Association Parliamentary Committee (SAPC) adopted its rules of procedure in 2021. Following the October 2022 elections, delegates to the SAPC were appointed in May 2023. Bosnia and Herzegovina's Parliament and the European Parliament held a full session of the SAPC in late October 2023. **The key priority is completed.**

Key priority 4: *Fundamentally improve the institutional framework, including at constitutional level, in order to:*

- a) *Ensure legal certainty on the distribution of competences across levels of government;*
- b) *Introduce a substitution clause to allow the State upon accession to temporarily exercise competences of other levels of government to prevent and remedy breaches of EU law;*
- c) *Guarantee the independence of the judiciary, including its self-governance institution (HJPC);*
- d) *Reform the Constitutional Court, including addressing the issue of international judges, and ensure enforcement of its decisions;*
- e) *Guarantee legal certainty, including by establishing a judicial body entrusted with ensuring the consistent interpretation of the law throughout Bosnia and Herzegovina;*
- f) *Ensure equality and non-discrimination of citizens, notably by addressing the Sejdić-Finci ECtHR case law;*
- g) *Ensure that all administrative bodies entrusted with implementing the *acquis* are based only upon professionalism and eliminate veto rights in their decision-making, in compliance with the *acquis*.*

NB: *The June 2022 European Council called on the leaders of Bosnia and Herzegovina to urgently finalise the pending constitutional and electoral reforms. These reforms should be advanced as an utmost priority.*

This key priority requires fundamental reforms, including at constitutional level to improve the institutional framework of Bosnia and Herzegovina. In June 2023 the *Republika Srpska* entity adopted a law on the non-application of decisions of the Constitutional Court, in breach of the constitutional and legal order, further hindering legal certainty.

Key priority 5: *Take concrete steps to promote an environment conducive to reconciliation in order to overcome the legacies of the war.*

The Council of Ministers appointed a supervisory body for the implementation of the national war crimes processing strategy. Some positive action was taken at local level (Mostar, Brčko). Occasionally political leaders continue spreading historical revisionism and glorifying war criminals, including by denying and trivialising genocide, war crimes, and crimes against humanity. Bosnia and Herzegovina should address outstanding issues concerning war crime trials, missing persons, redress of wartime victims of torture and sexual violence, and transitional justice.

Key priority 6: *Improve the functioning of the judiciary by adopting new legislation on the*

High Judicial and Prosecutorial Council and of the Courts of Bosnia and Herzegovina in line with European standards.

Step: *adopt, as a matter of priority, integrity amendments in the existing law of High Judicial and Prosecutorial Council.*

The Parliament adopted integrity amendments to the HJPC Law in September 2023, albeit with changes compared to the version on which the Venice Commission was consulted. These changes hamper the effectiveness of the asset declaration system and therefore need to be amended. Bosnia and Herzegovina should finalise and adopt the two comprehensive judicial reform laws – the new Law on the HJPC and the new law on the Courts of Bosnia and Herzegovina – in line with the opinions of the Venice Commission.

Key priority 7: *Strengthen the prevention and fight against corruption and organised crime, including money laundering and terrorism, notably by:*

- a) adopting and implementing legislation on conflict of interest and whistle-blowers' protection;*
- b) ensuring the effective functioning and coordination of anti-corruption bodies;*
- c) align the legislation and strengthen capacities on public procurement;*
- d) ensuring effective cooperation among law enforcement bodies and with prosecutors' offices;*
- e) demonstrating progress towards establishing a track record of proactive investigations, confirmed indictments, prosecutions and final convictions against organised crime and corruption, including at high-level;*
- f) de-politicising and restructuring public enterprises and ensuring transparency of privatisation processes.*

Step: *adopt the Law on prevention of conflict of interest.*

Step: *take decisive steps to strengthen the prevention and fight against corruption and organised crime.*

The Parliament amended the Law on public procurement in August 2022, and bylaws have been put in place. The Europol contact point started operating in June 2023, and Bosnia and Herzegovina deployed a liaison officer to The Hague. All police bodies in Bosnia and Herzegovina can now exchange messages through the Secure Information Exchange Network Application (SIENA) system. The Council of Ministers adopted strategies on terrorism and on organised crime, and an updated risk assessment and accompanying action plan on anti-money laundering and combating the financing of terrorism. These strategies and action plans need to be implemented at operational level.

Key priority 8: *Ensuring effective coordination, at all levels, of border management and migration management capacity, as well as ensuring the functioning of the asylum system.*

Step: *decisively advance work to ensure effective coordination, at all levels, of border management and migration management capacity, as well as ensuring the functioning of the asylum system.*

Migration management has improved. The Council of Ministers adopted a migration strategy and action plan. The Parliament adopted a Law on foreigners in August 2023. Reception capacities are sufficient. Readmission agreements and implementing protocols are implemented overall satisfactorily. Bosnia and Herzegovina needs to assign an appropriate budget for migration management, improve the procedures for the return of persons not in

need of international protection and take further steps to ensure a functioning asylum system. Obstacles persist to ensuring effective access to asylum.

Key priority 9: *Strengthen the protection of the rights of all citizens, notably by ensuring the implementation of the legislation on non-discrimination and on gender equality*

Legislation on gender equality and on anti-discrimination is not harmonised across the country or effectively enforced. The Council of Ministers adopted a new gender action plan in October 2023; a new action plan on women, peace and security remains to be adopted. Cases of femicide sparked public protests and exposed systemic shortcomings of response to gender-based and domestic violence, including in the legislative alignment with the Istanbul convention.

Key priority 10: *Ensure the right to life and prohibition of torture, notably by (a) abolishing the reference to death penalty in the Constitution of the Republika Srpska entity and (b) designate a national preventive mechanism against torture and ill-treatment.*

Step: *ensure prohibition of torture, notably by establishing a national preventive mechanism against torture and ill-treatment.*

In October 2019 the Constitutional Court repealed the reference to death penalty in the Constitution of the Republika Srpska entity. In August 2023 the Parliament amended the Law on the human rights Ombudsman to designate it as national preventive mechanism against torture and ill-treatment – an international obligation of the country. **The key priority is completed.**

Key priority 11: *Ensure an enabling environment for civil society, notably by upholding European standards on freedom of association and freedom of assembly.*

While the overall legal and regulatory framework is broadly in line with the EU *acquis*, recently the Republika Srpska entity adopted in the first reading a draft law targeting civil society actors as ‘foreign agents’ which, if fully adopted, would mark another regrettable and undeniable major step backwards.

Key priority 12: *Guarantee freedom of expression and of the media and the protection of journalists, notably by: (a) ensuring the appropriate judicial follow-up to cases of threats and violence against journalists and media workers, and (b) ensuring the financial sustainability of the public broadcasting system.*

Step: *guarantee freedom of expression and of the media and the protection of journalists, notably by ensuring the appropriate judicial follow-up to cases of threats and violence against journalists and media workers.*

There continue to be concerns about political pressure, intimidation and threats against journalists. In July 2023 the Republika Srpska entity re-introduced criminal penalties for defamation, with disproportionate restrictions that severely impact freedom of expression and of the media and representing a major step backwards. No action was taken to ensure the financial sustainability of the public broadcasting system.

Key priority 13: *Improve the protection and inclusion of vulnerable groups, in particular persons with disabilities, children, LGBTIQ persons, members of the Roma community, detainees, migrants and asylum seekers, as well as displaced persons and refugees in line with the objective of closure of Annex VII of the Dayton Peace Agreement.*

Pride marches have been held regularly since 2020. An action plan on the rights of LGBTIQ persons was adopted in July 2022 and remains to be implemented. The protection and inclusion of persons in vulnerable situation should be further addressed.

Key priority 14: *Complete essential steps in public administration reform towards improving the overall functioning of the public administration by ensuring a professional and de-politicised civil service and a coordinated countrywide approach to policy making.*

All levels of government have been implementing the action plan on public administration reform (PAR), the comprehensive and countrywide public finance management strategy, and their own individual strategies on public financial management. In August 2023 the Parliament adopted a Law on freedom of access to information, intended to improve the proactive disclosure of information and the transparency of state-level institutions. A professional and de-politicised civil service remains to be achieved, notably by amending civil service laws. A coordinated countrywide approach to policy making remains to be ensured.

2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

2.1.1. Democracy

General elections took place in October 2022. Ahead of the vote and even directly after the closure of the polls, the High Representative intervened multiple times in electoral matters, including on budget and rules. State and entity-level legislative assemblies were swiftly formed by March, and executive bodies by May. The ruling coalition includes SNSD, HDZ BiH, and the ‘trojka’ (SDP, NiP, *Naša Stranka*) while excluding SDA from these levels of government. The Presidency took office in November, and for the first time since 1995 includes a woman, Željka Cvijanović (SNSD), also as first female chair. A new state-level Council of Ministers was swiftly set up after the vote and took office in late January, chaired for the first time by a woman, Borjana Krišto (HDZ BiH). A new government of the Federation entity was appointed in late April, headed by SDP leader Nermin Nikšić, after the High Representative suspended the Federation entity constitution to enable this.

Following the granting of candidate status, the public commitment of political parties to the strategic goal of European integration has brought positive results. Important steps and commitments towards the fulfilment of the key priorities were taken, despite negative legislative developments at entity level. The formation of a state-level coalition government at record speed is an important proof of a new political dynamism and will. The positive momentum which followed the granting of candidate status resulted in limited progress on the key priorities during the reporting period.

Recent developments, mainly in the *Republika Srpska* entity, are going against the positive momentum. Notably, the entity adopted a law not to implement Constitutional Court decisions and criminalised defamation, severely restricting media freedom and representing a major step backwards in the protection of fundamental rights. A draft law targeting civil society as ‘foreign agents’ is also pending adoption in the entity. If adopted, this law would further undermine the effective functioning of democracy and would mark another regrettable and undeniable major step backwards. These developments have a severe negative impact on

progress on key priority 4 on the improvement of the institutional framework, including at the constitutional level; key priority 12 on the guarantees of freedom of expression and the media; and key priority 11 on ensuring an enabling environment for civil society.

The Constitutional Court suspended and then quashed several legal and political acts adopted by the *Republika Srpska* entity that were in breach of the constitutional and legal order, including twice on state property matters, which the High Representative had previously also suspended. In June 2023, the *Republika Srpska* entity legalised the non-publication of a decisions of the High Representative and decreed that the rulings of the Constitutional Court would not be implemented, in breach of the constitutional and legal order. The High Representative annulled these laws in July. Entity authorities determined to enforce them anyway, thereby calling into question the authority and integrity of the Constitutional Court and to breach the constitutional and legal order of the country.

In April 2023, the *Republika Srpska* entity assembly called on state-level constitutional judges to resign. This is of concern. Entity parliaments should instead swiftly appoint judges to the vacant seats to ensure the unimpeded functioning of the Constitutional Court of Bosnia and Herzegovina.

To swiftly respond to unconstitutional initiatives by the *Republika Srpska* entity, the Constitutional Court needs to reform its own rules of procedures, including to be able to suspend unconstitutional legislation before its entry into force.

Elections

Neither before nor after the October 2022 elections did the Parliament amend the election law to address outstanding recommendations by OSCE/ODIHR and GRECO on electoral standards, including as regards transparency of political party financing (Opinion key priority 1). The High Representative imposed several changes to the electoral framework, including on the evening of the election day, which according to OSCE/ODIHR challenged legal certainty. Overall, elections were competitive and well organised, but marked by mistrust in public institutions and ethnically divisive rhetoric. The Parliament needs to address OSCE/ODIHR and GRECO recommendations to improve the integrity of and public trust in the electoral process, ahead of the 2024 local elections.

No steps were taken by the Parliament to harmonise the legislation on the registration of political parties across the country, nor to remove from the Constitution any ethnic and residence-based discrimination in voting rights, in line with European Court of Human Rights (ECtHR) rulings. The country needs urgently finalise the pending constitutional and electoral reforms. These reforms should be advanced as an utmost priority.

General elections took place on 2 October 2022 following interventions by the High Representative in June and July to ensure the appropriate budget and with the stated aim of improving the integrity and transparency of the electoral process and strengthening the role of the Central Election Commission. According to OSCE/ODIHR, elections were competitive and well organised overall, but were marked by mistrust in public institutions and ethnically divisive rhetoric.

On the evening of election day, following the closure of the polls, the High Representative imposed significant amendments to the election law and to the constitution of the Federation entity, including for the appointment of cantonal delegates to the entity House of Peoples. According to OSCE/ODIHR this challenged legal certainty, as the full impact of the cantonal assembly vote was not foreseeable by electoral contestants and voters. The Constitutional

Court in March 2023 established that the electoral changes imposed did not breach the Constitution. An application on the matter is pending at the ECtHR.

Appeals against alleged irregularities in the vote caused delays in the publication of results. The Central Election Commission (CEC) ordered a control count of all votes for the President of the *Republika Srpska* entity, finally confirming the political results. The CEC confirmed all electoral results 30 days after the vote. The judicial prosecution of reported cases of electoral frauds has been weak. The CEC needs to strengthen its audit capacity to monitor compliance on political party financing. Political parties should respect its independence and refrain from threatening to dismiss CEC members.

Despite the appointment of two women, as Chairs of the Council of Ministers and of the Presidency, the October 2022 elections led to a decrease in the participation of women in politics. The country needs to further harmonise its legislation with the gender equality law, implement measures to reduce verbal violence against women in politics, increase visibility of women candidates and improve party cultures to secure equal participation of women.

As regards internal party democracy, political parties lack democratic internal policies and structures. There are no women among party leaders, and few in other leadership positions.

Early mayoral elections took place in six municipalities in February 2023, with very low turnouts and multiple reports of incidents, including voter fraud and family voting.

Parliament

Following the October 2022 elections, new legislative assemblies were formed by March 2023. Parliamentary oversight over the executives remains weak. No improvement was made on the registration and financing of political parties. The Stabilisation and Association Parliamentary Committee held a full session in October 2023 (Opinion key priority 3).

The Parliamentary Assembly went into pre-electoral recess from August until December 2022, which resulted in a very poor legislative output, despite the outstanding backlog, as in the previous period. The outgoing Parliament adopted only a law on trial within reasonable time and the 2022 budget and four sets of amendments (including on public procurement in August 2022), of which two in urgent procedure (28%). The new Parliament adopted three laws (2023 budget; wine market; freedom of access to information) and six sets of amendments (on basics road safety; foreigners, integrity in the judiciary, torture prevention). The 2023 budget and the laws on VAT and foreigners were adopted in urgent procedure (33%). The 2023 budget was adopted in late March, after a first quarter under temporary financing.

Parliamentary oversight of the executive was very weak. No follow-up was given to the findings and recommendations of the interim investigative committee of the House of Representatives on the state of the judiciary, published in June 2022. The House of Representatives established a standing committee for the fight against corruption and the kleptocracy. There is no parliamentary monitoring of compliance with the recommendations of independent institutions or of their annual reports.

Despite legislation laying down a 40% gender quota for candidates, after the 2022 elections women account only for 24% of the members of the House of Representatives (10 out of 42, down from 11) and 13% of the members of the House of Peoples (2 out of 15, down from 3). Rules of procedure requiring gender balance are largely ignored, and there are no measures to promote the political representation of disadvantaged women. At entity level, the *Republika Srpska* assembly includes only 12 women among 83 MPs (14.5%, down from 18 MPs), and

the Federation House of Representatives has 27 women out of 98 MPs (27%, down from 30 MPs).

The delegates to the Stabilisation and Association Parliamentary Committee (SAPC) were appointed in May 2023, and the Parliamentary Committee held a full session in October 2023. Bosnia and Herzegovina should continue ensuring the proper functioning of the SAPC, notably with the adoption of recommendations, in line with Opinion key priority 3.

Entity parliaments met regularly, making considerable use of urgent procedures. In 2022, the Parliament of the Federation entity adopted 6 laws by urgent and 19 by shortened procedure, out of 38 (66%). In 2022, the assembly of the *Republika Srpska* entity adopted 65 laws, of which 25 (38.5%, down from 62%) by fast-track procedures, including the 2023 budget. The Brčko District Assembly adopted 46 laws, of which only one (2%, down from 16%) by urgent procedure.

There are 9 party groups in the state-level House of Representatives, 10 in the Federation entity House of Representatives, and 11 in the *Republika Srpska* National Assembly.

There are no specific standing committees on oversight and control of the government in either entity and the assemblies do not follow up on the work of administrative bodies. Such a committee is in place in the Brčko District.

By the end of 2022, the terms of office of two judges of the state-level Constitutional Court expired due to age limits. The entity assemblies have not yet replaced them, thus impairing the Court's decision-making. Both entity assemblies should complete appointment procedures and ensure the full composition of the Constitutional Court.

In October and November 2022, the Federation House of Peoples finally appointed four entity-level constitutional judges to the vacant judgeships. Since 2019, the Federation entity's constitutional court had operated with only five judges out of nine, which seriously impaired its decision-making. The appointment restored the functioning of the court's panel on 'vital national interest'. The House of Representatives of the Federation entity has failed to replace a constitutional judge whose term expired in August 2022; he will continue to serve until replaced.

The Federation Parliament has not filled the vacancies on the steering board of the public broadcaster FTV, nor has it appointed a director of FTV since 2013.

Governance

New executive bodies took office in early 2023 after the October elections. The Council of Ministers took swift action to bring forward the reforms required to address the Opinion key priorities, notably by adopting several strategies and draft laws, which now need to be approved in Parliament. The Presidency was marred by continued lack of consensus on key issues, including foreign policy and regional cooperation. The executives have little capacity for coordination and policy planning. Coordination of EU matters needs to be strengthened, including the role of the Directorate for European Integration (DEI). The Council of Ministers still needs to improve the functioning of the coordination mechanism and to develop and adopt a national programme for the adoption of the EU *acquis* (Opinion key priority 2). The Council of Ministers needs to urgently appoint the National IPA Coordinator (NIPAC) under IPA III.

The new Presidency took office in November. For the first time since 1995 it included a woman, who served as its chair for the first 8 months. Presidency members continued to take

opposite stances, most notably on foreign policy, thus failing to provide a clear political direction. In June 2023, the Presidency Chairwoman raised a vital entity interest veto on Bosnia and Herzegovina joining the three regional mobility agreements.

The outgoing Council of Ministers had a minimal legislative output, adopting only three draft laws and three strategic documents by end 2022.

The new Council of Ministers, appointed in late January, took some significant steps to adopt EU reforms following the granting of candidate status. A state budget for 2023 was adopted in March. The Council of Ministers adopted a strategy on organised crime, an updated risk assessment and accompanying action plan on anti-money laundering and combating the financing of terrorism, as well as the strategies and action plans on migration and on terrorism. It also appointed a supervisory body for the implementation of the national war crimes processing strategy. The contact point with Europol finally started operations in June 2023, after a 5-years long delay. The Council of Ministers also endorsed a set of draft laws, notably on integrity in the judiciary; torture prevention (designating the Ombudsman as national preventive mechanism); on foreigners, and freedom of access to information. These laws were adopted by Parliament in August and September 2023. Besides the political criteria, the Council of Ministers also adopted draft amendments on service in the armed forces and a strategy on climate change, and appointed the directors of several institutions and bodies (Intelligence and security agency, Service for foreigners, Railway regulatory board); other vacancies remain pending, including for the boards of the Central Bank and of the Communication Regulatory Agency. The Council of Ministers urgently needs to appoint the National IPA Coordinator (NIPAC).

Besides the chairwoman, there is only one woman out of nine ministers in the Council of Ministers, in charge of civil affairs (previously two, in charge of foreign affairs and defence).

Entity and cantonal governments worked regularly, adopting their own budgets.

The Federation government completed the whole 2018-2022 mandate in a caretaker capacity; in early April the outgoing prime minister was convicted in first instance for abuse of office. There were further delays in the appointment of a new Federation entity government after the October 2022 elections and the electoral changes imposed by the High Representative. In late April, the High Representative intervened once again by suspending the Federation entity constitution to ensure the appointment of a new government, supported by the same parties as the state-level ruling coalition.

The new Federation government includes 4 women ministers out of 17, with portfolios covering traditionally soft policy areas (education and science; culture and sport; transport and communications; environment and tourism). The 2015-2023 Federation government included 3 women ministers, including the deputy prime minister in charge of finance.

The new government of the *Republika Srpska* entity, in office since December 2022, adopted legislative initiatives aimed at restricting fundamental freedoms and the space for civil society, including amendments to re-criminalise defamation and a draft law targeting NGOs as foreign agents. The entity government again proposed legislation on immovable property, defying constitutional jurisprudence that had clarified that it had no competence to do so, and legalised the non-implementation of the rulings of the Constitutional Court in the entity.

Following the October election, eight cantons out of ten appointed new governments. The Brčko District assembly reshuffled its government in March 2023.

No steps were taken to develop and implement a common action plan of socio-economic

reforms in line with Commission recommendations and with the joint conclusions of the economic and financial dialogue. Formulating and enacting this package of socio-economic reforms requires good coordination among executives at all levels.

The **policy dialogue** with the EU resumed during the reporting period: the sixth cycle of sectoral subcommittees under the SAA, opened in 2020, was completed by the SA Committee in June 2023 and SA Council in July 2023. The Council of Ministers should urgently take measures to facilitate policy dialogue within the SAA bodies, including by simplifying procedures, empowering the Directorate for European Integration (DEI) to submit preparatory documents to the Commission without unnecessary and lengthy political adoption, and appointing permanent delegates to sectoral subcommittees. No action has yet been taken on the recommendations which the European Commission addressed to the Council of Ministers at an extraordinary meeting of the SA Committee in May 2022.

The Council of Ministers and the DEI should step up their coordinating role in EU matters, including by providing comprehensive assessment of the countrywide level of alignment with the EU *acquis* and by ensuring proactive follow-up to the Commission's recommendations with the competent authorities, including at political level where needed, ensuring accountability in case of non-performance. This is key to improving the quality of input for policy dialogue, including in view of the Commission's annual enlargement package.

Coordination on EU matters, including in the development of countrywide sector strategies, is essential to ensure harmonised alignment with the *acquis* and to access EU financial assistance and EU programmes. This requires the effective use of applicable legislation on coordination of EU matters and commitment of the coordination mechanism structures at political level (collegium and ministerial conferences).

As a key priority and outstanding obligation under the SAA, Bosnia and Herzegovina needs to develop and agree with the Commission a **national plan for the adoption of the *acquis*** (NPAA) that reflects the role that all levels of government play in aligning with and enforcing the EU *acquis*. The programme for EU integration, prepared by DEI and still pending approval by the Council of Ministers, is only a first step towards the necessary NPAA. The action plan on the 14 key priorities is also still pending agreement by the Council of Ministers.

Bosnia and Herzegovina adopted a number of protectionist measures that are in violation of SAA obligations, commitments and procedures, including a wood export bans and cantonal lists of medicines, and failed to address long outstanding breaches, e.g. on excise duties on beer. These actions marked a clear step backwards in the implementation of the SAA.

For the second year in a row, Bosnia and Herzegovina also submitted its **economic reform programme** (ERP) with a 2-month delay.

Authorities across the country have little capacity for coordination and policy planning, including on EU matters. The *Republika Srpska* entity adopted a strategy on **local self-government** in February 2023; such a strategy remains pending in the Federation entity.

Civil society

The Opinion's key priority 11 on ensuring an enabling environment for civil society still needs to be addressed, notably by upholding European standards on freedom of association and freedom of assembly. Meaningful and systematic consultations with civil society have yet to be ensured as part of an inclusive policy dialogue. A framework for the transparent funding of civil society organisations still needs to be adopted. The reintroduction of criminal

penalties for defamation in the *Republika Srpska* entity, which entered into force in August 2023, severely impacts the environment for civil society. Legislative initiatives in parliamentary procedure in the *Republika Srpska* entity to target civil society organisations as foreign agents, if adopted, would mark a regrettable and undeniable major step backwards.

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by public institutions. While the overall legal and regulatory framework governing the establishment and functioning of civil society organisations is broadly in line with the EU *acquis*, much remains to be done for public institutions to ensure an enabling environment for civil society, including on freedom of association and of assembly, in line with Opinion key priority 11. The space for civil society is particularly under threat in the *Republika Srpska* entity, due to continued attacks by the political leaders, which have led to instances of physical assault, as in March 2023 in Banja Luka. The *Republika Srpska* entity also reintroduced criminal penalties for defamation in July 2023. The legislative initiative targeting civil society organisations as foreign agents, if adopted, would severely curtail civil liberties in the entity. (*See also Chapter 23 – Fundamental Rights*)

The legislation on public consultations is uneven across the country, and meaningful and systematic consultations must be ensured. The e-consultation web platform is underutilised and is not in use at entity or cantonal level, where most legislation of public interest is developed and adopted. Some six years after its adoption in 2017, the Council of Ministers still needs to enact its charter on cooperation with civil society organisations.

Grassroot civil society organisations proactively advocate for policy changes. Activists dealing with issues perceived as sensitive (anti-corruption, women’s rights, rights of LGBTIQ persons, migrants, the environment) continued to be subject to threats, abuse and physical attacks. A framework for the transparent and impartial distribution of public funds to associations is needed across the country. Civil society organisations that provide services to disadvantaged groups, in place of public authorities, should receive appropriate public funding. Women’s associations in particular play a key role in reaching out to the most vulnerable, including victims and survivors of domestic and gender-based violence. In some instances, the authorities abused the tax framework to intimidate civil society groups. There is no state-level legal framework on volunteering, which is regulated by the entities and Brčko District.

Civilian oversight of the security and intelligence sector

The Parliamentary Assembly’s joint committee on defence and security held 3 sessions in 2022 (6 in 2021, 10 in 2020). The joint committee for the oversight of the Intelligence-Security Agency (OSA) did not meet in 2022. A new OSA director was appointed in February 2023. The legislation on the OSA has not yet been amended to address the procedural shortcomings identified by the Constitutional Court in June 2017, 6 years ago. The Military Commissioner, who oversees the protection of the human rights and freedoms of defence personnel, opened 62 proceedings in 2022, completing 55 of them.

2.1.2. Public administration reform

Bosnia and Herzegovina is at an **early stage of preparation** and made **some progress** in public administration reform (PAR). Some positive steps were taken by (i) adopting the PAR coordination arrangement (‘common platform’), including a political decision-making body; (ii) implementing the comprehensive and countrywide public finance management strategy, (iii) improving capacity for public consultation at state level and on regulatory impact assessment in the *Republika Srpska* entity, (iv) adopting a strategy on human resource management in the

Federation entity, (v) improving the professional development and performance appraisal in the Federation entity and at state level, and (vi) adopting a Law on freedom of access to information, aimed at fostering pro-active disclosure and transparency. Some five years after adoption, the PAR action plan has been implemented only to a limited extent. Civil service laws are still not harmonised with each other and merit principles are not enshrined in recruitment procedures. The monitoring of human resources is not effective in detecting irregularities. The political decision-making body included in the ‘common platform’ still needs to become operational to steer reforms effectively. The capacity of entity-level PAR coordinators remains weak. In line with key priority 14 of the Commission Opinion, Bosnia and Herzegovina needs to complete essential steps to improve the overall functioning of the public administration by ensuring a professional and depoliticised civil service and a coordinated, countrywide approach to policymaking. Last year’s recommendations were partially implemented.

In the coming year, Bosnia and Herzegovina should in particular:

- adopt and start implementing the revised action plan on the PAR strategic framework 2023-2027 at each government level, while prioritising activities on digitalisation of services and adopting the outstanding legal framework for sectoral strategic planning at state level;
- establish a functioning coordination structure with a political decision-making body and upgrade the staffing and skills of PAR coordinators to steer the implementation of public administration reforms across all levels of government;
- ensure a professional civil service system by amending state and entities’ civil service laws in line with merit principles and establishing performance-based monitoring for transparent human-resource management at all levels of government to detect irregularities.

Strategic framework for public administration reform

The 2018-2022 **strategic framework** on public administration reform and the related 2020-2022 PAR action plan were extended. However, the action plan still needs to be revised and made more credible and realistic in its costing and in achieving tangible results, in particular on digital services. Some 5 years after its adoption in 2018, a first monitoring report showed that only 14% of the overall PAR action plan activities were implemented. Insufficient **political support** and weak PAR coordinator’s capacities at entities level continue to hinder effective steer of reforms. The political decision-making body foreseen in the ‘common platform’ still needs to become operational to steer the agenda on public administration reform. The **financial sustainability** of the reform is not guaranteed, and recent action plans on PAR remained donor-driven with very limited domestic budgetary contributions.

Policy development and coordination

The **policy-making system** in Bosnia and Herzegovina continues to be fragmented. The legislative framework on medium-term policy planning is unevenly developed and regulated through different laws. The Council of Ministers needs to expedite as matter of urgency the adoption of a valid regulatory framework on strategic planning based on the concept note developed by the Department of Economic Planning. There was no progress in developing methodological guidance for country-wide sectoral strategic planning at state level. The quality control functions at all centre of governments needs to be strengthened and capacities improved to coordinate policy-planning processes in the annual and medium term. Sectoral costs are not always reflected in strategies and no progress has been made in linking these to a medium-term budgetary framework. Some quality criteria for sectoral policies are in place, but they do not contain information on progress and objectives. Bosnia and Herzegovina has

not yet developed its first **national programme for the adoption of the *acquis* (NPAA)**, as required by the SAA, for which the proposed programme of EU integration is only a start.

The legal framework for **inclusive and evidence-based policy development** is in place but is implemented inconsistently. Some progress was noted in this area in *Republika Srpska* entity, by introducing regulatory impact assessment to be conducted also for draft secondary legislation. However, regulatory impact assessments are not used to prioritise policy proposals and are not used as planning tool. Collection and use of administrative data for policymaking are not ensured. The legal framework on **public consultations** needs to be consistently applied at all levels of government. The *Republika Srpska* entity government adopted new guidelines for consultations in order to improve transparency early in the legislative planning.

State level government undertook some efforts to improve capacities of various public bodies in using the e-consultation platform. However, entities' line ministries need to upgrade those and improve the oversight function to ensure their quality.

The regulatory framework for standards for monitoring and reporting on key government planning documents at all levels is in place. Some efforts were undertaken to improve sectoral monitoring by adopting a new Decision on annual work planning and method of monitoring and reporting at state level. However, regular sectoral monitoring reports remain unpublished, as is also the case for implementation reports of government annual working plans. All of this hampers **public scrutiny of government work**.

Public financial management

All levels of government in Bosnia and Herzegovina started implementing the comprehensive strategy for the reform of **public financial management (PFM)**, progressing with 40% of activities planned at each level. PFM monitoring reports for 2022 have been adopted at state and entities' level and a comprehensive 2022 PFM monitoring report is pending adoption. A functional and regular budget planning cycle needs to be in place for an effective public finance system. The credibility of the medium-term budget frameworks needs to be enhanced by (i) improving the links between annual strategic planning and annual budget process and (ii) strengthening capacities and regulation to improve public investment management at all levels of government. All levels of governance should establish the necessary IT pre-conditions in order to implement the law on programme budgeting and medium-term budget planning and adopt similar legislation at state level and in the *Republika Srpska* entity. Institutions at all levels need to improve the public internal financial control, and public procurement process as well as monitoring of fiscal risks related to public companies. Particularly, publicly available registers of public companies need to be established for better transparency.

Bosnia and Herzegovina has not yet achieved sufficient **budget transparency**. The lack of harmonisation of the charts of accounts at state and entity level makes it difficult to access consolidated data. In-year reporting still needs to improve at all levels of government. Available budgetary information is still incomplete and assessing the overall budgetary and fiscal policy is difficult.

Public service and human resources management

The **merit-based recruitment, promotion and dismissal** of civil servants using objective criteria is not fully ensured, particularly in the entities and the Brčko District. Civil service laws have not yet been amended to provide a clear and comparable scope of the civil service across the government levels. The laws do not clarify which institutions are included in the

civil service, which positions belong to civil servants, and what the senior and middle management categories are. These differences undermine the mobility of civil servants across government levels. Suitable coordination mechanism for human resources and civil service is needed to support that cooperation, and particularly so between the Federation and cantonal level government.

The recruitment process needs to become more transparent and better ensure the professionalisation of the civil service. The digitalisation of state-level recruitment is ongoing and e-application is being applied. The procedures for staff transfers in the case of competencies transfer to the State-level institutions have improved, with better specified. However, entity-level laws on civil service leave excessive discretion and do not require the best candidate to be appointed, allowing political appointees to influence recruitment, particularly for senior positions. As a result, at cantonal level, the final selection may depend on ethnic background rather than merit. Additionally, excessive use of acting positions should be constrained, especially in *Republika Srpska* entity. State-level senior managers should not remain in their posts after their mandate comes to an end, and regular open recruitments for such positions need to be organised. The system needs to offer the right incentives so that more professional candidates apply for public sector positions. Selection commissions should be free from political influence in order to guarantee that the best qualified candidates are recruited. Constitutional rules on the general representation of the population in the public administration should not be interpreted as requiring strict ethnic proportionality in the civil service, and the legislation should make sure that ethnic criteria do not prevail over professional criteria in recruitment.

The criteria for dismissals, disciplinary procedures and appeals set out in the legislation are still insufficiently applied. The appeal boards in the Federation entity face a significant backlog of civil servants' complaints and need to improve capacities. All levels of government need to improve the collection of data on gender equality in public administration and systematically promote the adoption of institutional policies on gender equality and sexual harassment.

Human resources management (HRM) remains highly fragmented. Pursuant to the common HRM policy framework, the Federation entity adopted the 2022-2027 strategy for the development of HRM in the civil service structures, including cooperation with the cantonal level. State level government and *Republika Srpska* entity need to do so as well, in coordination with each other. Transparent monitoring of HRM performance and related capacity and data on HRM are weak across all levels of government and there is a consistent lack of data. Bosnia and Herzegovina needs to revise the state-level civil service law in order to provide a legal basis for the human resource management information systems (HRMIS) and make it functional throughout the civil service. All levels of government should publish HRM monitoring reports and ensure interoperability of HRMIS with payroll databases.

Civil servant **remuneration** remains inconsistent across public institutions and lacks transparency. This is due to the differences across the country in salary legislation, job classification, pay grades, and the lack of job evaluations, all of which hinder fairness. Furthermore, criteria to award salary supplements are unclear, and there is no information published at any level of government on average salary levels by job category. The state budget adopted in March 2023 provides for some improvement and an increase in the salary base of state-level civil servants.

Civil service agencies need more resources for training and **professional development**. Some progress was made, as the Federation entity established the new online training management system that is now interoperable with the Human Resource Management Information System

for civil service. Overall, although a performance appraisal system is in place, it is not used properly and systematically to justify promotions or to distinguish good from bad performance.

There is no systemic and consolidated data on the **integrity of civil servants**. Measures to promote integrity in the public service are only partially in place and are not applied systematically. Additionally, there has been no legislative development at Federation level with regard to whistle-blower protection, and declaration of assets at *Republika Srpska* entity.

Accountability of administration

No progress was made on setting out in legislation the different functions of administrative bodies at all levels of government or the conditions for establishing, merging or abolishing them. There is still no clear supervision or reporting lines between ministries and subordinate institutions and delegation of decision-making to senior civil servants or middle management is lacking.

The level of parliamentary scrutiny varies across levels of government. No progress was made in improving the uptake of recommendations from oversight mechanisms such as parliamentary scrutiny and from independent institutions – such as Ombudsmans and State Audit Institutions, in the public administration, compromising **citizens' rights to good administration**.

Legislation on the **right to access information** remains fragmented. In August 2023 the Parliament adopted a Law on freedom of access to information, intended to improve the proactive disclosure of information and the transparency of state-level institutions. The independence of the appeal process still needs to be brought in line with international and European standards. Rules on data protection and access to information are still interpreted in a way that protects private rather than public interests and such rights are inconsistently ensured across government levels. The number of Ombudsman recommendations on access to information have slightly increased in 2022 compared to 2021.

The varying efficiency of courts across the country make citizens' rights to administrative justice uneven. No progress was made in putting in place effective remedies for the protection of rights to judgment within a reasonable time at any level of government and the situation remains particularly problematic in the Federation entity. There is also no systemic collection of data on the **citizens' right to seek compensation** for damage caused by unlawful actions or omissions of the public administration.

Service delivery to citizens and businesses

The legal framework for a **user-oriented administration** varies substantially across the country. A comprehensive countrywide policy on service delivery and clear institutional functions at any level of government together with a catalogue on e-service are lacking. There is a need to establish an inventory on administrative burden in service provision, while simplifying procedures and aligning sectoral laws with the Law on general administrative procedures. The lack of electronic signature infrastructure for citizens, impedes further digitalisation. Digitalisation has only advanced in taxes and customs, although slowly. Encouraging a user-oriented administration, including through the completion of a coherent legal framework, would enable an interoperable e-signature system across the country and facilitate the creation of a single digital market.

2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS

2.2.1. Chapter 23: Judiciary and fundamental rights

The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is the respect for fundamental rights in law and in practice.

Bosnia and Herzegovina has **some level of preparation** to implement the EU *acquis* and European standards in the area of judiciary and fundamental rights. **Limited progress** was made during the reporting period to address the related Opinion key priorities and the findings of the Expert Report on rule of law issues ('Priebe Report')¹¹.

Functioning of the judiciary

Bosnia and Herzegovina is **in between an early stage and some level of preparation** in the area of the judiciary. **Some progress** was made in addressing Opinion key priority 6 on the functioning of the judiciary. Persistent and evident signs of deterioration continue to require urgent measures to strengthen integrity and regain public trust in the judiciary. The poor functioning of the judicial system continued to undermine citizens' enjoyment of rights and the fight against corruption.

In September 2023, Bosnia and Herzegovina amended the Law on the HJPC with the aim of establishing a system to verify the asset declarations of judges, prosecutors and HJPC members. Compared to the version on which the Venice Commission were consulted, the system of verification of assets provided for by the amendments that were adopted has been weakened as regards the right of the HJPC to request additional information from natural and legal persons. In addition, under the adopted amendments external experts tasked with monitoring the functioning and enforcement of the asset declaration system are not allowed to access personal data contained in asset declarations and supporting documents. These provisions hamper the effectiveness of the asset-declaration system and therefore need to be amended, to ensure that the HJPC and the external experts can effectively access all information that is necessary to exercise the functions provided for them in the law. All institutions in the country must now cooperate constructively and in good faith with the HJPC to fully implement the law and ensure the effectiveness of the integrity checks. Any issues that may impede the implementation of the law need to be addressed at the latest in the new comprehensive Law on the HJPC. The Council of Ministers also appointed a supervisory body to oversee the implementation of the national war crimes strategy.

The Constitutional Court suspended and then quashed several legal and political acts adopted by the *Republika Srpska* entity. By the end of 2022, the terms of office of two judges of the state-level Constitutional Court expired due to age limits. The entity assemblies have not yet proceeded to replace them, thus impairing the Court's decision making. The *Republika Srpska* entity assembly called on state-level constitutional judges to resign and legalised the non-implementation of the rulings of the Constitutional Court, in breach of the constitutional and legal framework of the country. While the High Representative annulled these laws, *Republika Srpska* entity authorities determined to enforce them anyway.

In the coming year, Bosnia and Herzegovina should, in particular:

→ urgently appoint constitutional judges from both entities to all vacant positions and thus

¹¹ <http://europa.ba/wp-content/uploads/2019/12/ExpertReportonRuleofLawissuesinBosniaandHerzegovina.pdf>

ensure the full composition and functioning of the Constitutional Court; and for the courts in general, consistently appoint judges based on merit, without prevalence of ethnic criteria, and appraise the performance of judges based on quality criteria;

- revise and implement the integrity-related provisions of the Law on the HJPC to ensure the effectiveness of integrity checks in line with European standards, including by enabling the HJPC and external experts to access all information that is necessary to properly perform their functions; finalise and adopt the new Law on the HJPC and the new law on the Courts of Bosnia and Herzegovina, in line with the Opinion of the Venice Commission;
- adopt a new justice sector reform strategy and increase efforts to effectively implement the revised national war crimes strategy;

Strategic documents

Bosnia and Herzegovina still needs to adopt a new Justice Sector Reform Strategy for 2021-2027 and the related action plan. The new strategy must include all key reforms recommended in the Commission Opinion and analytical report, in the Experts' Report on Rule of Law issues in Bosnia and Herzegovina ('Priebe Report'), and, where relevant, the activities included in the 2021-2023 HJPC reform programme and beyond. The strategy should be supported by sufficient budgetary allocations and an efficient mechanism of governance, monitoring and reporting on its performance, with the possibility to adopt corrective actions.

Management body

The High Judicial and Prosecutorial Council (HJPC) is the single judicial self-governance body. In the reporting period, it appointed the state-level Chief Prosecutor and the President of the Court of Bosnia and Herzegovina. The Council still struggles to regain public trust, including in the professional community, as it continued to adopt inconsistent and inadequately reasoned decisions on appointment decisions. The 2021-2023 HJPC reform programme has had little impact on merit-based appointments, accountability, efficiency and transparency, in the absence of an efficient monitoring mechanism and of a set of qualitative and quantitative indicators to monitor trends in organised crime and corruption cases. The HJPC has to step up its oversight role and assume responsibility for substantial reforms. More tangible results are expected, notably in the area of fighting corruption and nepotism in the judiciary. The HJPC should increase its own accountability by providing thorough and transparent reasoning of its final decisions, especially on appointments, in line with European standards. The HJPC has a communication strategy, its action plan, and a communication plan on ethics, integrity and prevention of conflict of interest. Training sessions for representatives of the media and the judiciary were organised by the HJPC in November 2022.

The HJPC should implement a smaller but better targeted number of result-driven activities to improve the quality of justice. Its secretariat has been further strengthened with more permanent staff. The HJPC must urgently improve its monitoring of the judicial management structures and ensure the accountability of court presidents and chief prosecutors in cases of poor performance.

Independence and impartiality

The **independence** and **impartiality** of the judiciary did not improve, despite the newly introduced amendments to the HJPC rules of procedure aiming at improving appointments. Executive and legislative authorities failed to adopt additional safeguards. The HJPC, as well

as all courts and prosecutor's offices, should undertake more efforts to restore public trust in the independence of the judiciary.

The HJPC strived to improve its appointment policies, most notably by amending the relevant rules of procedure to ensure that appointments are based on pre-determined, objective and accessible criteria. These amendments have yet to have a tangible impact. The duration of appointment procedures remains too long (8 to 10 months). The re-opening of vacancies, often without good reasons, can extend this period further. The amendments provide for obligatory processing of applications online, which has the potential to shorten procedures. However, rules on appointments, disciplinary responsibility, career advancement and conflict of interest of judges and prosecutors continue, in practice, to be applied inconsistently and with overly broad discretion. The adopted integrity-related amendments to the Law on the HJPC should be applied effectively so as to contribute to improvements in this regard.

A new comprehensive Law on the HJPC should provide for a single annual entry examination to join the judiciary, and more stringent appointment criteria. The HJPC has to provide for expedient testing procedures and improve the quality of first access to the judicial career by establishing a preparatory programme in line with the recommendations of the Priebe report.

The adopted integrity-related amendments to the Law on the HJPC introduce binding rules on conflict of interest for the entire judiciary and the HJPC. The random case allocation system remains vulnerable to abuses, which affects **impartiality**. Deviations have been reported from the automated random allocation of cases, and some even sanctioned. Any reallocation should only be possible for exceptional reasons and even then only when documented and explicitly justified. Such an exceptional procedure must be precisely and transparently documented to rule out personal and political influence. Court presidents and chief prosecutors in coordination with the HJPC need to take action to increase transparency and provide justification for reallocating cases manually. Undue external pressures have increased, especially by political leaders who publicly target certain judicial office holders and their decisions, notably the prosecutors in the case *Novalić et al.* on public procurement fraud of COVID-19 medical equipment. The threat reporting mechanism and subsequent public reactions of the HJPC must be reviewed to ensure consistency.

The Constitutional Court suspended and then quashed several legal and political acts adopted by the *Republika Srpska* entity. In June 2023, the *Republika Srpska* entity legalised the non-publication of decision of the High Representative and the non-implementation of the rulings of the Constitutional Court, in breach of the constitutional and legal framework. The High Representative annulled such laws in July. Entity authorities determined to enforce them anyway. By the end of 2022, the terms of office of two judges of the state-level Constitutional Court expired due to age limits. The entity assemblies have not yet replaced them, thus impairing the Court's decision-making.

Accountability

In September 2023, Bosnia and Herzegovina amended the Law on the HJPC with the aim of establishing a system to verify the **asset declarations** of judges, prosecutors and HJPC members. Compared to the version on which the Venice Commission were consulted, the system of verification of assets provided for by the amendments that were adopted has been weakened as regards the right of the HJPC to request additional information from natural and legal persons. In addition, under the adopted amendments external experts tasked with monitoring the functioning and enforcement of the asset declaration system are not allowed to access personal data contained in asset declarations and supporting documents. These

provisions hamper the effectiveness of the asset-declaration system and therefore need to be amended, to ensure that the HJPC and the external experts can effectively access all information that is necessary to exercise the functions provided for them in the law. All institutions in the country must now cooperate constructively and in good faith with the HJPC to fully implement the law and ensure the effectiveness of the integrity checks, which shall be under close external supervision. Any issues that may impede the implementation of the law need to be addressed at the latest in the new comprehensive Law on the HJPC. The HJPC should ensure the security for documents and correspondence of the special verification department within the HJPC Secretariat. In 2022, only 16% of all judicial office holders published their asset declarations voluntarily (221 declarations), including 31% of all managers (30 declarations from court presidents and chief and deputy chief prosecutors). The adopted amendments now oblige all judicial office holders to publish their asset declarations.

Integrity plans are in place in almost all courts and prosecutor's offices, yet with limited results. An improved and comprehensive ethics and integrity training is needed, including for newly appointed judges and prosecutors. In April 2023, the HJPC introduced a new system to evaluate candidates, notably for promotions, taking into account their disciplinary records. This system must be applied consistently.

Disciplinary procedures continue to have little dissuasive effect, despite their number being high compared to the European average. In 2022 the Office of the Disciplinary Counsel (ODC) registered 840 complaints (9.2% less than registered in 2021), of which 76 were initiated *ex officio* against judicial office holders (7% more than in 2021) and filed 41 disciplinary charges, including six against chief prosecutors and court presidents. The HJPC disciplinary commissions completed a total of 48 disciplinary proceedings (of which 24 registered in 2022). A total of 33 procedures led to disciplinary measures, including seven against managerial judicial office holders (court presidents, chief prosecutors), resulting in two demotions, 23 cases of salary reduction and six temporary suspensions. Disciplinary and criminal convictions or pending disciplinary proceedings have to be taken into account in the procedures for transfer, promotion and performance appraisal. To this end, the HJPC has to apply consistently the criteria of suitability of candidates for judicial posts laid down in the newly amended rules of procedure, and in line with Commission recommendations. Disciplinary hearings and decisions need to reach the wider public more effectively.

There has been no progress in addressing the shortcomings concerning composition and potential conflict of interest in the formation of disciplinary panels in the HJPC. Rules and training on evidence gathering before disciplinary panels should be improved in line with Commission recommendations, as should the evaluation of ethical standards. Introducing an inspectorate service or vesting an existing body with similar functions should be seriously considered.

Professionalism and competence

Appointments and career advancement of judges and prosecutors are core prerogatives of the HJPC. Although appointment rules are based on merit, exceptions based on ethnicity and other considerations continue to prevail. As a consequence, appointments significantly deviate from merit-based ranking, casting doubts as to fairness. This was again evident in a March-April 2023 appointment to the *Republika Srpska* entity Prosecutor's Office, where the HJPC appointed a candidate ranked last, on the pretext of ethnic balance. Trust in the appointment system is at its lowest, including within the professional community. In addition, there is a concern with continued delays in appointments, which results in courts being unable to appoint panels for cases, endangering the effective delivery of justice, especially in

cases of recusal. This further affects the courts' performance. The HJPC must urgently find methods to curtail delayed vacancy procedures, which are detrimental to its main function, namely, the merit-based, transparent, and timely appointment of judges and prosecutors.

While awaiting legislative reforms to introduce judicial review of HJPC decisions, the HJPC should provide clear reasoning for each appointment, strictly abiding by the amended rules of procedure and online application system.

Performance appraisals require reform to balance quality and quantity criteria, which should apply equally to all judges and prosecutors. Once the legislation allows for it, quality-based performance appraisal should be reintroduced as it is a European standard.

Quality of justice

Training for judges and prosecutors is handled by the entity-level judicial and prosecutorial training centres, which are coordinated by the HJPC. The respective responsibilities of the HJPC and of the entity training centres remain unclear, leading to inconsistencies. The provisions on establishing training centres and their operation need to be clarified and the coordination role of the HJPC needs to be strengthened. Educating judges and prosecutors is crucial for the quality of the justice system. Selecting competent trainers, devising training programmes, assessing trainers and evaluating the impact of trainings conducted should be closely monitored and improved where needed. The total budget for training in 2022 was EUR 767 710 (EUR 645 616 in 2021), a 19% increase compared to 2021.

The national **case management system** (CMS) produces reliable, detailed statistics and reports at different levels (judges, courts, national) including on case flow, human resources, and duration of the pending cases. However, the information generated from this system is not being fully utilised for decision-making by the HJPC, court presidents and chief prosecutors. According to the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ), the CMS index for Bosnia and Herzegovina is higher than the Western Balkans average (3.0 for civil or commercial cases, 3.5 for administrative cases, and 3.0 for criminal cases). Bosnia and Herzegovina delivers good quality and reliable judicial data in a timely manner to the CEPEJ Dashboard Western Balkans project. The HJPC needs to step up its oversight and management on the basis of reliable statistical data on the performance of the judicial system, including on case reallocations. In 2022, the cases reallocated manually by heads of courts and prosecution offices in courts in 2022 were 496 828 (91% of those unresolved cases were reallocated for "other reasons"). One chief prosecutor has been subjected to a disciplinary procedure for potential misuse, one has been removed from their managerial post and another one is subject to an ongoing disciplinary procedure.

The appraisal system needs specific indicators aligned with clear goals, targets and benchmarks. To address this issue, the HJPC needs to establish clear protocols and guidelines for decision making within the judiciary, and to regularly monitor performance data and crucial areas (anti-corruption, organised crime and electoral fraud). The quota system for courts has helped to reduce the cases backlog in courts by more than 50% since the start of its usage. Introducing an automatic case-weighting system and time limits as performance measures should also be considered, in order to improve the system. Furthermore, developing a fully inclusive and efficient justice sector monitoring mechanism with EU assistance will be key to ensuring effective implementation of the justice reform.

The justice system still lacks **transparency**, but some efforts for improvement were undertaken. The HJPC started to improve the communication of judicial institutions with media and citizens, notably through media and web toolkits, a media action plan, and

guidelines on social media for judicial office holders, whose effect should be closely monitored. Appropriate training on public outreach and communications for courts and prosecutors' offices remains necessary.

Regarding the **harmonisation of jurisprudence**, the case-law portal created in 2021 by the HJPC in coordination with the four highest judicial instances in Bosnia and Herzegovina now allows access to over 10 540 judicial stances, court decisions and legal interpretations. The issues as regards legal status and effectiveness of judicial harmonisation panels remain unresolved. Ultimately, as noted in the Opinion key priorities, Bosnia and Herzegovina needs to establish a judicial body capable of ensuring the consistent interpretation of the law and harmonisation of case-law across the country.

The 2022 **budget** for the judiciary, including the HJPC, is EUR 156.3 million (0.67% of GDP), slightly above 2021 (EUR 135.6 million). In 2022, EUR 118.7 million was allocated to courts and EUR 34.3 million to prosecutors' offices (compared to EUR 103.9 million and EUR 29.1 million in 2021). The budget is now the same as the Western Balkans' median. The funds remain insufficient to cover investments and to improve the judicial infrastructure, as only 1.7% of the budget was spent on this line and over 81.5% on salaries and compensations. The highly complex system of financing judicial institutions is fragmented with significant budget inequalities. It requires interaction with all levels of government and difficulties in the process of preparing the budget persist. While the budget of the judiciary has continuously increased over the last few years, the coordination of its implementation between the HJPC and certain levels of government still needs to be harmonised, with the HJPC taking a more active role in ensuring sufficient funds among judicial institutions. The budgeting system for prioritising prosecutorial resources was digitalised. The HJPC budget planning and fund allocation competences for all courts and prosecutors' offices in the country should be strengthened.

In 2022, Bosnia and Herzegovina had 1 000 full-time judges (23 per 100 000 inhabitants) and 358 full-time prosecutors (11 per 100 000), including 79 court presidents and 18 chief prosecutors. According to CEPEJ, the European averages are 22.2 judges and 11.8 prosecutors per 100 000 inhabitants. A total of 61% of judges and prosecutors and 56% of managers are women.

Efficiency

The **length of court proceedings** in first-instance cases (not for utility bills) further decreased to 378 days in 2022 (409 in 2021, 434 in 2020), but is still high. The clearance rate increased to 104% in 2021 (99% in 2021). Nevertheless, the still excessive length of proceedings hampers the citizens' right to trial within a reasonable time. A law to protect that right was adopted at state level in June 2022, but is yet to be introduced in the Federation entity. Civil and criminal procedural codes have to be revised to make judicial proceedings more efficient. Court presidents and chief prosecutors continue to manage poorly procedural discipline for trials, ignoring concrete recommendations issued by the HJPC. They need to take a more active role in managing their institutions under the strategic guidance of the HJPC.

There is a **backlog** of over 2 million pending court cases, of which some 1.7 million are cases of unpaid utility bills, which continue to hinder efficiency. The backlog of non-utility cases decreased slightly by 5% compared to 2021. Relevant authorities still did not follow the Commission's recommendations to transfer the enforcement of small and uncontested claims from courts to professional bailiffs. Entity and cantonal governments did not secure sufficient funds for enforcement departments in courts or for access to information on debtor's

properties. Entity-level laws and regulations on enforcement have to be amended urgently to increase efficiency.

The changes to the prosecutorial quota did not deliver positive outcomes and the performance of the prosecutorial system has not been satisfactory. Specifically, according to HJPC data, there has been an 8% decrease in the number of indictments in 2022 as compared to 2021. The HJPC needs to assess the impact of the previously amended prosecutorial quota on the overall number of indictments and convictions compared to dismissals and revise prosecutorial quotas accordingly.

Domestic handling of war crime cases

Bosnia and Herzegovina cooperates constructively with the International Residual Mechanism for Criminal Tribunals (IRMCT-Mechanism). The Prosecutor's Office of Bosnia and Herzegovina and the Office of the Prosecutor of the Mechanism continue to collaborate closely. In 2022, 40% of all requests for assistance from the region to the Mechanism's Prosecutor came from Bosnia and Herzegovina (90% in 2021). The number of indictments for war crimes increased in 2022, with 38 indictments against 90 defendants (21 against 56 in 2021).

War crime convictions by the International Criminal Tribunal for the former Yugoslavia and its successors are still not entered into domestic criminal records. To this end, the Ministry of Justice should maintain close cooperation with the IRMCT-Mechanism Registry.

The revised National War Crime Strategy (NWCS) continued to be implemented effectively. The HJPC, within its mandate, monitored the work of prosecutors and judges to that end, until March 2023, when the Council of Ministers finally appointed a new supervisory body to oversee implementation of the strategy.

Regional judicial cooperation in processing war crime cases has improved slightly. The bilateral protocols on cooperation related to war crimes, crimes against humanity and genocide between the Prosecutor's Office of Bosnia and Herzegovina and its counterparts of Serbia, Croatia and Montenegro have helped to reduce judicial impunity but must still be used systematically. Cooperation with Serbia continued to improve, with 6 indictments transferred to Serbia, resulting in 2 convictions so far (one each in 2018 and 2020). The prosecutor's offices of the two countries have signed a cooperation agreement to provide support for war crimes witnesses, injured parties and victims. Cooperation with Croatia continues to face a number of impediments on judicial assistance; two indictments and one investigation were transferred to Croatia, while other investigations have not yet led to indictments. The protocol with Montenegro is enhancing cooperation, with investigations conducted using transferred evidence.

Out of 237 cases by the end of 2022 (including 103 in main trial phase), 91 proceedings (against 99 individuals) are pending as the indicted persons are not available. Holding multiple citizenships, these individuals are often residing in neighbouring countries. This enables them to escape justice by taking advantage of prohibitions against extradition of own nationals for the criminal offences of genocide, crimes against humanity and war crimes. They also benefit from the lack of progress of neighbouring jurisdictions in addressing the crimes in question. Serbia still fails to enforce the final sentence handed down in Bosnia and Herzegovina in 2014 against Novak Djukić, despite the availability of the basic international judicial cooperation tools. A number of international arrest warrants (Interpol Red Notice) filed by Bosnia and Herzegovina for indicted war criminals remain unanswered. Similarly, Duško Kornjača – indicted for crimes against humanity in 2015 – and Tomislav Kovač –

indicted for genocide in 2018 – are freely residing in Serbia. Sakib Mahmuljin fled to Türkiye after a final sentence for command responsibility in war crimes; Türkiye has not responded to Bosnia and Herzegovina's March 2023 request for extradition.

The backlog in *war crime cases* continues to diminish; however, it is likely that the revised deadline to complete their processing by the end of 2023 will not be met. The new supervisory body has to propose updated realistic deadlines. From an estimated 1 210 cases in July 2013, unresolved war crime cases have been reduced to 395 (-67.5%) by the end of 2022; around 261 of these are complex cases (66%). An estimated 152 cases against 357 individuals (38.5% of the backlog) are pending as the suspects are not available. Reinforced regional cooperation is key to addressing the latter issue. In 2021, the number of confirmed indictments increased slightly, but conviction rates decreased in the entities and the Brčko District with 16 indictments confirmed (13 in 2021) and a 67% conviction rate (85% in 2021). At state level, there is some progress with 22 indictments confirmed (15 in 2021), although with a decrease of the conviction rate to 57% (86% in 2021). An additional 12 less complex cases were transferred to entities and the Brčko District in 2022 (25 in 2021), completing this process. The Prosecutor's Office may now focus only on the most complex cases, improving the quality of investigations and indictments leading to convictions.

Fight against corruption

Bosnia and Herzegovina is in **between an early stage and some level of preparation** in the fight against corruption. **No progress** was made in addressing Opinion key priority 7, the 2022 recommendations, and the findings of the Expert Report on Rule of Law issues. The Ministry of Justice is yet to submit a draft state-level law on the prevention of conflict of interest in line with European standards to the Council of Ministers for adoption. Selective and non-transparent judicial follow-up in corruption cases of public resonance is a cause of significant concern, alongside pressure and intimidation. Legislation is not harmonised across the country. Some indictments for high-level corruption were raised during the reporting period. The track record on preventing and repressing corruption (including at high level) remains insignificant, due to operational inefficiency and political interference. The number of final convictions in high-level cases remains very low. Unlike in other cantons, the Sarajevo Canton authorities continued corruption prevention activities, but there was a lack of efficient follow-up by the prosecution and judiciary. An efficient application of conflicts of interest rules and verification of asset declarations is only present in the Sarajevo Canton. Targeted risk assessments and dedicated measures to address corruption are needed, in particular in the most vulnerable sectors. Recommendations of the previous year have largely not been implemented and remain therefore valid.

In the coming year, Bosnia and Herzegovina should in particular:

- adopt the Law on the prevention of conflict of interest in state-level institutions, in line with European standards, and harmonise the legislation of entities and Brčko District with international standards and best European practices; complete the legal framework and step up implementation on the protection of whistle-blowers;
- demonstrate progress towards establishing a track record on preventing and repressing high-level corruption; improve cooperation between the police and the prosecutors' offices;
- prepare and adopt a new state-level anti-corruption strategy and action plan.

Track record

Efforts remain insufficient to establish a track record on proactive investigations,

prosecutions and final convictions for corruption. In particular, progress in tackling high-level corruption remains insignificant and needs to be seriously stepped up. It is imperative for the law enforcement agencies and the judiciary in Bosnia and Herzegovina to take a more proactive stance in combating organised crime and corruption.

In **high-level corruption cases**, in 2022 there were 23 ordered investigations (15 in 2021), 11 suspended investigations (6 in 2021), 18 filed indictments (12 in 2021), 5 final verdicts (3 in 2021), 3 convictions and 2 acquittal. This trend shows that there continues to be an alarmingly low number of final convictions in high-profile cases.

In 2022, the **State Investigation and Protection Agency (SIPA)** initiated 100 investigations (34 *ex officio* and 66 by order of the competent Prosecutor's Office) into cases of corruption, of which 52 were finalised (193 initiated and 20 finalised in 2022). Thirty-five reports against 57 individuals were sent to the competent prosecutors' offices. The trend at state level shows that only a few investigations have been finalised.

In 2022, Prosecutors' offices issued 314 orders to conduct investigations into corruption, leading to 188 indictments countrywide (317 and 229 in 2021); 175 indictments were confirmed (211 in 2021), including indictments from the previous period, while the number of convictions was 192 (143 in 2021), of which 132 were suspended sentences (98 in 2021). A total of 119 persons were convicted based on a plea bargain (134 in 2021). Sanctions are not sufficiently effective, dissuasive or proportionate. Plea bargain agreements are frequent and lenient sanctions are too often applied without sufficient justification. Prison sentences are often suspended or even converted into fines with little dissuasive effect. Reduced sentences are frequent in cases in which the severity of the violation of the protected property significantly exceeds the minimum amount necessary for the existence of a criminal offence. Most of the convictions were for abuse of office or authority. The prosecution does not use effectively the available mechanisms to confiscate criminal proceeds. Financial investigations are rare and indictments frequently fail to include relevant information or evidence related to the illegal gain.

The state-level commission on **conflicts of interest** established in July 2020 remains ineffective: it held a single session in 2022, and has only dealt with a few cases. The commission received 2 reports and acted *ex officio* in 8 cases. It determined that 5 public officials were in conflict of interest (3 in 2021). All cases concerned incompatible involvement of close family members in public companies or private companies benefiting from the public budget. In 2 cases, the commission imposed temporary salary reductions as a sanction, while in the other 3 it confirmed conflict of interest but did not impose a sanction as persons were no longer officials. As regards **asset declarations**, about 600 state-level officials are required to submit their financial reports for verification, out of whom only 212 submitted their financial reports in 2022 (291 in 2021). In 2022, no proceedings for failure to submit declarations or inaccuracies were initiated, no reports were checked and no sanctions were imposed. The mandate of the state-level commission expired in October 2022 and following the elections, a new commission was appointed in March 2023. In the *Republika Srpska* entity, around 4 000 office holders are obliged to submit financial reports, out of whom only 129 submitted financial reports in 2022 (990 in 2021). The *Republika Srpska* entity commission established conflict of interest in 13 cases, but did not impose any sanction. There is a dual system of asset declarations at state level. Elected officials, executive officeholders and advisors must submit regular financial statements and disclose their assets and interests to the commission on conflict of interest. In addition, elected officials at all levels must submit declarations of their assets to the Central Election Commission. Asset declarations of elected officials are made public through its website,

although the CEC has no obligation or means to check their accuracy. Rules on conflicts of interest are still not enforced in the Federation entity.

The Brčko District adopted a law on preventing conflict of interest in March 2021 and appointed a related commission in June 2021. In 2022 it established conflict of interest in 36 cases, set up public databases for asset declarations, and initiated 11 proceedings for inaccurate or incomplete data over 156 asset declarations received. In the Sarajevo Canton, office holders' asset declarations are published on the cantonal anti-corruption office website. Other cantons should introduce similar measures.

In the Sarajevo Canton, the positive trend continued. The cantonal Law on prevention of corruption entered into force in January 2023. In 2022, 1 194 asset declarations were submitted to the cantonal anti-corruption office (1 380 in 2021) and 47 office holders who failed to submit declarations were sanctioned with misdemeanour fines, of which 16 orders were appealed in court. In all cases, the courts finally imposed sanctions lower than the minimum provided by law; such judicial practice must be further scrutinised in light of the principle of dissuasiveness and efficiency of sanctions.

The Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) granted administrative protection to **whistle-blowers** in one case out of two requests in 2022, compared with two in 2021. In the *Republika Srpska* entity, three requests for protection to whistle-blowers were filed in 2022 (zero in 2021, one in 2020), granted in one case with two cases ongoing. There is still no legislation on whistle-blower protection in the Federation entity. A new law on whistle-blower protection, entered into force in the Sarajevo Canton in January 2023. In the first quarter of 2023, the cantonal anti-corruption office received six requests and granted protection in all six cases. In 2022, the Brčko District anti-corruption office received four requests and granted protection in all four cases. Legislation at all levels of government needs to be aligned with the EU *acquis*.

Institutional framework

Corruption prevention

The functioning of corruption prevention bodies and their coordination, including with APIK, continued to be ineffective. APIK faces challenges in ensuring its independence, including in the selection of its management. APIK should play a much more proactive role in implementing GRECO recommendations and aligning with international standards. The new parliamentary commission supervising the work of APIK was appointed in March 2023. APIK must exercise its legal competence as the main coordination body for corruption prevention and as the central point for anti-corruption activities in Bosnia and Herzegovina.

The independence of corruption prevention bodies at entity and cantonal levels and their human and material resources need to be significantly strengthened. The anti-corruption office of the Sarajevo Canton continued to make good progress and remains a good example among cantonal bodies. In 2022, the office processed 753 reports of corruption, most related to corruption in employment, of which 531 were sent on to the competent authorities for further investigation and action (919 and 83 in 2021, respectively) and 47 reports were referred to the Prosecutor's Office of the Sarajevo Canton. In two cases, the Prosecutor's Office filed an indictment. In 6 cases, there was a decision not to conduct or to suspend the investigation. The cantonal anti-corruption office continued increasing transparency standards, establishing in 2022 a register of vacancies in the public sector and an interactive map of building construction and forest cutting in the Sarajevo Canton. The anti-corruption office of Tuzla Canton started work in July 2022 with a director and two employees; it started

collecting asset declarations of public officials, but has not yet made them public. The Una Sana Canton is yet to establish the body that will implement the legislation on reporting and verifying asset declarations of public officials, which entered into force in February 2021. Canton 10 adopted a decree establishing an anti-corruption Office in October 2022.

Bosnia and Herzegovina needs to introduce a comprehensive and effective system for electronic public procurement to improve transparency and reduce the abuse of public resources. An enhanced monitoring and inspection control system remains necessary to tackle corruption and irregularities in public procurement procedures.

The audit department of the Central Election Commission needs more capacity to monitor compliance with political party financing laws.

Law enforcement

The criminal justice policy and the institutional and legislative frameworks across the country are largely ineffective and inadequate for the fight against corruption. This is in part due to insufficient law-enforcement capacity to investigate, and to penalties that do not sufficiently ensure deterrence. Deep legal fragmentation and frequent conflicts of jurisdiction leading to transfers of cases slow down proceedings and reduce efficiency. The police is not proactive in launching investigations and investigations are slow. In 2022, no law enforcement agency, including SIPA, submitted any report on high level corruption to the Prosecutor's Office of Bosnia and Herzegovina. The highly formalistic manner in which SIPA is enforcing actions aimed at obtaining evidence, including in high-level corruption cases, is a cause of serious concern. Systemic shortcomings in the operational cooperation of law-enforcement agencies and the very limited exchange of intelligence remains a persistent challenge. In the few high-level corruption cases reported, selective judicial follow-up and legal mistakes, negligence, abuse of procedures, political pressure, questionable court decisions and verbal attacks on the prosecution continued to take place, including at state level. Pressure, interference and verbal attacks on judicial office holders, especially in high-level cases, continued without a systemic and efficient response by the HJPC and remain a major concern.

In the reporting period, the limited cooperation of law-enforcement agencies with prosecutor's offices and lack of effective monitoring by the prosecutors over the work of police continued to seriously hamper the effectiveness of investigations. The selective unwillingness of the police, including at state level, to cooperate with prosecutor's offices, notably in high-level corruption cases, is a cause of serious concern, calling into question their independence and professionalism. Following the investigations of the Prosecutor's Office of Bosnia and Herzegovina, 15 employees of police and security agencies, including a judge and a lawyer, have been in custody and are being prosecuted, mainly for corrupt activities and aiding organised criminal groups. Diverging views regarding the authority of state-level prosecution offices to issue instructions directed at entity prosecution offices hamper the efficiency of investigations and proceedings in high-level corruption cases. Such conflicting legal views must be remedied immediately. The competent authorities of Bosnia and Herzegovina have not addressed the failure of Serbia to respond to repeated requests of the Prosecutor's Office of Bosnia and Herzegovina for international legal assistance since 2016, in a corruption case involving a high-level politician.

Special anti-corruption departments within prosecution offices were established at state level and in the *Republika Srpska* entity. However, their effectiveness in fighting corruption remains very weak. These specialised departments must start to deal effectively with high-level corruption cases and their independence must be significantly strengthened. Specialised departments at the Federation entity Prosecutor's Office and Supreme Court have not yet

been set up.

After very poor management of the trial, resulting in extensive and unjustified delays, in April 2023 the Court of Bosnia and Herzegovina reached a first-instance sentence in the *Novalić et al.* case related to public procurement fraud, finding three of the four accused, including the then-acting Prime Minister of the Federation entity, guilty of abuse of office and forging of documents, with sentences from 4 to 6 years.

The Prosecutor's Office of Bosnia and Herzegovina initiated two additional high-level corruption investigations, and the Sarajevo Canton Prosecutor's Office initiated one related case. In May 2023, the former mayor of Sarajevo was arrested and charged with criminal offences, including abuse of office and counterfeiting official documents. These cases were widely reported in the media and investigations are ongoing. It is essential that prosecution and judicial services ensure an independent, effective and impartial judicial follow-up in these cases, which are of great public resonance and raise concern about the state of corruption in the country.

The Prosecutor's Office of Bosnia and Herzegovina made good progress in efficiently investigating SKY ECC related cases, establishing a team of 12 prosecutors to cover them. It is conducting eight investigations, with four indictments submitted and three confirmed by the court. Prosecutors are expected to demonstrate firm determination to prioritise and efficiently finalise investigations of mid and high-level corruption cases arising out of the SKY ECC communication service tool. Efficient judicial follow up in those cases must be ensured.

With regard to transparency in the health sector, the Zenica Cantonal Hospital has been the first health care institution in the country to introduce the automatic creation and public disclosure of patient waiting lists, and new anti-corruption internal acts in the segments of public procurement, conflict of interest, human resources management and financial management. In addition, 15 health institutions throughout the country adopted new rulebooks introducing anti-corruption internal acts in the areas of public procurement in the health sector, conflict of interest, human resources management and financial management.

Legal framework

The lack of harmonisation of legislation across the country continued to hamper the fight against corruption. After a draft law on conflict of interest was rejected in Parliament in May 2022, the Ministry of Justice of Bosnia and Herzegovina is yet to submit a draft state-level law on the prevention of conflict of interest in line with European standards to the Council of Ministers for adoption. The Federation entity Parliament needs to adopt legislation on conflict of interest and on the effective protection of whistle-blowers that was adopted by the entity government in August 2022. In August 2022, the Sarajevo Canton adopted a Law on prevention, suppression and the fight against corruption. This is another step towards establishing a comprehensive legal anti-corruption framework at cantonal level in the absence of a uniform regulation at entity level. The Brčko District needs to maintain efforts to implement effectively the law on the prevention of conflict of interest adopted in March 2021 and further align with best European practices. The *Republika Srpska* entity also needs to align its conflict of interest legislation with international standards. Rules on conflicts of interest are still not enforced in the Federation entity.

Both entities are implementing the strategies adopted in 2021 to develop internal financial controls in the public sector. Lack of transparency seriously hinders the fight against corruption. The legislation on political party financing urgently needs to be aligned with

international standards, particularly with pending GRECO recommendations. In August 2023 the Parliament adopted a Law on freedom of access to information to improve the pro-active disclosure of information and the transparency of state-level institutions; the independence of the appeal process remains to be ensured. Legislation on freedom of access to information at state and entity level needs to be aligned with international and European standards. Data protection laws continued to be interpreted in a way that protects private rather than public interests, hindering the prevention and repression of corruption (*see also Chapter 23*). There is no legislation to effectively prevent and address corruption in the private sector and no regulation of lobbying. Barely 1 of 15 GRECO recommendations has been satisfactorily implemented in the 4th evaluation round. The authorities need to ensure appropriate legislative and institutional follow-up to fulfil the outstanding recommendations, notably on political party financing and conflict of interest.

Strategic framework

The state-level strategy on anti-corruption expired at the end of 2019 and the Council of Ministers has not adopted a new strategy since, further hampering a harmonised strategic approach across the country. This should be remedied as a priority. The Council of Ministers did not adopt the strategy for the 2022-2024 period, which had been drafted as an interim solution by the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) and instructed APIK to draft a new strategic document for 2024-2028. New strategic documents need to be adopted and harmonised across the country, and their implementation should start without delay. Sufficient funding should be provided and strong monitoring mechanisms set up to ensure their implementation.

Fundamental rights

The legislative and institutional framework on fundamental rights is largely in place. Limited efforts were made to address Opinion key priorities 5 and 9-13 on fundamental rights. In August 2023 the Parliament amended the Law on the human rights Ombudsman, designating the institution as national preventive mechanism against torture and ill-treatment. There was backsliding in guaranteeing freedom of expression. The reintroduction of criminal penalties for defamation in the *Republika Srpska* entity in July 2023 severely impacts the environment for civil society, restricting freedom of expression and of the media and represents a major step backwards in the protection of fundamental rights. In September 2023, the entity assembly adopted in first reading a draft law targeting civil society groups as foreign agents; if fully adopted, would mark another regrettable and undeniable major step backwards. Freedom of assembly remains restricted in large parts of the country. The country needs to urgently finalise the pending constitutional and electoral reforms. These reforms should be advanced as an utmost priority. Significant reforms are needed to ensure that all citizens are able to effectively exercise their active and passive voting rights and thus bring the country's constitutional and legislative framework into line with the *Sejdić-Finci* case-law of the ECtHR. Divided education needs to end in order to ensure non-discriminatory, inclusive and quality education for all, including by overcoming the practice of 'two schools under one roof'. Gender-based violence, ill-treatment of detainees and the insufficient protection of minorities, including the Roma, continue to cause concern. The gender action plan was adopted in October 2023. The action plan on women, peace and security needs to be finalised and adopted. The country still needs to develop a comprehensive strategic framework on human rights and on the protection of minorities, including on transitional justice. Recommendations from previous years have not been implemented and remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- implement court rulings to end divided education;
- ensure full respect, protection and promotion of freedom of assembly, association and expression, and refrain from further actions that adversely impact their exercise;
- harmonise and improve legislation against domestic and gender-based violence to meet international standards and align laws across the country to the Gender Equality Law to increase the public and political participation of women.

Bosnia and Herzegovina has ratified all major European and **international human rights instruments**, most of which are included in its Constitution. No significant progress was made towards addressing most of the 204 accepted recommendations from the November 2019 Universal Periodic Review. Despite not having expressed interest in seeking observer status to the EU Agency for Fundamental Rights (FRA), Bosnia and Herzegovina is encouraged to replicate the Agency's data collection methodology.

In the reporting period, the **European Court of Human Rights (ECtHR)** delivered nine judgments that Bosnia and Herzegovina had violated rights guaranteed by the European Convention on Human Rights (ECHR) in six cases (10 in 2022). These violations concerned the right to a fair trial, the protection of property, and the general prohibition of discrimination. In the reporting period, there were 303 new applications allocated to a decision body of the ECtHR, bringing the total number of applications pending before the Court to 130. There are five cases under enhanced supervision by the Committee of Ministers. The *Sejdić-Finci*, *Zornić*, *Šlaku*, *Pilav* and *Pudarić* ECtHR rulings on electoral rights require constitutional amendments to ensure equality among all citizens; they have still not been implemented and remain under enhanced supervision. The August 2023 ECtHR ruling in the *Kovačević* case further extends the *Sejdić-Finci* case law to cover active voting rights too. Bosnia and Herzegovina lodged an appeal in September 2023 to the European Court of Human Rights against the verdict in the *Kovačević* case.

Bosnia and Herzegovina still lacks a comprehensive policy framework on the **promotion and enforcement of human rights**, including countrywide strategies on human rights, non-discrimination, and the protection of minorities. Consequently, the protection of human rights continues to be uneven across the country.

The tripartite composition and consensual decision-making of the Ombudsman institution needs to be revised in the mid-term to ensure its effective functioning. Its independence needs to be strengthened and it should continue its efforts to act more proactively. The Ombudsman registered 2 850 complaints in 2022, a similar number to previous years, and issued 359 recommendations, of which only 129 were fully implemented. The follow-up to these recommendations needs to be prioritised as there is often no reaction from the respondent authority. The Ombudsman has not opened any minor offence proceedings for non-compliance with its recommendations in the past 8 years, despite having the power to do so, nor has it initiated or intervened in administrative or judicial proceedings.

As regards **torture and ill-treatment**, Bosnia and Herzegovina still needs to ensure compliance with Article 17 of the Optional Protocol to the Convention Against Torture (OPCAT). In August 2023, the Parliament amended the Law on the human rights Ombudsman to strengthen the independence and effectiveness of this body and designate it as a national preventive mechanism against torture and ill-treatment – an international obligation of the country. The country needs to ensure the effective handling of reports of ill-treatment. So far, only a few officers have been sanctioned. Following its September 2021 visit, the Council of Europe's Committee for the Prevention of Torture reported numerous allegations of physical ill-treatment of detained persons by police officers and notes a lack of

effective action and progress in addressing previous recommendations. In 2022, the Ombudsman made 10 visits to the places of detention and deprivation of liberty and issued one recommendation.

No progress was made towards adopting a state-level framework law clearly defining countrywide criteria on the rights of civilian victims of wartime torture to meet Bosnia and Herzegovina's pending obligations under the Convention against Torture. Entity-level laws on victims of wartime torture needs to be improved. No substantial steps were taken to address the August 2019 decision of the UN Committee against Torture (UNCAT) on providing all forms of redress to victims of wartime torture through an effective reparation scheme, including by providing compensation and issuing a formal apology to the victim. The *Republika Srpska* entity government has not yet taken measures to waive court fees for victims of wartime torture to which statutes of limitations were applied in the past: as a consequence, victims continue to face repossession of property for defaulting on payments, which is worrying.

The continued absence of a countrywide strategy on the **prison system** and the lack of progress in improving detention conditions is a concern. The laws need to be harmonised across the country and brought in line with European and international standards. The Federation entity took no steps to adopt legislation to enable the transfer of prisoners between entities, staff professionalisation and a parole system. Digitalisation, reintegration programmes, and coordination with healthcare and social services still need to be improved. The country should further expand the use of alternatives to detention, in particular in the *Republika Srpska* entity. While the new state prison is now working at full capacity, several detention facilities in the country remain in need of infrastructural improvement. Prison regimes also require modernisation. The Ombudsman received 77 complaints from persons deprived of liberty in 2022 (91 in 2021).

Bosnia and Herzegovina still lacks a countrywide policy framework for dealing with the legacies of the past, including a countrywide strategy on transitional justice. Political leaders continued to engage in historical revisionism, including genocide denial and glorification of war criminals, also contesting established facts and the independence or impartiality of international and domestic tribunals. The Parliament should discuss and amend the criminal code to regulate genocide denial and glorification of war criminals in line with the 2008 EU Council framework decision on combating racism and xenophobia. No indictments have been made since the entry into force of the law criminalising denial of genocide and glorification of war criminals, imposed by the former High Representative Inzko in July 2021. The criminal designation in the *Republika Srpska* legislation for describing the entity or its peoples as aggressor or as genocidal continues to have a chilling effect on freedom of expression in the entity. Bosnia and Herzegovina is expected to act in a sovereign manner to promote an environment conducive to reconciliation in order to overcome the legacies of the war (Opinion key priority 5). Positive steps were taken at local level. The Brčko District unveiled a joint memorial for all civilian war victims in February 2023, the second in the country. In May 2023 the city of Mostar renamed six streets to remove references to officials from the *Ustasha* regime.

The continued unresolved issue of *missing persons* is a matter of concern. 7 600 persons are still missing as of June 2023 as a result of the 1990s conflict, of which 111 were identified in 2022, and 44 more in the first half of 2023. However, the Missing Persons Institute and Prosecutors' Offices at all levels assisted by the International Commission on Missing Persons are making steady progress in identifying the remaining 7 600 missing persons. In 2022, the authorities conducted 109 exhumations and over 1 500 terrain reconnaissance

operations. Further efforts are needed on a regional scale to solve the issue. There was no progress in establishing a support fund for the families of missing persons, as provided for by the law, and improving the work of the Missing Persons Institute and forensic capacity at state level.

No progress was made in aligning legislation with the EU *acquis* on **data protection**, notably the General Data Protection Regulation (GDPR). Protocol 223 to the Council of Europe Convention on the automatic processing of personal data was ratified in August 2022. No steps were taken to increase the independence and the human and financial resources of the Personal Data Protection Agency. The Agency needs to better balance the protection of privacy with the general public interest, notably media freedom, electoral integrity, and the fight against corruption. The exceptions are being exploited by public institutions in order not to disclose documents. The Agency conducted 95 procedures *ex officio* in 2022 (84 in 2021). It received 206 complaints, conducted 75 inspections and issued 14 minor offence orders (respectively, 183, 79 and 9 in 2021). The administrative proceedings against decisions of the Agency pending before the Court of Bosnia and Herzegovina were 15 (19 in 2021). While the state Parliament must consult the Agency on legislative proposals, other legislative assemblies are still not required to do so.

Freedom of thought, conscience and religion continue to be generally upheld but cases of discrimination, hate speech and hate crimes on religious grounds continue to occur. The Serbian Orthodox Church left the Inter-Religious Council in February 2023. The Islamic Community of Bosnia and Herzegovina still does not have an agreement (*concordat*) with the state. Incidents targeting religious sites also continue, particularly in minority and returnee areas, as highlighted by incidents involving Bosniak returnees to Višegrad in March and April 2023, and Serb returnees to the Mostar area. The partisan memorial cemetery in Mostar suffered large-scale vandalism in June 2022 and again in May 2023. Bosnia and Herzegovina is encouraged to promote Holocaust remembrance, education and research, in cooperation with the local Jewish community, in order to fight against antisemitism.

Freedom of expression

There is **some level of preparation** on freedom of expression. There was **backsliding** in addressing Opinion key priority 12 to guarantee freedom of expression and of the media and the protection of journalists. This key priority requires ensuring the appropriate judicial follow-up to threats and violence against journalists, including cases involving women journalists and media workers, and also ensuring the financial sustainability of the public broadcasting system. Political pressure, intimidation and harassment towards journalists, including physical and verbal attacks, continued during the reporting period, and there was no appropriate institutional follow-up. No steps were taken to align the legislative framework with European and international standards or to fully enforce it. Political influence over public broadcasters persists, and their financial sustainability remains in question. The Law on the public broadcasting system remains unimplemented and entity-level legislation is still not harmonised with this law. The reintroduction of criminal penalties for defamation in the *Republika Srpska* entity, adopted by law in July 2023, severely impacts freedom of expression and of the media and represents a major step backwards in the protection of fundamental rights. The Sarajevo Canton government endorsed a draft law that would introduce sanctions for online ‘fake news’; if adopted, it could be abused to restrict online communications and intimidate reporters. Any such norms must fully respect freedom of expression standards. Last year’s recommendations were not implemented and thus remain

valid.

In the coming year, Bosnia and Herzegovina should, in particular:

- ensure the protection of journalists and systematic institutional follow-up of threats and violence against them;
- ensure the financial sustainability and political independence of public broadcasters, and harmonise entity legislation with the state-level law on the public broadcasting system;
- adopt legislation on media ownership transparency and criteria for public advertising.

Intimidation of journalists

There continue to be serious concerns about political pressure, intimidation and threats against journalists. The polarised political climate, constant verbal attacks and nationalist rhetoric have created a hostile environment for media freedom. High-level politicians continued their public attacks and disparaging remarks against journalists, analysts and media workers, particularly against women. The authorities continue to downplay the issue with no public statements on these issues, and institutional follow-up is weak. No official countrywide data is collected on threats and attacks against journalists and media workers and their judicial follow-up. These statistics should also be disaggregated by sex.

The *BH Novinari* journalists' association recorded 73 cases of journalists' rights being violated in 2022 (70 in 2021, 69 in 2020). 31 cases of attacks (including two physical attacks), threats and intimidation of journalists were reported on the SafeJournalists platform, 40% more than in 2021. In 2022, the Ombudsman received 12 complaints (9 in 2021, 11 in 2019) and issued one recommendation, which was not implemented. In 2022, the Online Media and Press Council received 101 complaints about hate speech against journalists, compared to 509 in 2021. Authorities are expected to act swiftly and demonstrate zero tolerance for threats or attacks against the media, including by ensuring effective police investigations and judicial prosecution leading to final convictions of the perpetrators.

Legislative environment

Although defamation had been decriminalised since 2002, politicians and public officials continue to use civil lawsuits to intimidate journalists. The reintroduction of criminal penalties for defamation in the *Republika Srpska* entity, adopted by law in July 2023, severely impacts free speech and freedom of expression and of the media. To prevent an environment that forces journalists into self-censorship, courts should step up their efforts to ensure expedient processing of defamation cases and consistency of case-law on damages awarded. Legislation on free access to information and hate speech remains fragmented. In August 2023, the Parliament adopted a Law on freedom of access to information applying to the State-level institutions, intended to improve the pro-active disclosure of information and the transparency of state-level institutions. The independence of the appeal process still needs to be brought in line with international and European standards.

Implementation of legislation/institutions

The Communications Regulatory Agency (CRA) still lacks full political and financial independence. The procedure to appoint its management does not guarantee pluralistic representation of interested stakeholders and full independence from the regulated sector and from political influence. It must be amended to improve the public's perception of it as a neutral and independent body. The mandate of the CRA Board expired at the end of 2017; the Parliament has not appointed a new board for the whole 2018-2022 term. Legal provisions on

data protection and access to information are still interpreted in a way that protects private rather than public interests.

Public service broadcaster

The state-level public service broadcaster *Radiotelevizija Bosne i Hercegovine* (BHRT) remains in serious danger of shutting down, following years of deprivation of stable funding as a result of the non-enforcement of the 2003 Law on the public broadcasting system and of lengthy litigation in entity courts over the substantial debts of *Radio Televizija Republike Srpske* (RTRS) to BHRT (over EUR 31.5 million). These issues pose a serious threat to the financial independence and sustainability of the public broadcasting system. Bosnia and Herzegovina risks become the only country in Europe without a state-level public service broadcaster.

State and entity public broadcasters remain exposed to political influence, in particular through politically controlled steering boards. There is a continued worrying trend of self-censorship, heightened in the context of Russia's war of aggression against Ukraine. The Federation Parliament has not filled the vacancies on the steering board of the public broadcaster FTV nor appointed a director of FTV since 2013. *Republika Srpska's* RTRS public channel spreads Russian and Serbian disinformation, including on Russia's aggression on Ukraine and on Bosnia and Herzegovina's EU accession path. Banja Luka-based provider M-tel continued to carry the signal of the RT and Sputnik channels, despite Bosnia and Herzegovina's alignment with EU sanctions on Russia prohibiting the broadcasting of content from these Russian state-sponsored media outlets. (*See also Chapter 10 – Digital transformation and media*)

Economic factors

No steps were taken to adopt legislation on media ownership transparency (including on the prevention of hidden media concentration), legislation on advertising or criteria for the distribution of subsidies. The advertising practices of publicly owned businesses, such as telecom companies, and of advertising agencies linked to political parties continue to harm media integrity. Local broadcasters that receive funding from local authorities remain subject to political pressure and influence. The high number of strategic lawsuits against public participation (SLAPP) further fuels self-censorship. Two such cases were reported in 2021, with extremely high compensation claims threatening the financial survival of the media.

Internet

Online platforms are used to spread hate speech and disinformation, as self-regulation of online media has a limited effect. However, the trend is declining. The Press and Online Media Council received 566 complaints in 2022 (1 073 in 2021), almost all related to online content. Criminal prosecution is limited to the incitement of religious and ethnic hatred on the internet or social networks. In April 2023, the government of Sarajevo Canton endorsed a draft law defining the internet as a public space and introducing disproportionate sanctions for the online dissemination of undefined 'fake news'; if adopted, this provision could be abused to restrict online communications and intimidate reporters. Any such norms must fully respect freedom of expression standards.

Professional organisations and working conditions

Journalism in Bosnia and Herzegovina remains a precarious profession, with low wages and little job security. Labour rights are barely respected, unionisation is low, and there are no branch collective agreements for media workers. Consequently, many journalists receive a

salary significantly lower than average while also working overtime. Women journalists find themselves in a worse situation than men. The Press and Online Media Council's media code remains the basis of self-regulation, but compliance is inconsistent.

Freedom of artistic expression

Freedom of artistic expression is guaranteed by legislation and generally respected. No official data on intimidation of artists is collected. Although authorities have not formally introduced restrictions, the environment for reconciliation-related themes is challenging. For instance, in June 2023 the entity broadcaster RTRS withdrew support to the National Theatre of Republika Srpska due to its cooperation with Sarajevo's SARTR theatre.

Laws on **freedom of assembly** are still not harmonised across the country and are not in line with European standards, in particular as regards grounds for restriction and responsibility of organisers. The 2020 Brčko District law on freedom of assembly, largely in line with European standards, should be used as a model in other jurisdictions. The fourth Sarajevo Pride march took place without incidents in June 2023. The exercise of freedom of assembly remains restricted in the *Republika Srpska* entity, where in March 2023 the local police banned an LGBTIQ event.

Freedom of association continues to be generally respected. However, human rights defenders dealing with issues perceived as sensitive (e.g. anti-corruption, women's rights, LGBTIQ persons' rights, migrants, the environment) continue to be subject to threats, harassment, verbal abuse and even physical attacks. The authorities have failed to promptly and systematically condemn and properly investigate such attacks. In September 2023, the *Republika Srpska* entity adopted in first reading a legislative initiative on a special registry and transparency of work of non-profit organisations, which would impose excessive and unwarranted restrictions on civil society organisations and targeting them as 'foreign agents'. If fully adopted, this draft law would adversely affect civil society, including in engaging with stakeholders without fear of repercussions. This draft law should be abandoned, in line with the joint opinion of ODIHR and Venice Commission. Additionally, civil society organisations in the Herzegovina-Neretva Canton face continuous pressure from the authorities with repetitive and excessive inspections. As a key priority, the authorities need to promote a conducive and enabling environment for civil society, and ensure effective consultation on legislative developments on freedom of association.

***Labour and trade union rights** issues are covered in Chapter 19 – Social policy and employment.*

As regards **property rights**, the apportionment of property between the State and other levels of government remains one of the open issues under the '5+2' agenda for the closure of the Office of the High Representative. This requires the adoption of a state-level law, in line with jurisprudence of the Constitutional Court. Entities and cantons have legislation which is not in line with the constitutional and legal framework. There are no strategic documents that address this issue. No steps were taken to update and interconnect the entity-level cadastral and land registry databases and no solution was found to pending repossession cases. The Commission for real property claims of displaced persons and refugees is inoperative. There is no legislative framework on restitution claims, which are handled case by case. The Federation entity needs to amend its legislation, in line with several ECtHR cases on occupancy rights over military apartments, which are still pending implementation (*Đokić, Mago, Alekšić* cases).

Concerning **non-discrimination**, there was no progress towards adopting countrywide human rights and anti-discrimination strategies. The 2009 law on the prohibition of discrimination, which aims at full alignment with the EU *acquis*, is still not applied effectively due to a number of problems, including insufficient use of available legal remedies such as collective lawsuits, divergent court practice, excessive length of proceedings, and lack of a unified data collection system on discrimination cases. In 2022, the courts received 979 discrimination cases; 455 cases were completed.

Discrimination continues to be under-reported, particularly at the workplace, and judicial practice has shown lack of uniform application of burden of proof, excessive length and non-enforcement of final decisions. The Ombudsman registered 208 cases of discrimination in 2022 (173 in 2021, 288 in 2020), of which the most frequent concerned discrimination at the workplace, ethnic discrimination and discrimination on the basis of social position and gender. The Ombudsman issued 75 recommendations for these cases in 2022, compared to 26 in 2021. Disputes over education continue, while systemic solutions for ensuring inclusive and non-discriminatory education are not in place. The common core curriculum is not completed, nor is it applied throughout the country, and the availability of teaching in the national groups of subjects remains limited. No progress was made in eliminating the practice of ‘two schools under one roof’, which is in breach of 2014 and 2021 rulings by the Federation entity Supreme Court concerning the Herzegovina-Neretva and the Central Bosnia Canton. Despite Constitutional Court decisions, the name of the Bosnian language is still not recognised in schools in the *Republika Srpska* entity, leading to recurrent school boycotts.

Legislation on hate crimes is harmonised across the four criminal codes in the country. Entity-level legislation criminalises hate speech only when causing national, racial and religious hatred and it still needs to be aligned with the EU *acquis*. Failure to identify acts as hate crimes and the high burden of proof still make it difficult to establish intent, leading to few indictments and convictions. 157 ethnic-related hate incidents were recorded in 2022, and six convictions were handed down in 2022 (134 and eight in 2021, 119 and three in 2020). 15 trials are ongoing. The case-law on hate crimes is not consistent. The authorities have not taken any measures to counter hate speech, which remains present in official discourse. There is no monitoring or enforcement of the prohibition of hate speech in online media. 56 reports were filed and eight rulings, of which six convictions, were handed down for hate speech in 2022, compared to 70 reports and eight convictions in 2021. The Council of Europe Convention on cybercrime and its additional protocol is only partially implemented.

Legislation on **gender equality** is still not harmonised across the country or effectively enforced. The new gender action plan was adopted in October 2023. The new action plan on women, peace and security needs to be finalised and adopted, so that activities may resume at full speed. An effective mechanism of monitoring and accountability systems, and sufficient funding from the budget for implementing the action plans remain priorities in this area.

Despite being prescribed by law, gender impact assessments are still not being carried out. While Bosnia and Herzegovina has developed a partial index of gender equality, work on data collection needs to proceed to enable the development of sound policies targeting key gender gaps, providing relevant data on gender-based violence.

During the reporting period, a number of cases of **gender-based violence** leading up to the murder of women (femicide) garnered public attention and sparked protests across several cities in Bosnia and Herzegovina. These incidents exposed existing systemic shortcomings of the institutional response to gender-based violence. Improvements are particularly needed on

issuing and enforcing protective measures, continuous and comprehensive victim support, legal aid, and safe accommodation. The country needs to introduce urgent legislative changes to ensure the transposition of remaining obligations stemming from the Istanbul convention, including by amending its criminal legislation. The Federation entity still needs to harmonise its criminal code with the Istanbul Convention by opening the process for public consultations and involving women's rights organisations. Furthermore, it needs to finish developing and adopt legislation on protection against domestic violence. The Brčko District should allow for criminal prosecution of offenders. The *Republika Srpska* entity needs to implement legislation in this field and recognise the role of specialised civil society organisations contributing to the protection of victims. Bosnia and Herzegovina still needs to address the August 2020 decision of the UN Committee on the Elimination of Discrimination against Women (CEDAW) on providing all forms of redress to victims of wartime sexual violence. It further needs to accelerate the prosecution of crimes of sexual violence, secure witness protection and provide reparation to women victims of war crimes. The gender pay gap remains significant, at around 25%. Maternity, paternity and paternal leave continues to differ among entities and cantons. (See also Chapters 19 and 28; on women victims of trafficking, see Chapter 24)

As regards the **rights of the child**, no steps were taken by Bosnia and Herzegovina to develop and adopt a new action plan on child protection to replace the one for 2015-2018. In 2022, the Ombudsman received 219 complaints on children's rights (190 in 2021, 190 in 2020). There were 1 103 children without parental care in 2020 (1 623 in 2019), many of whom are children with disabilities. Transition towards community-based care needs to accelerate. To ensure the best interest of the child and avoid institutionalisation, measures are required to prevent family separation, provide foster care and alternative solutions, and support children leaving care institutions at the age of 18. Child exploitation and child begging remain a serious concern; no measures have been taken to address them despite the urgency. Violence against children continues to be under-reported. Some children are without compulsory health insurance, which needs to be addressed. Marginalised groups, such as the Roma, face multiple forms of discrimination; this affects girls and women in particular. The authorities have not taken any measures to collect precise and consistent data on violence against children and on child poverty. Bosnia and Herzegovina has ratified all key international instruments on child labour. The minimum age for work across the country is 15. However, this is not applied in practice with regard to children who are working without a formal employment relationship. Child begging is also not prohibited as a hazardous occupation for children. Roma children are particularly vulnerable to the worst forms of child labour. Unaccompanied migrant children face specific challenges, such as accessing safe accommodation and asylum procedures. 1 878 unaccompanied migrant children were identified in 2021 (351 in 2020, 533 in 2019). 817 were appointed a legal guardian, as provided for by law (987 in 2020, 304 in 2019). Alternatives must urgently be found to the detention of irregular migrant families with children, and the issue of registering births of children of undocumented migrants must be addressed.

Bosnia and Herzegovina needs to strengthen the implementation of child-friendly justice including for children belonging to minorities, migrant children and children with disabilities. Entity-level laws on **juvenile justice** have still not been fully implemented or harmonised with each other. There are no separate units for juveniles during pre-trial detention and in police stations, a serious breach of international law that urgently needs to be remedied. The use of alternative measures needs to be stepped up to ensure detention is only used as a measure of last resort. Only limited reintegration measures are available to juveniles upon release. As of July 2022, there were 29 minors in prisons (22 as of September 2021, 39 as of

December 2021).

Persons with disabilities are among the most vulnerable groups. No steps were taken to address concerns regarding deprivation of legal capacity, status-based discrimination, and accessibility. While the legal and institutional framework for persons with disabilities is in place, the lack of dedicated budgetary funds hampers implementing measures that would improve their position. The law continues to allow persons with disabilities to be deprived of their legal capacity through a judicial process, in violation of international conventions. The country needs to move from a status-based approach (with war veterans and civilian victims of war enjoying priority) to one based on needs, with a uniform definition of disability, and harmonised eligibility criteria, rights and standards of social protection across the country. Persons with disabilities continue to face hurdles in accessing education, healthcare and social assistance. The Council for Persons with Disabilities needs to be further engaged in all relevant processes. The authorities also need to improve data collection, including sex-disaggregated data.

Children with disabilities remain one of the most marginalised and excluded groups, facing stigma and discrimination along with inadequate services, especially in health and education. Many continue to be placed in residential institutions, which is a severe violation of their rights and international conventions. This needs to be urgently addressed. Bosnia and Herzegovina needs to urgently develop and adopt a deinstitutionalisation strategy to move towards community-based care. Both entities and the Brčko District have started developing their own roadmaps in cooperation with UNICEF.

In July 2022, the Council of Ministers adopted the action plan on the **rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons** which was developed in 2020. Active and persistent engagement is needed to achieve its objectives. While legislation includes provision on hate crimes on grounds of sexual orientation and gender identity, the prosecution of hate crimes and hate speech against LGBTIQ persons remains insufficient. No steps were taken to recognise and ensure the enjoyment of same-sex couples' social and economic rights, including the right to a family life. The social inclusion of intersex and transgender persons, who continue to be particularly marginalised, has yet to improve. In March 2023, the local police prohibited an LGBTIQ pride event in Banja Luka and did not protect activists from physical attacks, nor were the perpetrators prosecuted. Harmful comments by high-level politicians and public figures against the LGBTIQ community contributed to these developments. The fourth Sarajevo Pride march took place in June 2023. The Sarajevo Open Centre documented 13 hate incidents against LGBTIQ persons in 2022, including cases of domestic violence.

The **procedural rights** of suspects, accused persons, witnesses and victims are generally upheld, although access remains uneven across the country, particularly for witnesses and victims. The four criminal procedure codes have yet to be further harmonised, and their enforcement is inconsistent. Bosnia and Herzegovina needs to ensure the right to immediate access to a lawyer while in police detention, which is an essential procedural right. A state-level law to protect the right to be tried within a reasonable time was adopted and entered into force in June 2022; a similar law is still pending adoption in the Federation entity. This is key to addressing systemic violations of the right to a fair trial and ensuring the right to an effective remedy, in line with Constitutional Court rulings and European standards. The country has not aligned with the EU *acquis* on victims' rights and compensation to victims of crime, but has taken some steps through the provision of related services, in particular victim support and the development of referral mechanisms for long-term physical, psychological and practical assistance.

Without comprehensive coverage and clear minimum common standards, the right to legal aid continues to be upheld unevenly, to the detriment of the most vulnerable. The framework needs to be completed by adopting laws in the Federation entity and the Central Bosnia Canton, as well by as putting into operation the legal aid office of the Herzegovina-Neretva Canton. Conducting a needs assessment would help identify and address the main gaps and ensure effective equal access to justice for all, irrespective of place of residence. The budget implemented for legal aid in 2022 amounted to EUR 8 442 077 (up from EUR 7 073 171 in 2021).

The participation in political and public life of persons belonging to national **minorities** remains low. No progress was made towards adopting a countrywide strategy on national minorities. The authorities still need to comply with the recommendations of the fourth review cycle under the Framework Convention for the Protection of National Minorities from November 2017 to condemn statements of politicians and public figures inciting ethnic hatred and to take measures promoting intercultural dialogue and understanding. The national minorities' councils should become more active in developing practical, political and legislative initiatives. In 2022, the Ombudsman received 12 complaints concerning rights of persons belonging to minorities (compared to three in 2021 and two in 2020) and issued two recommendations. Minorities and unaffiliated citizens, remain barred from running for the Presidency and House of Peoples. This has been repeatedly condemned by the ECtHR since 2009 (*Sejdić-Finci* case law). Pending constitutional and electoral reforms are of utmost importance to ensure equality for all.

The **Roma** are the most vulnerable and disadvantaged minority. Anti-Roma stereotypes and prejudices, discrimination and anti-gypsyism still hinder their social inclusion.

Roma women in particular face multiple forms of discrimination. They often lack resources, access to services, awareness about their rights and information on protection mechanisms. Roma women's rights are also violated in cases of domestic violence, early marriages, trafficking in human beings and labour exploitation of children.

As one of the 17 officially recognised national minorities, the Roma are protected by the anti-discrimination law. The country allocated EUR 700 000 for 2023 for the implementation of the 2021-2025 countrywide action plan for the social inclusion of Roma men and women, compared to EUR 1 million for 2020, the last year a budget was allocated. As the action plan encompasses a broad scope of measures, it requires appropriate funding from all levels of government, reversing the downward trend, as well as constant monitoring, including by the Roma Advisory Board (Roma Committee). A total of 15 local communities have revised their local Roma action plans.

Upon completion of the mapping and assessment of the needs of the Roma in Bosnia and Herzegovina in December 2022, 47 cities and municipalities identified issues related to informal settlements and housing units. No progress was made in developing a methodology for data collection nor in developing a policy for the legalisation of informal economy practices concerning the Roma. Discrimination in employment remains rampant, with very high unemployment rates. Compulsory education enrolment rates have increased, but the number of school drop-outs is still very high. While classes or schools are not segregated, there is no teaching in and of the Romani language, and the awareness of Roma culture among the rest of the population is very limited. Around two thirds of Roma have access to healthcare; children outside education and elderly Roma face the biggest hurdles. The process of civil registration is well advanced; a roadmap to end statelessness has been developed. No step was taken to remove administrative obstacles, including residence requirements for birth

registration and for access to healthcare and education, and to recognise documents for children born abroad.

Bosnia and Herzegovina hosts around 90 000 **refugees and internally displaced persons**, following the conflict in the 1990s, of which 990 families (3 351 persons) still live in one of the 45 collective centres across the country and in alternative accommodation. The authorities need to address their housing needs with sustainable solutions. Minority returnees are among the most common targets of ethnically driven hate speech and hate crimes. The 2010 revised strategy for the implementation of Annex VII to the Dayton Peace Agreements has not yet been fully implemented. To complete the process of return and fulfil its obligations to allow closure of Annex VII, Bosnia and Herzegovina should ensure full cooperation among all levels of government so as to ensure the enjoyment of the rights of returnees and harmonise their access to services and resources. The country also needs to provide adequate humanitarian assistance and protection (including shelter, food and medical assistance) and effective access to the asylum procedure for asylum seekers and migrants. Arbitrary limitations to their human rights, including restrictions of movement introduced during the pandemic, should be removed.

2.2.2. Chapter 24: Justice, freedom and security

The EU has common rules for border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails lifting border controls inside the EU. Member States also cooperate with Bosnia and Herzegovina in the fight against organised crime and terrorism, and on judicial, police and custom matters, all with the support of the EU justice and home affairs agencies.

Bosnia and Herzegovina has achieved **some level of preparation** to implement the EU *acquis* in this area. **Some progress** was made, notably on the fight against organised crime (Opinion key priority 7) by finally putting into operation the Europol contact point, and on managing migration and asylum (Opinion key priority 8) by adopting a new 2021-2025 strategy and action plan on migration and asylum. The Parliament adopted a Law on foreigners in September 2023. Proactive engagement is required to fully take over responsibility for managing migration, which should be supported by all levels of government. Bosnia and Herzegovina is satisfactorily implementing the integrated border management strategy for 2019-2023. The next strategy and the action plan for 2024-2029 are broadly aligned with the EU *acquis* and need to be adopted in good time. The Council of Ministers adopted a new four-year strategy and the related action plan for countering terrorism and preventing and countering violent extremism, and an updated risk assessment and accompanying action plan on anti-money laundering and combating the financing of terrorism. Further steps are needed to adopt an action plan on drugs and to establish a drug observatory and an early warning system. While broadly aligned with the EU *acquis*, legislation is often not harmonised across the country, and institutional cooperation and coordination remain weak, leading to uneven and unsatisfactory implementation. Last year's recommendations remain broadly valid.

In the coming year, Bosnia and Herzegovina should in particular:

→ urgently adopt and start implementing legislation on anti-money laundering and combating the financing of terrorism (AML/CFT) in line with the EU *acquis*, to avoid the possibility of again being listed as a jurisdiction under increased monitoring for strategic AML/CFT deficiencies by the Financial Action Task Force (FATF) after evaluation of the regional body, the Committee of Experts on the Evaluation of Anti-Money

Laundering Measures and the Financing of Terrorism (MONEYVAL);

- draw up concrete plans for transition to increased responsibility of domestic authorities in managing migration, including taking over the management of reception centres; implement the strategy on migration and adopt the action plan; ensure effective coordination of border management and migration management capacity, including the fair distribution of reception capacity among all entities and cantons; and guarantee more efficient access to asylum procedures;
- adopt the action plan on drugs; improve civilian oversight mechanisms over police, at all levels; consistently appoint police directors on a merit basis; align with EU visa policy, in particular with regard to third countries presenting irregular migration or security risks to the EU.

Fight against organised crime

Bosnia and Herzegovina **is in between an early stage and some level of preparation** in the fight against organised crime. **Some progress** was made on the fight against organised crime, notably by finally putting into operation the Europol contact point and by concluding some relevant operations supported by Europol (Opinion key priority 7). The country has several strategies in place, notably the recently adopted strategy on organised crime, trafficking in human beings and integrated border management. However, the legal framework is not harmonised across the country. There are systemic shortcomings in the operational cooperation of law enforcement agencies due to non-harmonised criminal legislation, weak institutional coordination and very limited exchange of intelligence. Criminal organisations operating in Bosnia and Herzegovina take advantage of legal and administrative loopholes. The police are vulnerable to political interference. Financial investigations and asset seizures are largely ineffective. A proactive approach is essential to stop criminal infiltration in the political, legal and economic systems. Last year's recommendations remain broadly valid.

In the coming year, Bosnia and Herzegovina should in particular:

- implement the national strategy on trafficking in human beings and improve referral to appropriate support to victims;
- strengthen institutional cooperation among law enforcement agencies and with prosecutors' offices and courts, notably by establishing specialised multi-agency investigation teams for complex cases; improving mutual / standardised access to databases and the secure / timely exchange of information; strengthening financial investigations; and adopting standard operating procedures to run financial investigations;
- sign an agreement on operational cooperation with Eurojust, and establish a firearms focal point; urgently adopt legislation on the possession of weapons by civilians, harmonised and further aligned with the EU *acquis*, including on marking and deactivation standards.

Institutional set-up and legal alignment

There are multiple law enforcement agencies in the country, out of which 15 have investigative powers. The police had 438 police officers per 100 000 inhabitants in 2021, compared with an EU average of 335.3 (Eurostat, 2019-2021). Data for 2022 are not available.

Police legislation needs to be further aligned with the EU *acquis*. There was limited improvement and harmonisation of police legislation at all levels, which hampers effective police accountability, integrity and cooperation. The professionalism, integrity and

accountability of law enforcement agencies needs to be significantly improved. A comprehensive policy to ensure transparent appointments is needed. Police oversight mechanisms via parliamentary independent boards need to be strengthened. There was progress in ensuring merit-based, standardised and transparent appointments and promotions by some independent boards. Political interference remains a concern, notably for key managerial positions as well as for parliamentary independent board members. While the participation of women in police bodies has improved, women are still under-represented in positions of command and have limited promotion opportunities. Failure to comply with the rule of law and democratic principles, including political influence, remain a major concern. In the Herzegovina-Neretva Canton, amendments to the legislation led to ethnic criteria prevailing over merit in recruiting police; this is of concern for its independence and professionalism.

The legal framework on the **fight against organised crime** is only partially aligned with the EU *acquis*. Bosnia and Herzegovina adopted a strategy on the fight against **organised crime** for 2023-2026. All competent authorities need to implement the strategy through their own action plans. It is of particular concern that, since 2010, despite several legislative initiatives, Bosnia and Herzegovina has not developed capacity for asset management at state level. Extended and third-party confiscations are possible, but they are rarely used. Bosnia and Herzegovina should establish or designate an asset recovery office in charge of identifying and tracing criminal assets to improve effectiveness and facilitate operational cooperation with EU Member States.

The legislation on **trafficking in human beings** needs to be further aligned with the EU *acquis*, notably on sanctions. A 2020-2023 strategy is in place and being implemented. The implementation of the strategy should be evaluated and a strategy for the following period should be developed. Bosnia and Herzegovina has intensified anti-trafficking operations but few victims and suspects have been identified. It should improve the early identification of victims and their referral to adequate support, assistance, protection services and possible compensation.

Bosnia and Herzegovina needs to further align its legislation on **cybercrime** with the EU *acquis*. It is party to the Budapest Convention on Cybercrime, and it should sign its second additional protocol on enhanced cooperation and disclosure of electronic evidence. The country needs to complete the strategic framework on fighting cybercrime; a strategy is only in place in the *Republika Srpska* entity.

Legislation on the **possession of weapons by civilians** needs to be harmonised and further aligned with the EU *acquis*, including on marking and deactivation standards. New legislation should be modelled on the Una-Sana Canton's 2021 law on weapons, which is broadly in line with the EU *acquis*. The legislative framework on explosives for civil use and the transport of dangerous goods remains fragmented and needs to be completed and aligned with the EU *acquis* across the country.

Legislation should urgently be adopted on **anti-money laundering and countering the financing of terrorism** (AML/CFT), in line with the fourth and fifth EU directives on AML/CFT. Bosnia and Herzegovina adopted an updated risk assessment and accompanying action plan on AML/CFT. If these necessary steps are not taken as a matter of urgency, there is a real possibility that Bosnia and Herzegovina will again be listed as a jurisdiction under increased monitoring for strategic AML/CFT shortcomings by the international standard-setting body, the Financial Action Task Force (FATF), after evaluation by the regional body MONEYVAL. Moreover, Bosnia and Herzegovina should align its criminal legislation with

the latest *acquis* on combating money laundering.

Bosnia and Herzegovina should demonstrate results in implementing the 2021-2024 strategy and action plan for the control of **small arms and light weapons** (SALW). Bosnia and Herzegovina is aligned with the actions within the EU Action Plan on firearms trafficking, which correspond with the goals of the Regional Roadmap to better control SALW in Western Balkans and progressed well on activities to improving firearms detection capacities and destruction of firearms. More efforts should be done to investigate firearm-related crimes, in particular establishing the firearms focal point, which is still at an impasse.

Implementation and enforcement capacity

In 2022, there were 39 investigations into **organised crime** with 336 suspects, 14 indictments with 58 accused, 20 convictions with 92 convicted, 38 with a conditional sentence, and 16 acquittals. This represents a drop compared with 2021 (735 suspects, 28, indictments with 190 accused and 22 sentences with 134 convicted). In 16 cases, plea bargain agreements were concluded with 58 individuals (90 in 2021). There were 138 orders to conduct investigations against 166 individuals for cybercrime including for online child sexual abuse in 2022, (181 investigations against 198 individuals in 2021), with 54 indictments against 65 individuals (45 and 41 in 2021). The number of convictions in 2022 is still very low, with 48 convictions for 58 individuals (43 and 51 in 2021) of which 27 convictions for 35 individuals resulted in suspended sentences (50%). In 2022 extended confiscation was proposed in five cases (seven in 2021) and three first-instance decisions and no second-instance decisions were delivered by courts. Confiscation of property from third parties was proposed in six cases (10 in 2021), and one first-instance court decision and no second-instance court decision were delivered.

The capacity to effectively dismantle criminal organisations is seriously hampered by the lack of harmonised criminal legislation, which is exacerbated by the systemic lack of capacity and institutional coordination. While there is some progress in carrying out joint operations tackling serious crimes, there is still limited exchange of intelligence. Some progress was made in the cooperation and exchange of criminal data between law enforcement agencies in Bosnia and Herzegovina and counterparts in the region. The absence of a register of beneficial owners, which competent authorities may access without restriction, contributes to these shortcomings. The country should also step up the fight against transnational organised crime networks.

There is no overall policy for carrying out timely and systematic **financial investigations**. In 2022, the State Investigation and Protection Agency (SIPA) carried out financial investigations in four cases and submitted six reports to the Prosecutor's Office of Bosnia and Herzegovina. While there is no information on the follow-up by the prosecution, the number of financial investigations remains very low. The High Judicial and Prosecutorial Council issued guidelines for chief prosecutors on the mandatory launch of financial investigations in corruption, organised crime and money laundering cases. These need to be followed up and implemented effectively. In 2022, there were 89 investigations into money laundering (61 in 2021) involving 145 individuals, 48 confirmed indictments against 66 suspects (respectively 49 and 66 in 2021), and 39 convictions against 51 defendants (respectively 55 and 70 in 2021). In 50 cases, a criminal report was filed by police authorities. For money laundering as a stand-alone crime, in 2022 there were 49 investigations against 71 individuals (33 and 36 respectively in 2021), 34 confirmed indictments against 47 individuals, 54 convictions against 72 individuals (41 and 42 respectively in 2021), out of which only six individuals were sentenced to prison; additionally, there were 24 fines against 30 individuals.

The Financial Investigation Unit within the SIPA needs to fulfil its responsibilities more efficiently. In 2022, SIPA submitted 28 reports against 59 individuals (12 and 25 respectively in 2021) and nine legal entities to the prosecutors' offices on suspicion of financial crimes, including money laundering, in the amount of EUR 18 million (5.5 in 2021). For money laundering as a stand-alone crime, in 2022 there were 49 investigations against 71 individuals (33 and 36 respectively in 2021), 34 confirmed indictments against 47 individuals, and 54 convictions against 72 individuals (41 and 42 respectively in 2021), out of which only six individuals were sentenced to prison.

The tools for **freezing, managing and confiscating criminal assets** are not effective enough. Confiscation of criminal assets needs to be stepped up in the fight against organised crime, terrorism and high-level corruption. Criminal assets need to be systematically frozen and their management need to be improved. Law enforcement authorities need to collect and analyse data on asset seizure and confiscation as a tool to improve the effectiveness of these sanctions. The value of asset confiscations pursuant to first-instance and final court verdicts in 2022 amounted to over EUR 9 million compared with EUR 4 million in 2021 and over EUR 11.5 million in 2020.

Proactive investigations that start with **intelligence-led policing** remain rare. The insufficient systematic cooperation between law enforcement agencies continues to seriously affect the quality of investigations despite some successful operations carried out in 2022 and 2023. Criminal justice needs standardised systems and processes to respond swiftly to serious and organised crime, corruption and new security threats. Operational cooperation with Europol is growing, with some room for improvement. Cooperation with Interpol needs to improve.

The tools for enhanced and practical **cooperation between prosecutors' offices and the police** are in place, but require structural improvements to guarantee more effective judicial follow-up, prevent procedural delays, and introduce good practices. Ineffective cooperation between police and prosecutors continues to hinder trials. The quality of reports, the collection, analysis and sharing of data, and the capacity of specialised joint investigation teams should be further improved. Continuous efforts should be undertaken on communication, coordination and sharing of information to further strengthen the operational and strategic effectiveness of police bodies.

The electronic data exchange system from the records of police authorities and prosecution offices needs to be fully functional and ready for use by all signatories of the 2009 agreement. Forensic capacity remains fragmented. There is no operational countrywide DNA database, and DNA-profiling capacity is limited. There is no swift exchange of forensic data with other countries. The creation of a new automated fingerprint information system (AFIS) is long overdue. Although required by law, there is no effective, coordinated and consistent countrywide approach to using undercover investigators. The use of special investigative measures needs to improve. Suitable equipment and sufficient staff are also needed.

There has finally been progress in implementing the 2017 agreement on operational and strategic cooperation with **Europol**. In June 2023, the contact point was put into operation and a liaison officer was deployed in July 2023 by Bosnia and Herzegovina to Europol in the Hague. This is an important step. Until then, exchange of information with Europol continued to take place through a unit in the Directorate for Coordination of Police Bodies of Bosnia and Herzegovina, whose mandate had expired, and with which the *Republika Srpska* entity had suspended operational cooperation. Making the Europol contact point fully operational enabled the resumption of direct cooperation between Europol and all police bodies in Bosnia and Herzegovina, allowing the latter to make use of Europol's services and operational tools.

Messages were exchanged through the Secure Information Exchange Network Application (SIENA) system. The roll-out of SIENA across the country should continue. In 2022, the number of new cases opened based on cooperation with Europol was 1 165 (1 022 cases in 2021). Messages exchanged through the Europol channel in 2022 amounted to 8 573 (4 721 received and 3 852 sent). Bosnia and Herzegovina's use of Europol products and services has been very limited during the reporting period, but is expected to grow with the start of operation of the Europol contact point.

Bosnia and Herzegovina participates in the European Multidisciplinary Platform against Criminal Threats (EMPACT). In 2023, the country committed to participating in 12 operational actions (eight in 2022). Bosnia and Herzegovina also appointed the Europol contact point coordinator as national EMPACT coordinator. Bosnia and Herzegovina continued to participate in EMPACT joint action days.

Bosnia and Herzegovina has not yet signed the agreement between the parties to the Police Cooperation Convention for Southeast Europe on the automated exchange of DNA, dactyloscopic and vehicle registration data, nor its implementing agreement.

Legislation on **trafficking in human beings** needs to be further aligned with EU *acquis*. The prosecutors and the police lack sufficient and trained staff to efficiently address trafficking. The establishment of a specialised department in the Prosecutor's Office of Bosnia and Herzegovina dedicated to trafficking has further improved the referral mechanism and quality of evidentiary and court processes. In 2022, 38 potential victims of trafficking in human beings (56 in 2021) were detected (29 children and nine adults, compared with 49 and seven in 2021). Nine perpetrators were convicted in 2022 (26 in 2021), following eight investigations involving 11 suspects (50 and 60 respectively in 2021).

Bosnia and Herzegovina still has no fully functional referral mechanism for trafficking victims. The task force against trafficking, established by the Council of Ministers, continued to ensure coordination, including with the regional monitoring teams at entity and cantonal level. The authorities should better detect and identify victims and perpetrators by standardising and improving evidentiary proceedings and further training practitioners in the judiciary and police. Despite efforts on increased property and damage compensations, Bosnia and Herzegovina still needs to introduce an appropriate compensation scheme for victims of crime, in particular of trafficking. The authorities should more systematically order financial investigations in connection with cases of trafficking in human beings and further improve international cooperation, notably through more intensive information exchange, participation in joint investigation teams and enhanced cooperation with EU task forces and agencies, including Europol.

Witness protection continued to improve, notably out-of-process protection. Specialised and regular training in EU and international practice and standards remains essential.

The authorities' capacity to effectively tackle **cybercrime**, including online child sexual abuse, and respond to cybersecurity threats should be enhanced. Law enforcement authorities make efforts to strengthen cooperation in the fight against sexual abuse of children through participation in the EMPACT activity on cybercrime child sexual abuse and exploitation, focused on the Western Balkans .

On **arms control**, a total of 1 234 weapons, 49 889 pieces of ammunition, 31 pieces of other mine-explosive devices and 10.8 kg of explosives were seized in 2022 (against 1 396, 14 009 and one in 2021). 2 609 pieces of weapons and weapons parts were destroyed (compared to 1 792 in 2021, 1 864 in 2020 and 3 479 in 2019). In 2022, there were 236 orders to

investigate firearms related criminal offences – illegal production, possession, and trafficking - (317 in 2021) involving 273 suspects (340 in 2021). 208 indictments were filed in 2022 against 233 accused (respectively 276 and 298 in 2021), leading to 217 convictions (223 in 2021), 35 prison sentences (23 in 2021), 22 fines (32 in 2021) and 160 suspended sentences (168 in 2021) with 235 convicted (239 in 2021). Bosnia and Herzegovina still needs to establish a focal point for firearms. The criminal codes are not yet aligned with the UN Firearms Protocol. Bosnia and Herzegovina stands out with the relatively high number of voluntarily surrendered firearms. The SEESAC¹² armed violence reporting platform recorded 506 incidents (567 in 2021) related to firearms in 2022.

Since 2021, Bosnia and Herzegovina needs to revise the working arrangement for cooperation with the EU Agency for Law Enforcement Training (CEPOL). The contact point was replaced in October 2022, but not much interaction has taken place ever since. Bosnia and Herzegovina has full access to the CEPOL exchange programme as well as to the free-of-charge electronic learning system of CEPOL. CEPOL has recommended designing, preparing and organising targeted training to address firearms trafficking and environmental crime as priority topics.

Cooperation in the field of drugs

Institutional set-up and legal alignment

Bosnia and Herzegovina has a 2018-2023 strategy on supervision of narcotic drugs, prevention and suppression of the abuse of narcotic drugs, but there is no action plan to implement it. The strategy needs to be implemented and its implementation be evaluated. An action plan for 2023 and beyond, in line with EU standards, should be adopted. The *Republika Srpska* entity has its own strategy and action plan on drugs that is outdated. The entities need to adopt action plans aligned with the state-level strategy. The Commission for the suppression of the abuse of narcotic drugs was completely ineffective: it was inaugurated in July 2022 and its mandate expired in October 2022.

The legal framework is only partly in line with the EU *acquis*, notably on minimum rules on drug-related criminal offences and sanctions. The legislation provides for the entire quantity of drugs seized to be preserved as material evidence for court proceedings, rather than just a sample, which creates risks.

Bosnia and Herzegovina cooperates with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and should designate by law a correspondent for cooperation. It should establish a national drug observatory to provide factual, objective, reliable and comparable information on drugs, drug addiction and their consequences. It should improve coordination among the competent agencies and align data reporting on epidemiological trends with the EMCDDA treatment indicators. Bosnia and Herzegovina should also adopt legislation on new psychoactive substances, establish a focal point for drug issues for the entire country and introduce an early warning system.

There is no early warning system on new psychoactive substances (NPS). The Ministry of Security facilitates the exchange of information on NPS; entity coordinators should be appointed.

Implementation and enforcement capacity

¹² South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons.

Track record of enforcement continued to be built in 2022. In 2022, there were a total of 3 166 (2 451 in 2021) reported crimes related to drug abuse and 2 033 (2 171 in 2021) orders issued to conduct an investigation. There were 1 337 indictments filed (1 409 in 2021), 1 804 confirmed (2 023 in 2021), 468 indictments with a criminal warrant (587 in 2021) and 7 indictments with plea agreement (6 in 2021). There were 32 acquittals (33 in 2021), 5 judgments rejecting charges (6 in 2021) and 1 678 convictions (1 967 in 2021), of which 1 conviction without a sanction (none in 2021); 86 fines (89 in 2021); 28 court reprimands (24 in 2021); 1 034 suspended sentences (1 304 in 2021); and 517 prison sentences (550 in 2021).

Bosnia and Herzegovina remains a transit country and a final destination for drugs. Bosnia and Herzegovina has not updated the list of criminalised psychoactive substances since 2011, in line with the recommendations of the Commission for the suppression of abuse of narcotic drugs. As a result, several psychoactive substances circulate freely. A more flexible mechanism is needed to regularly update this list. Professional capacity and cooperation with civil society needs to be improved. More funds are needed for harm reduction programmes and the social reintegration of addicted persons. In July 2022 the Council of Ministers extended the mandate of the Commission for the destruction of drugs. No drugs were destroyed in 2022. The lack of secure storage of drugs before destruction is still a concern.

Fight against terrorism

Institutional set-up and legal alignment

Anti-terrorism legislation is mostly aligned with the EU *acquis* and with international law. Criminal legislation needs to be amended to ensure stricter sanctions for the offence of training and travelling abroad for terrorist purposes as well as for publishing and sharing terrorist content online. A new law on anti-money laundering and terrorism financing in line with the EU *acquis* (fourth and fifth AML/CTF directives) needs to be urgently adopted. Laws on the protection of critical infrastructure (only present so far in the *Republika Srpska* entity) should be developed and adopted at all levels of government.

A new 4-year strategy for countering terrorism and preventing and countering violent extremism was adopted in November 2022 after a 2-year gap. This marks a step forward. Now, the authorities need to implement the strategy, including by addressing all forms of radicalisation and violent extremism (political, ethno-nationalist and religious). A 2021-2026 action plan was adopted in August 2023.

Policy dialogue on counter-terrorism with the EU takes place regularly. In April 2023, the country submitted the 5th report on the implementation of the bilateral arrangement in the framework of the Joint Action Plan on Counter Terrorism. Some progress was made, but many objectives still need to be implemented.

Implementation and enforcement capacity

Shortcomings still exist in implementing counter-terrorism laws, and cooperation between security agencies at all levels of government needs to become more structured and efficient. The high-security state prison is fully functional. Very limited assistance is available, in prison or upon release, for disengaging from violent extremism. Much more work is needed to prepare inmates for release, including former foreign terrorist fighters.

Around 160 citizens of Bosnia and Herzegovina, including women and children, are estimated to remain in Syria and Iraq. In August 2022, Bosnia and Herzegovina adopted a plan for the repatriation, reintegration, rehabilitation and resocialisation of its citizens in Syria and Iraq. In December 2022, the Presidency instructed competent institutions to coordinate

the safe return of citizens of Bosnia and Herzegovina located in the conflict zone of Syria and Iraq. None were repatriated in the reporting period.

In 2022, 10 investigations were initiated for terrorism-related offences; no final conviction was delivered. Authorities should improve preparations for the release of terrorist offenders who have served their sentences, in coordination with local authorities and law enforcement agencies.

The capacity and effectiveness of the counter-terrorism task force and the counter-terrorism section of the state-level Prosecution Office need to be significantly strengthened. Bosnia and Herzegovina's capacity to investigate and prosecute the financing of terrorism and to counter terrorist content online needs to be further developed. An asset recovery office and a beneficial ownership register of legal persons have yet to be established. Coordination, cooperation and intelligence-sharing between security agencies need to be improved, e.g. on identifying a firearms focal point or collaborating with the EU internet referral unit at Europol to deal with terrorist content online. The entry into operation of the Europol contact point should facilitate cooperation and exchange information on terrorism as well.

Civil society and the institutions responsible for labour, social welfare, education, youth and health at various levels of government need to be more effectively included in preventive efforts. Bosnia and Herzegovina is participating in implementing the Western Balkan counter-terrorism initiative as part of integrative internal security governance.

Judicial cooperation in civil and criminal matters

The legislative framework for mutual legal assistance in civil and criminal matters is in place but is not always applied effectively. The number of requests for judicial cooperation in criminal matters increased, while the number of requests for judicial cooperation in civil matters dropped. In 2022, the Ministry of Justice recorded a total of 2 891 requests for judicial cooperation in civil matters, 70% of them from EU Member States (primarily Austria, Croatia, Germany and Slovenia). In 2022 there were 3 920 requests for judicial cooperation in criminal matters, 70% from EU Member States (primarily Austria, Croatia, Germany and Slovenia). The statistics on enforcement of foreign judgments in criminal matters (transferring convicted persons and taking over enforcement of criminal sentences) have remained stable. There were 71 requests in 2022 (71 in 2021), of which seven were granted and four rejected. 70% of these requests originated from EU Member States. Completion averaged between 3 months and 1 year.

Bosnia and Herzegovina needs to undertake concrete action to accede to certain instruments developed under the Hague conference on private international law, including the 1996 Hague convention on child abduction and the 2007 Hague maintenance protocol.

Bosnia and Herzegovina has decided to open negotiations with the Commission for an international agreement on judicial cooperation in criminal matters with Eurojust. The draft agreement has been sent and the first round of negotiations is scheduled for October 2023. An accelerated approach to finalising a cooperation agreement is to be encouraged. As a prerequisite for the agreement to enter into force, Bosnia and Herzegovina needs to adopt a new Law on personal data protection in line with the EU *acquis* and ensure the full operational capacity of the Personal Data Protection Agency. Bosnia and Herzegovina has three contact points for relations with Eurojust and Eurojust-led projects. In 2022, it was involved in 11 cases supported by Eurojust.

In June 2023, the Presidency endorsed opening negotiations with the European Commission for an international agreement on cooperation with Eurojust and gave its consent to the

Prosecutor's Office of Bosnia and Herzegovina to sign a working arrangement with the European Public Prosecutor's Office (EPPO). The country was involved in two EPPO cases in 2022.

Legal and irregular migration

Institutional set-up and legal alignment

Some positive steps have been taken in this area. The legal framework on migration, including the Law on foreigners, is broadly aligned with the EU *acquis*. In August 2023, the Parliament adopted a new Law on foreigners. The principle of *non-refoulement* is ensured in the new law. Human rights safeguards should be sufficiently defined and guaranteed, including for minors and unaccompanied minors. The Council of Ministers adopted the new 2021-2025 strategy on migration and asylum in December 2022, and the related action plan in March 2023.

Bosnia and Herzegovina has concluded **readmission agreements** with the EU and with Schengen associated countries, as well as implementation protocols to the EU Readmission Agreement with 16 EU Member States. Their implementation is satisfactory overall. Accelerated readmission procedures with neighbouring countries are still to be fully and effectively implemented. Bosnia and Herzegovina has also concluded readmission agreements with all the Western Balkan partners, Türkiye, Russia, Moldova and Pakistan, as well as implementation protocols with 16 EU Member States. Their implementation is satisfactory overall¹³. The readmission agreement with Pakistan has been in force since July 2021.

Bosnia and Herzegovina participates in the regional Anti-Smuggling Operational Partnership with the Western Balkans launched in November 2022 to support law enforcement and judicial cooperation against criminal smuggling networks and to increase border management capacities.

Implementation and enforcement capacity

In 2022, the numbers of persons irregularly entering Bosnia and Herzegovina considerably increased compared with the previous year. In 2022, the authorities detected 27 429 arrivals (15 740 in 2021). 25 709 persons expressed their intention to seek asylum (14 688 in 2021). The top three declared countries of origin were Afghanistan, Burundi and Bangladesh. In 2022, a total of 48 051 migrants were registered staying in the five EU-funded **temporary reception centres** in the Una-Sana and Sarajevo cantons, and none estimated as staying outside the centres. In 2022, Bosnia and Herzegovina had capacity to host over 4 500 persons at any time, which is sufficient for the needs. The number of migrants accommodated in reception centres was the highest in October 2022 (3 300) and the lowest in February 2023 (below 700). The average stay of migrants in Bosnia and Herzegovina has dropped considerably to 7 days in May 2023, compared with 58 days in May 2022 and 103 in May 2021.

The Ministry of Security has continued to step up efforts to improve migration management and coordination between the State and local authorities. Despite constant EU advocacy and support, responsibility for hosting asylum seekers and migrants across the entire country is

¹³ To note that the Commission recommended Bosnia and Herzegovina in its sixth report under the Visa Suspension Mechanism to resolve in particular issues in readmission cooperation reported by 2 Member States.

not fairly shared. Most of the responsibilities continue to fall upon the Una-Sana and Sarajevo cantons. The Ministry of Security has continued efforts to take over responsibility for managing migration, which should be supported by all levels of government. The lack of political responsibility make it difficult for the authorities to provide the necessary assistance. The plan to progressively transfer management of reception centres to the authorities started in November 2021 with the direct management of the multi-purpose reception and identification centre in Lipa. The drawing up of a detailed transition plan on the transfer of responsibilities from international partners to the state has been delayed. The Ministry of Security continues efforts to boost regional and international cooperation on migration, hosting conferences for this purpose in September 2022 and June 2023.

The Sector for Immigration, the service for Foreigners' Affairs and the Border Police remain significantly understaffed and partly underequipped, which hampers their efficiency. Bosnia and Herzegovina needs to adopt or assign a budget for migration management. Only limited public funding is available to manage migration; this also impacts the state's effectiveness in developing a policy. More efficient information exchange is needed, including biometric data exchange between relevant stakeholders in migration management policy.

Bosnia and Herzegovina demonstrated a limited level of organisation and coordination in managing the influx of **Ukrainian refugees**, present in low fluctuating numbers. The country determined their legal status and the rights they would enjoy when entering the country. In 2022, 49 974 Ukrainian nationals entered and 48 051 exited Bosnia and Herzegovina. Very few stayed until the end of 2022.

The multi-purpose **reception and identification centre in Lipa**, near Bihać, established with EU support in 2021, is operational. Bosnia and Herzegovina needs to strengthen capacity and to manage the centre effectively, fully respecting fundamental rights, domestic legislation and international standards, including for screening and registration, the protection of vulnerable persons and detention.

Despite shortage of staff, the Service for Foreigners' Affairs demonstrated satisfactory management and coordination capacity. As additional reception places became available, the authorities intensified efforts to relocate migrants from informal settlements to these reception centres, with good coordination between the Service for Foreigners' Affairs, local police and other partners. The Una-Sana Canton maintains in place discriminatory and disproportionate restrictions of movement, including for migrants to use public transports as well as a restriction on the maximum number of migrants in the canton. Humanitarian partners continued to provide key assistance and to ensure respect for international standards. There has been some progress in providing essential services to refugees and migrants in cooperation with humanitarian partners. The authorities should step up efforts to protect the human rights of vulnerable persons, especially minors. The most vulnerable persons need to be identified and referred to adequate assistance in line with international standards. Only the Una-Sana and Sarajevo cantonal authorities provide access to legal guardianship and facilitate access to education for unaccompanied children. However, there are no accommodation facilities available to minors outside of the cities where reception centres are located. Assigning legal guardianship and access to education for all unaccompanied minors in Bosnia and Herzegovina remains a challenge. In 2022 the authorities registered 2 443 unaccompanied minors in the country (109 in 2021 and 351 in 2020; the increase is due to the upgrading of the Information System for Migration which previously only gave data for unaccompanied minors registered in government-run centres).

On **voluntary and forced return**, the return of persons not in need of international

protection needs to be improved in terms of both legal framework and implementation procedures, also as it is mostly based on donors' assistance. There was an improvement in the mechanisms for collecting, sharing and analysing **statistics** on migration in the information system for migration. However, biometric data collection requires further improvements. Cooperation with neighbouring countries is necessary to ensure the efficient management of the external borders, respecting fundamental rights and international obligations.

Cooperation on identification and return procedures needs to improve. Bosnia and Herzegovina should increase efforts to establish readmission agreements with countries of origin and further improve the mechanisms for assisted voluntary return and reintegration. Ensuring return and readmission remains challenging. In 2022, 103 foreigners were returned to neighbouring countries following readmission agreements (77 to Serbia, 26 to Montenegro and none to Croatia), compared with 89 in 2021. The number of third-country nationals returned to Bosnia and Herzegovina in 2022 under various readmission agreements amounted to 838, compared with 570 in 2021 and 686 in 2020. In 2022, 128 foreigners returned to their countries of origin via assisted voluntary return with support from the EU and the International Organisation for Migration (IOM), compared with 206 in 2021 and 232 in 2020. In 2022, seven minors, potential victims of trafficking of human beings, were repatriated from Bosnia and Herzegovina in line with their expressed wish and following the required security and humanitarian risk assessment. In 2022, Bosnia and Herzegovina carried out seven forced returns. Carrying out non-voluntary returns remains a challenge due to the absence of cooperation frameworks with countries of origin, the lack of documentation to establish the identity of migrants and the lack of diplomatic representation of various countries of origin in Bosnia and Herzegovina. A number of positive steps have been taken in this regard, including the operationalisation of the readmission agreement with Pakistan leading to the first returns under this agreement, identification missions from Bangladesh resulting in the issuance of travel documents, and planned returns and enhanced dialogue with the Moroccan authorities.

Bosnia and Herzegovina has one **immigration detention centre** in East Sarajevo (Lukavica) for those awaiting expulsion from the country, with a maximum capacity for 120 persons. In 2022, the immigration centre held a total of 714 persons, including 16 children. Representatives of the UNHCR and non-governmental organisations are granted access to the detainees on a regular basis to ensure that their rights are respected. A detention facility was also built adjacent to the Lipa centre, in line with domestic legislation and international standards.

Asylum

Institutional set-up and legal alignment

The institutional framework and legislation on asylum are broadly in line with the EU *acquis* and international standards and practices. The Law on asylum adopted in January 2016 should be further aligned with recent EU *acquis*, notably in relation to procedural safeguards to ensure standardised procedures for examining applications for international protection and systematic access to procedural guarantees, as well as on strengthening the asylum and reception systems in line with the Common European Asylum System (CEAS) and EU standards. Cooperation with the EU Agency for Asylum (EUAA) should continue to be further strengthened, including by adopting a 2024-2025 roadmap. Inter-agency cooperation and coordination needs to be further improved, particularly in the exchange of biometric data.

Implementation and enforcement capacity

The Sector for Asylum of the Ministry of Security has very limited **human resources** and operational capacity, with 75% of its posts filled (21 out of 28) and only five officers registering and assessing asylum claims for the entire country, which is clearly insufficient to ensure access to asylum. The lack of staff significantly hampers access to asylum, primarily registration and identification. There are insufficient interviewers and registration sites. The Sector for Asylum remains dependent on external support, including by the EU, to conduct registrations and examinations. No performance targets have been set for registration and examination officers. More staff, including interpreters and cultural mediators, are needed so as not to only rely on international support. The age assessment procedures for minors require further improvements. The overall capacity of the Sector for Asylum should be further strengthened. Cooperation and sharing of responsibilities in managing asylum with other institutions should improve.

Bosnia and Herzegovina should swiftly adopt the second-generation roadmap for cooperation with EUAA 2023-2025. The previous roadmap 2020-2022 was implemented only to a limited extent. Bosnia and Herzegovina is strongly encouraged to implement the pending recommendations, especially on the information of the country of origin, assessment of evidence and interview techniques for minors. The contact officers handling minors require appropriate trainings and resources, notably supporting guidance and technical solutions for more efficient family tracing processes.

There are still obstacles to ensuring effective access to asylum procedures. Inter-agency cooperation and coordination needs to be ensured. The processing time of asylum requests improved in 2022 with an average time to reach a decision of 247 days during the second semester (350 days during the first semester), reduced to 205 days in the first semester of 2023, according to UNHCR. However, the processing of asylum cases remains too lengthy. The Service for Foreigners' Affairs and the Border Police do not have enough staff or facilities to register asylum claims made upon entry in Bosnia and Herzegovina. This has been an issue since 2018. Access to asylum procedures and mechanisms should be strengthened to ensure faster processing of their claims and to ensure that people in need of international protection receive it.

Asylum seekers are not guaranteed the same rights evenly across the country, as their access to services varies depending on where the reception centres are located. As the authorities have not yet fully taken over legal responsibility for all reception centres in the Una-Sana Canton, these centres are not recognised as valid residential addresses for asylum applications; applicants are thus in a legal limbo, which increases their vulnerability. The system for collecting and storing biometric identifiers requires additional improvements, especially for inter-agency information exchange. Access to information for potential asylum seekers has improved through more intensive facilitation efforts and cooperation with international partners. Authorities are encouraged to improve contingency planning capacity on reception procedures.

In 2022, out of 25 709 persons who expressed their intention to claim asylum in Bosnia and Herzegovina, only 149 applied for international protection. 41 asylum requests were pending from 2022. Of them, none were granted refugee status, 46 persons were granted subsidiary protection, 25 individual applications were rejected on merit, and 22 asylum applications of 27 persons were closed as the applicants left or attempted to leave the country or failed to show up for an interview. In the first six months of 2023, 61 persons filed an asylum application in Bosnia and Herzegovina, with 36 requests completed, compared to 90 and 12 respectively in the same period the previous year.

The **asylum centre** in Delijaš near Sarajevo, which provides decent reception conditions and adequate access to rights, has 154 beds (which can be expanded to 300) but remains underutilised, primarily due to its remote location. As of June 2023, the centre did not host any asylum seekers. Living conditions and the provision of services at the centre have improved, such as possibility for daily educational activities for both adults and minors.

Cooperation with EUAA should continue and intensify.

Visa policy

Bosnia and Herzegovina continues to meet the visa liberalisation criteria and retains a visa-free regime with the EU. The Commission's sixth report under the visa suspension mechanism of October 2023 concluded that Bosnia and Herzegovina continues to meet the visa liberalisation benchmarks¹⁴. To ensure a well-managed migration and security environment, Bosnia and Herzegovina needs to be fully aligned with the EU's visa policy. Bosnia and Herzegovina still has visa-free agreements with the following countries whose citizens require visas for the EU: Azerbaijan, Bahrain, China, Kuwait, Oman, Qatar, Russia, Saudi Arabia and Türkiye. While it introduced a visa-free regime with Saudi Arabia for the summer tourist season 2023, Bosnia and Herzegovina terminated the visa-free arrangement with Bahrain from September 2023. Bosnia and Herzegovina maintains a policy of not issuing visas on the state border; exceptions are few (7 cases in 2021 and 27 in 2022). Bosnia and Herzegovina must improve its technical capacity and infrastructure in its diplomatic offices for the introduction of biometric visas.

Travel documents policy still requires additional state control mechanisms related to the procurement and manufacturing of biometric travel documents. Security features, application and issuing processes for travel documents, notably biometric passports, are fully aligned with EU and international standards.

The **visa-free regime** with the EU continued to be smoothly implemented. In 2022, 2 210 applications for international protection were submitted by nationals of Bosnia and Herzegovina in EU Member States, 18% less than in 2021 (2 695). The recognition rate (including humanitarian protection) increased from 5% in 2021 to 8% in 2022.

In 2022, the number of nationals from Bosnia and Herzegovina found to be irregularly staying in EU Member States rose by 19%, with 4 775 irregular stays in 2022 compared with 4 005 in 2021. The number of refusals of entry slightly increased in 2022 (by 5%), from 4 995 cases in 2021 to 5 260 in 2022.

Bosnia and Herzegovina continued good cooperation on readmission of its own and third-country nationals on the basis of the readmission agreement with the EU and implementing protocols, which are implemented in an efficient manner. The number of return decisions issued to nationals of Bosnia and Herzegovina (2 635 in 2022 against 2 785 in 2021) dropped by 5%, while the number of people returned (1 250 in 2022 against 900 in 2021) marked a rise of 40%. The return rate increased from 32% in 2021 to 47% in 2022, and stood at 42% for the first quarter of 2023 (275 out of 650). Attention should continue to be paid to the successful reintegration of returnees.

Schengen and external borders

Institutional set-up and legal alignment

¹⁴ COM(2023) 730 final.

The **legal framework** for border control is partly aligned with the EU/Schengen *acquis*. Bosnia and Herzegovina should urgently adopt the new Law on border control aimed at improving the efficiency of integrated border management.

Bosnia and Herzegovina is satisfactorily implementing the **integrated border management (IBM)** strategy for 2019-2023. The draft strategy and action plan for 2024-2029 are broadly aligned with the EU *acquis* and need to be adopted in good time.

Training was improved to align it with the common core curriculum of the European Border and Coast Guard Agency (Frontex). The Border Police, despite its limited resources, showed operational flexibility in border management operations with the support of other law enforcement agencies.

Bosnia and Herzegovina took initial steps to establish the **Advanced Passenger Information/Passenger Name Record (API/PNR)** systems, a necessary condition for the establishment of a future national coordination centre (NCC). The risk analysis process has been further improved.

Implementation and enforcement capacity

The state-level **Border Police** has around 25% vacancy rate (562 out of the planned 2 646 staff), mostly police officers for border surveillance operations.

Following the increased influx of refugees and migrants since 2018, the authorities have redeployed available border guards. However, the response remains inadequate. The Border Police remains understaffed. Additional police should be trained.

The implementation of the **integrated border management strategy** for 2019-2023 is satisfactory and the coordination body overseeing implementation of the strategy manages the process in a satisfactory manner. Border infrastructure and technical capacity have improved. Further improvement is needed, in particular in the area of border surveillance, inter-agency cooperation and capacity management.

Further improvements of **infrastructure and equipment** are needed at a large number of border crossing points. Despite the significant quantity of donated equipment, **border surveillance** still needs to improve, to respond to migratory challenges. Border patrol operations have been fully restored but are not sufficient to detect irregular border crossings, in particular on the border with Montenegro.

The Border Police and the Service for Foreigners' Affairs further significantly improved their risk analysis capacity. Frontex-certified trainers have trained 73 members of their staff in line with the most recent Common Integrated Risk Analysis Model (CIRAM) 2.0. Data access and exchange issues remain to be further improved.

Inter-agency law enforcement cooperation was satisfactory overall. The Border Police continued to rely on the support of other law enforcement agencies to patrol borders. In 2022, the Border Police handed over 213 criminal cases to other law enforcement agencies for further processing (130 in 2021), significantly improving implementation of this pillar of integrated border management. Cooperation in the fight against smuggling of migrants and trafficking of human beings should improve.

As the leading investigative and coordination component of the Border Police, with executive powers across the country, the central investigation office intensified its activities in the fight against migrant smuggling and trafficking in human beings. There was a higher detection rate, in particular on smuggling (59 compared with 26 in 2021) and forgery of documents

(183 compared with 144 in 2021). **International cooperation** should improve. Bosnia and Herzegovina has a number of agreements with neighbouring countries.

The Border Police cooperates satisfactorily with Frontex and Interpol. Bosnia and Herzegovina participates in the Western Balkan risk analysis network led by Frontex.

Bosnia and Herzegovina still needs to appoint a lead negotiator, negotiate and conclude a Frontex status agreement with the EU. Bosnia and Herzegovina initialled a status agreement in January 2019 which was not signed nor ratified. With the adoption of the new European Border and Coast Guard Regulation (EU) 1896/2019 and model status agreement, a new status agreement may be negotiated on the basis of the new Frontex mandate. This would enable Frontex to deploy its standing corps to both Bosnia and Herzegovina's EU and non-EU borders. Bosnia and Herzegovina has, however, still not responded to the January 2023 invitation by the Commission to initiate negotiations. Bosnia and Herzegovina should sign an upgraded working arrangement with Frontex for operational cooperation and deployment of Frontex personnel without executive powers. Cooperation with the European migrant smuggling centre of Europol has started to improve, with Bosnia and Herzegovina being actively involved in one regional operational task force established together with Slovenia and Croatia targeting the Western Balkan migratory route.

Negotiations on border agreements with Serbia and Croatia are on hold, and an agreement on border demarcation should be reached with Montenegro. The joint police cooperation centre in Trebinje continued to facilitate the exchange of police data with Serbia and Montenegro. Local border traffic agreements and joint patrols with neighbouring countries have been restored and are being satisfactorily implemented.

All aspects of customs cooperation are covered under Chapter 29 – Customs union.

2.3. ECONOMIC CRITERIA

<i>Table 6.1:</i>	2014-19	2020	2021	2022
Bosnia and Herzegovina - Key economic figures	average			
GDP per capita (% of EU-27 in PPS) ¹⁾	31	33	34	35
Real GDP growth	3.2	-3.1	7.4	4.0
Economic activity rate of the population aged 15-64 (%) , total	54.5	58.2	59.1	59.1
<i>female</i>	42.7	46.1	46.7	46.3
<i>male</i>	66.2	70.4	71.4	71.8
Unemployment rate of the population aged 15-64 (%) , total	23.1	16.2	17.5	15.5
<i>female</i>	26.4	19.0	22.2	19.9
<i>male</i>	21.0	14.4	14.5	12.7
Employment of total population (annual growth %)*	3.3	-1.2	0.9	2.3
Nominal wages (annual growth %)	1.6	4.0	4.4	11.7
Consumer price index (annual growth %)	0.0	-1.1	2.0	14.0
Exchange rate against EUR	1.96	1.96	1.96	1.96
Current account balance (% of GDP)	-4.6	-3.2	-2.4	-4.5
Net foreign direct investment, FDI (% of GDP)	2.3	1.8	2.3	2.5
General government balance (% of GDP)	1.1	-5.2	-0.3	-0.4
General government debt (% of GDP)	37.4	36.1	34.0	29.3

Notes :

1) Eurostat

* There is no comparable time series for the age group 15-64

Source: Eurostat, national sources

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

2.3.1. The existence of a functioning market economy

Bosnia and Herzegovina is at an **early stage** of establishing a functioning market economy and there was **no progress** in this area. After a strong rebound in 2021 from the pandemic-induced crisis, economic growth slowed down to about 4.0% in 2022, reflecting a deteriorating international environment and accelerating inflation. The labour market was resilient and unemployment fell, but it nevertheless remained very high, while labour out-migration persisted. Driven by high inflation, budget revenues increased strongly and the public debt ratio fell. However, the quality of public spending remained weak, while the public sector remained inefficient and oversized. The current account deficit increased but its financing was ensured. The financial sector remained stable. The business environment continued to be negatively affected by Bosnia and Herzegovina's fragmented internal market and a large informal economy. The rule of law and the functioning of the internal market deteriorated further, with recent disputes on the validity of constitutional court ruling for the whole country and traffic blockages at inter-entity boundary lines. Political stalemates and lack of cooperation among the various levels of government continued to hinder necessary structural reforms. Russia's war of aggression against Ukraine so far had mainly indirect effects, through higher import prices and uncertainty as well as weaker third-country external demand.

The implementation of last year's recommendations was very limited. The 2022 recommendations remain fully valid.

To improve the functioning of the market economy, Bosnia and Herzegovina should in particular:

- strengthen country-wide regulatory and supervisory institutions, reinforce country-wide analytical and policy-formulation capacity and publish complete and consistent country-wide data in a timely manner, in particular in the area of public finances;
- improve the business environment by simplifying business registration and licencing procedures and by harmonising and mutually recognising licences and certificates between entities;
- increase the transparency and efficiency of the public sector, in particular by establishing an appropriate institutional and regulatory framework for better, de-politicised governance and improving the efficiency and governance of publicly owned enterprises to reduce their burden on government spending; furthermore, improve the efficiency of tax collection by ensuring the effective exchange of taxpayer information between the country's tax authorities, and in particular clarify the constitutional competence for establishing a central (i.e. country-wide) registry of bank accounts of private individuals, in line with the EU acquis.

Economic governance

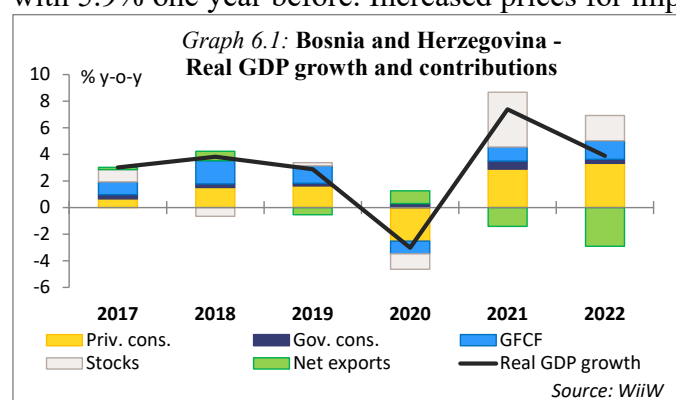
Economic governance did not make progress during the last year, resulting from a legislative recess in autumn in the run-up to the October 2022 general elections and time needed for the subsequent government formation. Bosnia and Herzegovina's short and medium-term track record in adopting and implementing overdue structural economic reforms remains very limited, in particular with respect to countrywide measures. The main reasons for this are lack of political commitment and insufficient cooperation among key stakeholders together with highly politicised decision-making processes and institutional fragmentation. The 2023-2025 Economic Reform Programme, an important element for Bosnia and Herzegovina's participation in the economic and financial dialogue with the EU, was again submitted with a significant delay and its quality was once again low, suffering from a lack of internal consistency and insufficient commitment towards country-wide reforms. Furthermore, the country failed to participate sufficiently in other EU meetings which try to prepare candidate countries for their integration into EU procedures. Russia's war of aggression against Ukraine affected Bosnia and Herzegovina mainly through indirect channels, leading to higher import prices and a slowdown in import demand from trading partners. In response to the higher cost of living the authorities increased public sector wages and pensions and raised social transfers.

Implementation of the policy guidance jointly adopted at the economic and financial dialogue with the EU in May 2022 was limited. The authorities took steps to cushion the effects of external shocks and to improve the countrywide public finance management system. However, in most other areas, in particular in improving the functioning of country-wide institutions, no progress was achieved.

Macroeconomic stability

Economic activity slowed down in 2022, reflecting a deteriorating international environment and accelerating inflation. Annual output growth slowed from 7.2% in 2021 to 4% in 2022. To some extent this slowdown reflects a base-year effect after the strong rebound in 2021 and early 2022, which however also led to increasing price pressures. The main drivers of growth in 2022 were exports, gross investment (in particular inventories) and private consumption. In 2023-Q1 economic activity slowed down further, with weaker

private consumption and investment bringing year-on-year output growth to 1% compared with 5.9% one year before. Increased prices for imported energy and primary commodities as

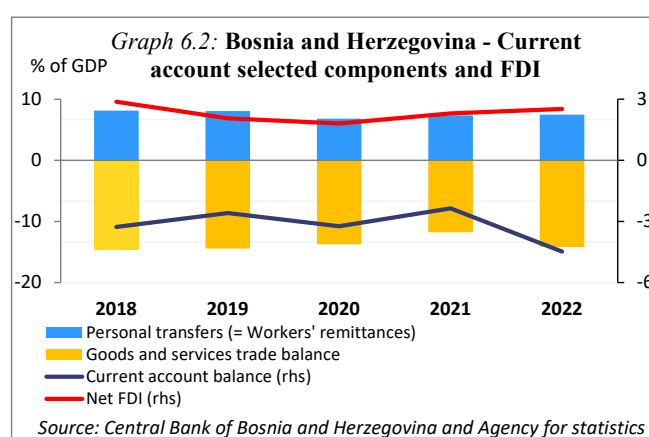


a result of Russia's war of aggression against Ukraine further contributed to inflationary pressures. At the same time, external demand decelerated, although from a high level. During 2018-2022, average growth was around 3%, with exports and private consumption as the main drivers of growth. Real GDP per capita in purchasing power standards was 35% of the EU average in 2022, compared

with 31% some 5 years earlier. The main impediments to faster income convergence with the EU are low investment, a poor business environment and lack of reforms resulting from persistent political tensions, cumbersome licencing procedures and economic and institutional fragmentation.

The current account deficit widened in 2022. The current account deficit increased to 4.5%

of GDP in 2022, compared with 2.4% in 2021, largely reflecting decelerating export revenues and higher spending on imports driven by increased commodity prices. In the first quarter of 2023 the deficit dropped to 3.6% of GDP, largely due to lower spending on imports. The deficit in the balance of goods and services has been largely financed by current transfers, primarily consisting of workers' remittances, accounting for more than 10% of GDP. Net FDI inflows rose to 2.5% in 2022 and to

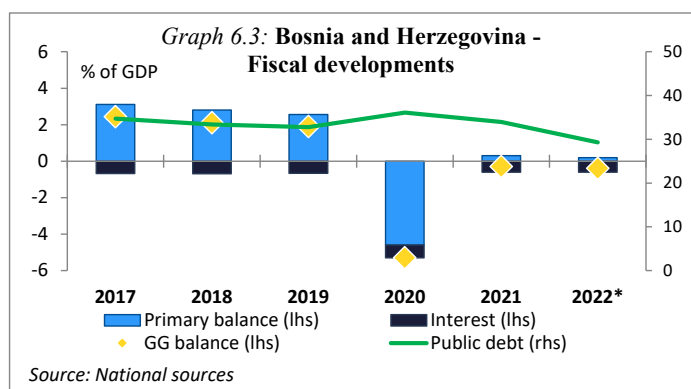


3.6% of GDP in 2023-Q1. A large part of these FDI inflows was reinvested earnings, while foreign greenfield investment remained. Official foreign exchange reserves, which benefited from pandemic-related financial assistance including special drawing right (SDR) allocations by the IMF, dropped at the end of 2022 to a still-solid level equivalent to about 7 months of imports, largely due to higher spending on imports. Bosnia and Herzegovina relies strongly on longer-term financing at favourable rates by international financial institutions, such as the IMF, the EIB and the World Bank. The gross external debt ratio remained moderate, at some 58% of GDP at the end of 2022. Overall, the financing of Bosnia and Herzegovina's current account appears feasible, while external vulnerabilities are moderate.

Inflation surged in 2022 but moderated somewhat after the autumn. Headline inflation accelerated during 2022, especially after Russia's war of aggression against Ukraine which resulted in surging energy and food prices. Annual consumer price inflation reached a peak of 17.4% in October 2022, but moderated to 4.0% in July 2023. On average, inflation was 14% in 2022 and 8.5% in the first 7 months of 2023. Headline inflation was especially driven by increases in food prices which account for about one third of the consumption basket.

Monetary policy continued to be anchored by the currency board arrangement. This monetary regime has served the economy well so far as an important pillar of macroeconomic

stability. However, it also implies that the burden of adjustment to external shocks must be accommodated by other policy areas, in particular fiscal policy to manage demand, and structural reforms to improve the functioning of markets. Domestic political tensions have continued to prevent the appointment of a new board of the Central Bank, including the governor, whose mandate expired in August 2021 and which continued to operate only on a technical mandate.



Public finances continued to benefit from strong, primarily inflation-driven revenue growth, but weak fiscal governance continued to pose challenges.

General government revenues rose by 13.4% in 2022, in line with headline inflation. Tax revenues increased by 16.7%. In parallel, government spending was revised upward, rising by 13.6% for the

whole year. This additional revenue was used for increasing social benefits, such as pensions, extraordinary payments to vulnerable groups and an increase in public wages. In contrast to the focus on current spending, already approved funds for infrastructure investment, such as related to the energy sector, were suspended. According to preliminary data from the Central Bank, this resulted in a nominal drop of central governments' public investment by some 8% in the first three quarters of 2022. According to first estimates, the general government registered a deficit surplus of 0.14% of GDP in 2022, compared with a surplus deficit of 0.34% of GDP in 2021. Budget plans for 2023 are characterised by significantly higher spending targets for current expenditure, partly to compensate public employees and pensioners for the rapid increase in inflation, while capital spending is planned to remain subdued. The public debt ratio dropped to 29% of GDP in 2022 from 34% in 2021, driven by high nominal GDP growth. Overall, cooperation and information exchange among the various fiscal authorities has remained very limited, which facilitates tax avoidance. Bosnia and Herzegovina's tax revenues rely strongly on a single source, namely indirect taxes. Continued calls by the *Republika Srpska* entity to dismantle the state-level Indirect Taxation Authority thus pose a threat to the revenue collection system and the country's fiscal stability. Contingent liabilities pose a significant risk, in particular in the area of public enterprises. There is a high degree of non-alignment with EU public sector accounting standards, which strongly impedes the assessment of Bosnia and Herzegovina's actual fiscal position. As a result, both the deficit and debt ratio could be significantly higher than reported. Fiscal rules have been adopted in one entity only, and there is no independent fiscal institution to monitor and enforce compliance with fiscal discipline.

Overall, Bosnia and Herzegovina's macroeconomic policy mix does not adequately address the country's main challenges. Political disputes delay necessary reforms to improve its growth potential and fiscal policy focuses on short-term objectives, neglecting longer-term challenges. As Bosnia and Herzegovina's currency board regime limits the room for monetary policy, fiscal policy is one of the country's key macroeconomic policy tools. However, this policy tool is not used sufficiently to steer the country towards stronger growth and faster convergence with EU income levels. The effectiveness of fiscal policy for enhancing Bosnia and Herzegovina's growth potential is further severely limited by the insufficient degree of cooperation among the various fiscal policy stakeholders and the absence of an independent and competent fiscal council.

Functioning of product markets

Business environment

The business environment suffers from Bosnia and Herzegovina's fragmentation and political uncertainty. According to recent OECD surveys, over half of businesses in Bosnia and Herzegovina identify burdensome procedures, paperwork and cost as a major obstacle to obtaining licenses, a higher proportion than in any other country in the region and well above the regional average of 35%. Businesses that wish to operate across the entire economy still face technical and administrative obstacles, must frequently obtain the same licenses or permits in each entity or local government area and pay a range of different taxes and fees. This increases the costs of establishing a company, protects incumbent companies from competition and deters investors, hindering the functioning of an effective single economic space. Contract enforcement, in particular settling commercial disputes, remains difficult and there is a substantial backlog in court cases. Establishing and implementing property rights remains difficult in some areas, such as real estate registration. Lack of cooperation and coordination among the various stakeholders is another major impediment to establishing a countrywide level playing field, with wide-ranging negative effects on the business environment. Recently, the *Republika Srpska* entity adopted legislation contesting the application of Bosnia and Herzegovina's constitutional court rulings on the entity's territory. This ongoing dispute increases legal uncertainty and undermines the integrity of the country's single economic space. Furthermore, due to a different speed at entity level of aligning with the EU *acquis*, Bosnia and Herzegovina's economic and legal fragmentation has further deteriorated.

The informal economy remained significant. Despite some progress in boosting formal employment by increasing labour market controls, the informal sector is estimated to still account for up to one third of GDP. The pandemic might have increased the importance of the informal economy for livelihoods, compensating for job losses in the formal economy. Thus, informality still provides substantial (unregistered) employment and income but also distorts competition and erodes the tax base. This requires rates for taxes and social security contributions to be higher than would otherwise be necessary. It also results in lower pension benefits, increasing the poverty risk for the elderly and adds to a significant fiscal burden on labour, which in turn impedes formal employment and negatively affects Bosnia and Herzegovina's international competitiveness.

Political leaders and judicial institutions failed to tackle widespread corruption. Transparency International again ranks Bosnia and Herzegovina 110th out of 180 countries in its 2022 annual Corruption Perception Index, making it the worst performer in the Western Balkans after 6 years of declining performance. Just 14% of businesses surveyed in Bosnia and Herzegovina say that the fight against corruption there is effective, a lower proportion than any other country in the region, and a higher proportion of businesses than in any other Western Balkans country said that they had to make irregular payments. There was no progress on necessary reforms to strengthen legislation on anti-money laundering and countering the financing of terrorism, and Bosnia and Herzegovina risks being listed as a jurisdiction under increased monitoring by the international standard-setting body in this area, the Financial Action Task Force.

State influence on product markets

There was limited progress in reducing the still-strong footprint of the state in the economy. During 2022, some temporary measures related to COVID-19 were discontinued. However, the impact of the public sector on the factor allocation remained high, in particular

in the labour market, for example by continuing to support the oversized public administration and poorly performing state-owned enterprises (SOEs). Ineffective service delivery and poor human resource management and accountability have major implications for efficiency, quality and access to public services. Many public companies continue to rely on state support or accumulate payment arrears to the social security systems or to private suppliers (4% of GDP according to the IMF). Public procurement represents a significant share of public spending and thus plays an important role for the private sector, but procedures are complex and administrative capacity and competition remain low. This facilitates corruption and leads to a preference for domestic suppliers which is incompatible with the EU *acquis* (see also Chapter 5 – public procurement). There is still a wide range of regulated prices.

While recorded state aid is relatively low, significant indirect state support continues to undermine the level playing field. Available data on official state aid points to a rather low level (1.2% of GDP in 2021, according to the latest available report). However, this dataset appears to be rather incomplete. State aid control is still hindered by only partial legal alignment with European standards and the lack of consistent enforcement of state aid rules throughout the country. The competences of the State Aid Council continue to be limited. This leaves room for unfair distortions of competition. Many of Bosnia and Herzegovina's SOEs are in poor financial shape; close to half of them experience shortfalls in liquidity and require both explicit and implicit budgetary support. Monitoring and managing fiscal risks in ministries of finance is not sufficient. The cost of supporting public companies and guarantees, which often translate into substantial contingent liabilities, is a heavy burden on public finances and thus on taxpayers. SOEs' total debts are around 26% of GDP (IMF, 2019).

Privatisation and restructuring

No progress was achieved on privatisation and restructuring of publicly owned companies. According to IMF estimates, there are over 550 SOEs at entity and municipal level employing around 80 000 people, accounting for around 11% of total employment (about a quarter of public sector employment). They control assets worth an equivalent of 100% of GDP. Whereas legislation partially provides for open and transparent selection procedures, appointments to SOE boards are highly politicised in practice. Ownership responsibilities are usually exercised in a decentralised manner by various line ministries, subject to no central coordination. The rationale for public ownership is not based on clearly defined policy objectives. Actual steps to restructure or dissolve public enterprises remained very limited. Vested interests are largely responsible for the slow privatisation process and attempts to sell shares in public companies were largely unsuccessful. However, there have been some initial steps towards strengthen the SOE oversight at entity level.

Functioning of the financial market

Financial stability

The banking sector remained stable but the financial sector's supervisory and regulatory framework continues to be fragmented. Key elements of banking supervision and regulation are decentralised, while the central bank's role remained limited to coordinating the local regulatory and supervisory agencies, which might be challenging for financial stability. Despite some international financial sector turbulence, the stability of Bosnia and Herzegovina's financial sector was maintained. A few days after Russia's war of aggression against Ukraine, the two entity-level banking agencies had to take over the subsidiaries of Russian-owned but EU-based Sberbank when their liquidity deteriorated

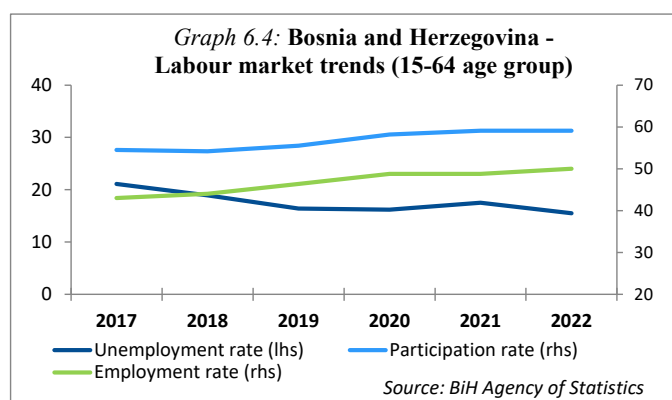
rapidly due to quickly accelerating deposit withdrawals. Banking sector profitability improved during the last year, for example with the return-on-equity (ROE) ratio reaching 15.9% in 2023-Q2. The banking system's overall capital-adequacy ratio stood at 19.5% in 2023-Q2, well above the regulatory minimum of 12%. The non-performing loans ratio decreased to 4.1% at the end of 2023-Q2, and the ratio of foreign-denominated loans to total loans also continued to decline. However, there are sizeable differences among Bosnia and Herzegovina's 21 banks, with pockets of vulnerability remaining, especially among smaller, domestically owned banks.

Access to finance

Banking intermediation was adversely affected by high inflation and increasing international interest rates. Nominal bank loans rose by 4.2% and 4.4% on average in 2022 and the first half of 2023, which is rather low given the underlying double-digit inflation rates. Credit demand was negatively affected by declining real disposable income, the highly uncertain outlook on inflation and interest rate dynamics and rapidly increasing real estate prices. Nominal deposit growth slowed to 5.9% in 2022, but accelerated again to 7.4% in the first half of 2023. The five largest banks accounted for about 80% of the sector's assets. Private-sector debt declined to 56.5% of total debt at the end of 2022, which is markedly above Bosnia and Herzegovina's 5-year average before the pandemic. Financial literacy is limited in particular among small enterprises. The size of the non-bank alternative financing sector and of the capital markets remained small, with market capitalisation of Bosnia and Herzegovina's stock markets of about 17% of GDP at the end of 2022. The use of venture capital continued to be very limited. For many micro and small companies, gaining access to those guarantees appears to have remained difficult.

Functioning of the labour market

Despite a fall in unemployment, the labour market continues to be held back by lack of economic dynamism and structural problems such as skill shortages, a significant brain drain and work disincentives. Employment growth slowed down in the second half of 2022 and the first half of 2023, to 1.3% year-on-year in both periods, compared to 2% the year before. The number of registered unemployed declined by some 3.6%



(13 000 persons) between June 2022 and June 2023. This brought the administrative unemployment rate to 29.2% in June 2023 compared to 30.0% the year before. The Labour Force Survey (LFS) registered a decline in the LFS unemployment rate from 17.5% in 2021 to 15.5% in 2022. In the first half of 2023, the average LFS unemployment rate continued to decline to 13.4%. The registered labour force continued to decline, by 1.3% in the second half of 2022 and 1.1% in the first half of 2023. Due to the high share of informal employment, in particular in trade and tourism, administrative data provides only a partial picture of Bosnia and Herzegovina's labour market dynamics. Due to methodological changes, the comparability of labour-force survey data over time is limited. Official data registered an increase in labour participation from 2020 onwards, which could potentially be explained by government measures to counter external shocks and better registration of employment. However, this is coupled with a fall in the overall labour force, partly due to

persistent labour out-migration of qualified, but also less qualified workers leaving. This has a negative impact on the country's medium-term growth potential.

Youth unemployment (age group 15-24) returned to pre-COVID-19 levels, dropping to a still high rate of 29.1% in the second quarter of 2023, reflecting structural problems. Long-term unemployment also remained high, with about 75% of the unemployed looking for a job for more than 1 year. High unemployment has persisted for years due to challenges associated with skills mismatches, the insufficient pace of job creation and a high tax wedge, both, impeding job creating, but also reducing the financial attractiveness of wages on the lower end of the scale.. A large proportion (38%) of firms surveyed by the OECD identified applicants' lack of skills as a reason for unfilled vacancies. There is also a significant gender gap, with women's activity and employment rates around 25 pps lower than those for men. Reforms to make the public employment service more client-oriented are ongoing but provided budget and human resources are very limited. The still-substantial discrepancy between unemployment data according to administrative and according to survey-based data points to the need to improve Bosnia and Herzegovina's labour market statistics.

2.3.2. The capacity to cope with competitive pressure and market forces within the Union

Bosnia and Herzegovina has made **limited progress**, and is between an **early stage and some level of preparation** concerning its capacity to cope with competitive pressure and market forces in the EU. The overall quality of education remains inadequate despite relatively sizable spending on the sector. The country continues to lag behind in the energy and digital transition. However, in response to changes in global demand, some structural adjustment took place, with the focus of value-added moving towards services such as trade, IT and tourism. Economic integration with the EU remains high, but overall trade is below potential. The higher uncertainty due to Russia's war of aggression against Ukraine probably had an adverse impact on investment and thus on capital stock modernisation. The implementation of last year's recommendations has remained very limited. The 2022 recommendations remain valid.

To support long-term growth, Bosnia and Herzegovina should in particular:

- improve the quality of education and training, in particular accelerate the modernisation of curricula with a view to better alignment with labour market needs;
- increase the share of government capital spending in GDP, in particular by focusing on transport and energy infrastructure and on improving environmental standards. Improved management of public investment and accelerated implementation of investment projects that have been subject to a clear positive cost-benefit assessment are of particular importance in this respect.

Education and innovation

Education continues to be of low quality and there is a continuing skills mismatch. According to data from 2021, public spending on education accounted for some 4% of GDP. When adding private spending and support by foreign donors, the overall amount stands at nearly 5% of GDP. However, the education system fails to provide Bosnia and Herzegovina's labour force with the skills and knowledge necessary for smooth integration in the labour market. Inadequate education is one important factor for a particularly high LFS youth unemployment rate (30.1% in 2022-Q1), twice the country's overall unemployment rate. Insufficient coordination among the numerous stakeholders results in a lack of common standards for various levels of education and differences in the quality of teachers' training

and performance evaluation. Teaching curricula continue to be outdated and are still not sufficiently aligned with the country's needs. The average achievements of students in mathematics, reading and natural sciences are below the OECD average (Pisa 2018). The country has not confirmed participation in the 2025 PISA evaluation exercise. There has been little change in levels of educational attainment in recent years. There is a large share of low-skilled people in the population. Upskilling strategies to increase the skill levels of the workforce are not sufficiently developed and also lack sufficient providers. Participation in early childhood education and care is significantly lower than in the EU and elsewhere in the region. The illiteracy rate continues to be around 3%, largely as a result of a relatively high illiteracy rate among women.

Spending on research and innovation is limited and impeded by the low degree of cooperation and coordination among the various levels of government, leading to poor efficiency of the overall system. The lack of an efficient funding system is another factor preventing Bosnia and Herzegovina's innovation policy from achieving better results for the funds spent. However, in the area of establishing Science and Technology Parks some progress has been achieved recently. Research capacities remain limited, while brain drain continues, most notably in the health, medical, and IT sectors with no systematic measures having been introduced so far to address the issue.

Physical capital and quality of infrastructure

Investment in Bosnia and Herzegovina's capital stock remained behind the country's needs, partly due to uncertainties related to COVID-19 and the impact of Russia's war of aggression against Ukraine. Persistent political stalemates and uncertainties also have a negative bearing on investment. Gross fixed capital formation recovered from a low base in 2022, increasing by 6.6% in real terms. As a result, the investment's share in GDP rose slightly to 21.9% in 2022, but remained still below pre-pandemic levels, when it reached 23.1%. Public investment remained low, reflecting political disputes and administrative bottlenecks. Inflows of foreign direct investment (FDI) reached 2.5% of GDP in 2022, which is slightly higher than in the 5 preceding years but significantly lower than in other countries in the region. A large share of those FDI inflows continue to be re-invested earnings of foreign investors in the financial sector and in tourism. As in the case of gross fixed investment, the low level of FDI inflows is impeding Bosnia and Herzegovina's ability to achieve a higher growth trajectory. Environmental standards have remained low and are often neglected, leading to high levels of pollution, impeding the health (and thus productivity) of the labour force and constituting an additional factor supporting brain drain.

Moving away from coal-based electricity and improving energy efficiency requires legislation and investments. Bosnia and Herzegovina features one of the most energy-intensive output generation processes in the region and remains heavily reliant on lignite coal. Thus, the level of emissions from coal-fired power plants is a major concern. A reliable and secure energy supply is still impeded by the lack of a single regulatory framework to attract investment in a low-carbon energy sector. Adopting laws on renewable energy and energy efficiency should be a priority, as should state-level legislation on electricity and natural gas with which the entities must comply. Bosnia and Herzegovina should also design and implement a comprehensive building renovation strategy to improve energy efficiency. Lack of progress in these areas contributes to the poor business environment and will prolong the path to decarbonisation, transition to renewables and improved energy efficiency that the current energy crisis has made even more urgent.

Bosnia and Herzegovina is lagging behind in the digital transition. Businesses there are the least satisfied of any in the Western Balkans with the digitalisation of public services.

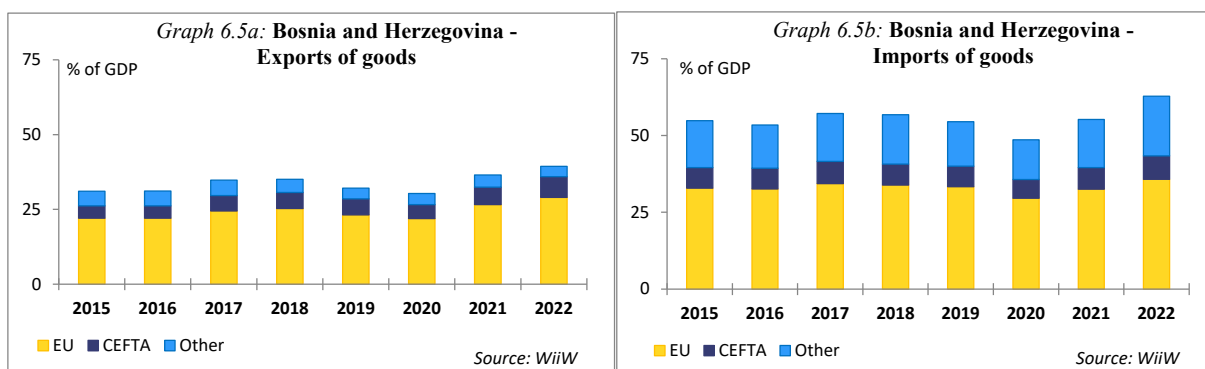
Only around 60% of small businesses have a webpage and only 18% are active in e-commerce. Economy-wide implementation of service digitalisation is still hampered by the lack of political ownership and coordination between different levels of the government, which also leads to the insufficient allocation of budgetary resources for implementation. The lack of interoperable information and domestic support systems across entities and different levels of government in Bosnia and Herzegovina is a major obstacle to developing economy-wide digital government services (OECD, 2021). Despite repeated requests, there is still no countrywide harmonisation of the e-signature and the related coordination, cooperation and data exchange between different administrations is still needed. Furthermore, Bosnia and Herzegovina has yet to adopt a new law on electronic identification and trust services for electronic transactions with a single supervisory body for the whole country in line with the EU *acquis*.

Sectoral and enterprise structure

Bosnia and Herzegovina's production structure shifted slowly over the last 5 years from industrial activities towards trade, transport and IT services. Between 2017 and 2022 the share of value-added in the trade, transport, tourism and IT sectors rose slightly from 19.9% to 20.6% and from 4.4% of GDP to 5.1% respectively, while the share of the manufacturing sector dropped, from 12.5% to 11.9%. Public administration's share in value-added dropped from 17.1% to 15.7%. Furthermore, the company structure registered some increase in the share of micro companies (0-9 employees), and medium-sized companies employing between 50 and 249 employees. However, the majority of new companies were often trading companies with lower value-added. Some 93% of all companies are in the category of small and micro businesses, i.e. those with less than 50 employees. Overall, the speed of structural change has been rather limited.

Economic integration with the EU and price competitiveness

Trade and investment integration with the EU remained high but overall trade is below its potential. The main export destinations continued to be the EU (Germany, Italy, Croatia), but also CEFTA countries, such as Serbia. Over the last 5 years, trade shifted towards the neighbouring region, in particular Croatia and Serbia. The share of exports to the EU-27 in total merchandise exports rose from some 71.4% in 2017 to 73.5% in 2022. Exports to CEFTA countries also increased their share in total exports, from 16.1% in 2017 to 18.3% in 2022. Bosnia and Herzegovina's openness to trade (exports and imports as a percentage of GDP) recovered from a pandemic-induced low of 82.1% in 2020 to 107% of GDP in 2022. Nevertheless, Bosnia and Herzegovina's openness to trade is still relatively low when taking into account the small size of its economy. The export structure is not very diversified and relies mainly on basic metals, furniture, and textiles. The integration of Bosnia and Herzegovina's financial and capital markets with the EU is also still rather low, although a large part of the banking sector is owned by European banks. About two thirds of the country's stock in FDI originates from EU countries. Annual FDI inflows largely show a similar pattern.



Bosnia and Herzegovina's overall price competitiveness has continued to deteriorate slightly. After a long period of gradual depreciation during 2017-2020, its real effective exchange rate started to appreciate in the second half of 2022 and the first half of 2023 by 4.7% and 0.6%, respectively. The key underlying factor was a rising positive inflation differential with its trade partners. In nominal effective terms, the currency appreciated by 1.6% and 1.5% during those two periods, mainly reflecting exchange rate movements of the Turkish lira, the Chinese yuan and the British pound against the euro, to which the Convertible Mark is pegged.

2.4. PUBLIC PROCUREMENT, STATISTICS AND FINANCIAL CONTROL

Chapter 5: – Public procurement

EU rules ensure that public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.

Bosnia and Herzegovina has **some level of preparation** in the area of public procurement. There was **limited progress**. Bylaws to implement the amended Law on public procurement have been put in place. However, public procurement remains prone to irregularities and vulnerable to corruption. Selective and non-transparent judicial follow-up in cases of corruption in public procurement is a cause of significant concern. The country needs to ensure continued equal treatment of domestic and EU bidders in awarding public contracts in line with SAA provisions. Recommendations from last year remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- further align the public procurement law with the EU public procurement *acquis*, including in the area of concessions;
- adopt a new 2023-2027 public procurement strategy and an accompanying action plan that supports its implementation;
- increase staffing level and strengthen capacity in the Public Procurement Agency and the Public Procurement Review Body.

Institutional set-up and legal alignment

The **legal framework** is partially in line with the EU *acquis*. The Law on public procurement was amended in August 2022. Relevant bylaws were adopted in December 2022 on the procedure for awarding service contracts in line with the 2014 EU Directives. The legal framework on concessions and public-private partnerships is still highly fragmented and needs to be aligned with the EU *acquis*. A roadmap should be prepared for this purpose. All

legal and financial instruments used for public procurement and concessions, including intergovernmental agreements concluded with third countries, should comply with the principles of transparency, competition, equal treatment and non-discrimination. The authorities should increase cooperation between the respective stakeholders active in public procurement to guarantee fair competition and ensure coherent implementation of the legal framework.

The new 2023-2027 **strategy for the development of public procurement** and relevant action plan have not been adopted yet. The Public Procurement Agency is implementing the plan for integrity and the plan for the fight against corruption both adopted in 2022. The Procurement Review Body is implementing the 2023-2025 mid-term work plan to improve the processing of complaints.

The Public Procurement Agency is the body authorised to initiate, implement and monitor the public procurement policy in all sectors. The Agency's administrative capacity is insufficient, particularly for monitoring and support functions (22 employees versus 32 planned) The Agency should coordinate better with the Competition Council to avoid diverging interpretations of the legislation and to ensure the systematic application of public procurement procedures. Coordination needs to be improved with the audit and judiciary institutions.

The Agency manages the public procurement portal. Tender documents and guidelines can be downloaded from the portal. However, the exchange of information and submission of tenders is not conducted electronically, as per EU standards, but still partly in paper form. Some upgrading has started, but the e-procurement system needs to be further developed and made use of, for increased transparency. Some contracting authorities still do not publish public procurement reports, and existing tender documents are only available to registered users, not including civil society groups or the general public. Only a few ministries at state level have published their procurement reports over the last 3 years.

Implementation and enforcement capacity

In 2022, the **public procurement market** represented 10.65% of the country's GDP, an increase of 3.14% compared with 2021. The average number of bids per tender remains low at two in 2022.

In **monitoring the award and implementation of contracts**, the administrative capacity of the Public Procurement Agency is insufficient to fulfil its tasks. Statistics collected from contracting authorities show a decline in the use of the negotiated procedure without prior publication (6.69% in 2022 compared with 11.87% in 2021). The share of tenders with one submitted bid represented 51% in 2022. The use of price as the only award criterion remains high with 70% of public contracts. The Agency's monitoring role should be strengthened to identify potential weaknesses and irregularities in procurement procedures. In 2022, Agency monitored 629 individual public procurement procedures, initiated misdemeanour proceedings in 18 cases and submitted two criminal offences including upon initiative by civil society. The Agency has improved public awareness of the legislation governing public procurement and started preparing practical tools for the implementation of the public procurement law such as non-binding guidelines and information on best practices. However, no mechanism has been put in place to regularly and systematically coordinate the interpretation of public procurement legislation between the key institutions involved.

The capacity to manage public procurement processes is weak. Specialised procurement functions need to be established in each contracting authority and staffed with officials who have the relevant skills and expertise. There was no new development to improve **integrity**

and conflicts of interest in this area. Public procurement remains prone to irregularities and vulnerable to corruption during the procurement process and contract implementation. The courts have not penalised yet any corruption case in the area of public procurement. The Public Procurement Agency organised training on public procurement for most contracting authorities across the country and strengthened its cooperation with prosecutors and civil society to monitor violations of procurement rules.

Efficient remedy system

The legislation on the **right to appeal** is broadly in line with the EU *acquis*, although time limits are excessively short. The Procurement Review Body is a quasi-judicial body reviewing complaints from bidders. It has offices in three locations (Sarajevo, Banja Luka and Mostar), but no formal mechanism to coordinate them or ensure consistent decision-making and legal certainty. The functioning of the Procurement Review Body is weak due to its insufficient staffing and technical capacity. 94% of all complaints received were solved within the deadline. Only a small number of decisions have been challenged before the Court of Bosnia and Herzegovina. The transparency of the decision-making of the Procurement Review Body needs to be significantly improved.

Chapter 18: Statistics

EU rules require Member States to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are in place for the methodology, production and dissemination of statistical information.

Bosnia and Herzegovina is at an **early stage of preparation** in the area of statistics. **Limited progress** was made, mainly in the quality of government finance statistics. Bosnia and Herzegovina should enhance cooperation, coordination, decision-making processes and the legal basis to develop the national statistical system in key areas, increasingly applying European and international standards. In order to better support policy analysis, improvement is needed on the provision of timely, exhaustive and country-wide statistics on government finances, national accounts and the labour market. Bosnia and Herzegovina still needs to finalise the classification of regions equivalent to the NUTS classification (Nomenclature of territorial units for statistics). Last year's recommendations remain mostly valid.

In the coming year, Bosnia and Herzegovina should in particular:

- adopt a master plan for the production of national accounts;
- adopt a methodology, responsibilities and funding for the next agricultural census and adopt a roadmap for preparation of the next population census;
- intensify the use of administrative data sources including by establishment of a comprehensive and reliable National Statistical Business Register for precise and extensive data collection.

As regards **statistical infrastructure**, the law on statistics still needs to be aligned with the principles of the European Statistics Code of Practice. Statistics are only to some extent timely, relevant and reliable. The Agency for Statistics of Bosnia and Herzegovina (BHAS) and other data producers, including the entities' statistical offices, need to strengthen their cooperation. The statistical offices need to carry out surveys in time and according to the overall statistical programme.

The Agency for Statistics needs to have access to administrative data beyond that of the Indirect Taxation Authority. The Agency for Identification of Documents, Registers and Data Exchange (IDDEEA) has continued to cooperate to improve transport statistics.

On **classifications and registers**, the statistical business register is in place, but data received from administrative sources remains insufficient. The main statistical classifications are in place. However, the equivalent to NUTS II regions has only been provisionally defined and is accepted by the European Commission until Bosnia and Herzegovina finalises the entire classification and includes in it the definition of the equivalent to NUTS III level as well.

On **macroeconomic statistics**, the production of national accounts continues to deviate from the EU *acquis*, and a master plan needs to be agreed among the three statistical institutes. Annual accounts are compiled using production, expenditure and income approaches, while quarterly accounts are compiled only according to the production and expenditure approaches. Sector accounts are not produced.

Regarding the transition to ESA 2010 methodology, the sector classification is complete except for sub-sectors of the general government sector. Moreover, responsibility for implementation is still unclear. Bosnia and Herzegovina needs to provide the Commission with its GDP *per capita* figures, harmonised at NUTS II level. Balance of payments statistics are harmonised with current international statistical standards.

As regards government finance statistics and excessive deficit procedure (EDP) tables, Bosnia and Herzegovina should continue efforts to comply with ESA 2010, in particular to improve sector coverage, timeliness, compliance with ESA 2010 rules and coverage of transactions. Progress was made in the quality of government finance statistics and Eurostat started to publish data for Bosnia and Herzegovina in 2022. Government finance statistics and excessive deficit procedure tables are transmitted to Eurostat on a regular basis, although not fully in line with ESA 2010. Quarterly balance of payments and international investment position data were transmitted without geographical breakdown, and yearly data for the international trade in services was also provided. Foreign direct investment data are only partially compliant with EU requirements. The GDP time series by production, income and expenditure is available for 2000-2022. Bosnia and Herzegovina has also put in place adequate infrastructure for data transmission to Eurostat and the European Central Bank. The country does not transmit harmonised indices of consumer prices data to Eurostat. While data transmission is still significantly below EU requirements, visible progress has been made in recent years with 145 data sets being regularly transmitted to Eurostat. Statistical sectorisation for 2020 was published in early 2023.

On **business statistics**, short-term statistics for industry, construction and services are not fully available and will need to be established in line with the requirements of the EU *acquis*. The structure for all required datasets for short-term business indicators has been prepared and the data was sent to Eurostat. Statistics related to the production of manufactured goods (PRODCOM) are sent to Eurostat on an annual basis.

Foreign affiliates statistics are produced by the Agency for Statistics for inward statistics and by the Central Bank for outward statistics, but full compliance with regulations for these statistics needs to be ensured. Inward foreign affiliates statistics for 2020 were submitted to Eurostat. A private and business travel survey was conducted for the reference year 2021.

On **social statistics**, preparation for the next population and housing census has hardly progressed. The necessary legislation has not been agreed among the institutions involved. A new master sample frame is now available and was used not only for the household budget survey but will also be used for upcoming surveys, such as the labour force survey and a full-scale survey of income and living conditions. The labour force survey is conducted annually and on a quarterly basis, and data for the first quarter of 2023 was published by BHAS. The labour cost index is not compiled. Intensified cooperation with the institutions responsible for

monitoring migration flows is needed. Education statistics covering all levels of government are published annually. Culture statistics include 15 domains, although coverage is not yet adjusted to Eurostat requirements.

The lack of a recent agricultural census – the last one took place in 1960 – is a major limitation for **agricultural statistics**. Special attention needs to be paid to agreeing the methodology, responsibilities and budgetary aspects of a census. The continued delay in organising an agricultural census means a step back on Bosnia and Herzegovina's plans for 2023. A very limited number of statistical indicators are produced, including some experimental estimates. Supply balance sheets are not available. Statistics on crops and animal production are not in line with the EU *acquis*.

As for **energy statistics**, further work is needed to improve the quality of data in line with EU requirements, in particular annual data on renewable energy sources and basic monthly data on oil.

Regarding **environmental statistics**, the Agency for Statistics continued to publish data from the annual statistical surveys on climate change and greenhouse gas emissions from agriculture and waste disposal. The Agency for Statistics reported environmental protection expenditures to Eurostat for the first time but has yet to report environment-related taxes.

Chapter 32: Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules protect the EU's financial interests against fraud in the management of EU funds and protect the euro against counterfeiting.

Bosnia and Herzegovina has **some level of preparation** in this area. **Some progress** was made, notably in implementing the strategies on public internal financial control (PIFC) at state level and in both entities, producing consolidated reports while improving capacities for online reporting, and better training civil servants in charge of PIFC. Managerial accountability remains weak and no efforts undertaken to improve practices or legislative framework in this area. All central harmonisation units need to continue strengthening their capacities and monitor the effectiveness of internal control functions in the public sector, with particular attention to the risk management and internal audit functions, including for public companies. The financial and operational independence of supreme audit institutions must be ensured in practice. Bosnia and Herzegovina should improve the quality of audit reports and step-up communication efforts to reinforce public awareness. As last year's recommendations are only partially implemented, they remain largely valid.

In the coming year, Bosnia and Herzegovina should in particular:

- improve relevant legislation in public administration and public finance management area at all levels of government to better implement managerial accountability across public bodies;
- establish and improve the oversight function of fiscal risk of entity-level public companies and ensure data collection on PIFC of public companies at all levels of government by using the relevant IT application;
- increase the impact of the work of supreme audit institutions through adoption and implementation of 2021-2025 communication strategies at entity level.

Public internal financial control

State-level institutions, both entity governments and the Brčko District have continued to implement the comprehensive **strategic framework** for public internal financial control (PIFC) alongside their individual 2020-2025 PIFC strategies. Annual PIFC reports for 2022 were adopted at state and entity level. Governments and parliaments should better monitor the implementation of recommendations provided by the central harmonisation units (CHU), the supreme audit institutions (SAIs) and the internal auditors, particularly those concerning risk management and internal control. The IT tool was used to produce PIFC monitoring reports for state-level institutions, the *Republika Srpska* entity and the Brčko District, while the Federation entity still needs to fully digitalise its reporting.

Managerial accountability is embedded in the countrywide strategy on public administration, the comprehensive public internal financial control and public financial management and the relevant legislation defines managerial responsibility for PIFC processes. The Federation entity government has adopted broader guidelines for the development of management accountability in the public sector, but these remain weakly implemented. Across the other levels of government, the delegation of authority within the public service is defined only with regard to financial and not administrative matters and remains regulated only in the legislation on internal control, while implementation remains slow. The problem lies not only in a lack of effective management responsibility on PIFC, but also in the blurry accountability lines in the public administration, as well as confused policy-making roles across various institutions and lack of adequate performance management of subordinated bodies. Policy content is not coordinated with government priorities throughout the public administration. Most public bodies have strategic plans with objectives and performance indicators. However, managers need to improve the assessment of performance. (*Also see Public administration reform*).

The legal framework for the functioning of **internal control** is largely in place at all levels of government, including rulebooks on internal control standards and risk management. However, effective implementation has not improved, and even less so over public companies. The annual PIFC reports do not include data on basic performance indicators on PIFC over public companies. More broadly, the legal provisions on internal control are still not well integrated in the general regulations on public finance management, business processes and management information systems at all levels of government and in the public companies. The PIFC IT tool needs to be used for risk assessment, risk mitigation and internal audit particularly and it needs to cover public companies.

In 2022, there was a substantial increase in the number of first-level budget spending units that submitted an internal control self-assessment report. Risk management data has been increasingly recorded in the risk register of the PIFC application. Risk registers are established in most state-level public institutions; entities need to increase the coverage of institutions in this area and particularly so in the Federation. Risk management is not yet seen as a management activity and is still not incorporated in the decision-making cycle. Budget inspection is in place at each level of government. The legal basis ensures a separation of budget inspection from internal audit function and this is maintained also in practice.

Internal audit practice is regulated at state and entity levels as well as in the Brčko District and is in line with international audit standards. The internal audit function across all levels needs to be improved. The internal audit manuals at all levels of government have been updated and embedded in the internal audit management module of the PIFC IT application, including quality assurance provisions. The CHUs have a methodology in place on quality reviews for internal control and internal audit. State institutions regularly conduct such reviews, whereas entities still need to do so. Despite the positive trend in filling vacancies for

internal audit for 2022, problems persist with a fragmented system of internal audit and the weak capacity of those units. The CHUs should consider the further strengthening of joint internal audit services through better coordination. Nearly all internal auditors in the public sector are certified, with a positive trend also in 2022. Internal audit certification procedures are in place and implemented at all levels of government, except in the Brčko District. Although the training plans for professional development of audit staff have improved, an upgrade in capacities in risk assessment, using IT and analytical tools is required across all levels of government.

Central harmonisation units (CHUs) have been established at state and entity levels and in Brčko District. Some improvement was undertaken in increasing staffing of the Federation CHU, as well as capacity to provide methodological guidance and promote and monitor PIFC reforms via the PIFC application across levels of government. The quality of the PIFC reports at entity level needs to be improved by including risk management and performance indicators for public companies for monitoring fiscal risks, as such data is lacking. Additionally, the fiscal oversight function over public companies in both entities needs to be improved. Their impact on internal control remains weak, as recommendations remain not well implemented by public bodies across all levels of government. The coordination board of CHUs met regularly.

External audit

Regarding the **constitutional and legal framework**, the functional, operational and financial independence is regulated in the respective laws at each level of government. However, in practice, in the Federation entity, the supreme audit institutions were unable to carry out their external audit function in two instances, as some institutions were resisting the auditing process.

The **institutional capacity** of supreme audit institutions needs to be strengthened at all levels of government. The Federation entity continues to face the particular challenge of ensuring external audit coverage of its cantonal level. All supreme audit institutions have been implementing their strategic development plans for 2021-2025. Supreme audit institutions should continue to work closely with prosecutors to address instances of possible fraud and corruption uncovered during audits. The coordination board of supreme audit institutions needs to be further strengthened in following-up effectively with audit offices on how the legal framework and related procedures for external audit can be implemented better across public bodies and at all government levels.

With regard to the **quality of audit work**, all the supreme audit institutions have a broad mandate, which covers financial, compliance and performance audit. The number of performance audits remained stable, with a slight increase in the Federation entity. The supreme audit institutions have INTOSAI-compliant methodologies and manuals. They should consider improving the quality of their audits in providing compliance assurance and increasing the number of performance audits. The supreme audit institutions need to apply comprehensive internal control assessments tailored to the audited areas, types of transactions and type of organisations.

The **impact of the audit work** of all supreme audit institutions is limited. Recommendations continue to focus mainly on formal compliance and do not address the causes of weaknesses or the likelihood of implementation. The rate of implementation of external audit recommendations remains unchanged at some 20%-40% across all levels of government, with some improvement in the *Republika Srpska* entity. The level of parliamentary scrutiny of audit reports remains weak across all levels of government. Supreme audit institutions

need to establish closer partnerships with the parliaments in making recommendations of audit institution-building for the government.

The quality of audit findings needs to be improved. The results should be better communicated in the audit reports and in the media, while showing the importance of the SAI's recommendations for a better functioning public administration. Some efforts were undertaken at the state level in the outreach activities of supreme audit institutions in the framework of the new 2022-2025 communications strategy. Both entities still need to adopt their own communication strategy.

Protection of the EU's financial interests

The legislation at all levels of government ensures some degree of EU **acquis alignment** as it covers many elements of the Directive on the fight against fraud to the EU's financial interests by means of criminal law. In the reporting period, no changes in this area have been made. The scope and definitions of the offences are not always in line with the Directive: for example in the case of the offence of corruption and misappropriation. Further alignment of the legislation is needed, including on the freezing and confiscation of criminal assets. Effective implementation and enforcement of the legislation also needs to be ensured.

Bosnia and Herzegovina should also set up an **anti-fraud coordination service** (AFCOS) to facilitate effective cooperation and exchange of information with the Commission, and adopt an anti-fraud strategy for protecting the EU's financial interests.

While there is no solid track record on **cooperation with the Commission** during investigations, the State Investigation and Protection Agency and the Ministry of Finance and Treasury provided adequate cooperation on an *ad hoc* basis in the reporting period. As EU funds are not managed indirectly by national authorities, Bosnia and Herzegovina does not report on irregularities to the Commission through the Irregularity Management System. Bosnia and Herzegovina should develop a track record of cooperation with the Commission on investigations.

Protection of the euro against counterfeiting

Bosnia and Herzegovina has not ratified the 1929 Geneva Convention for the suppression of counterfeiting currency. The level of EU *acquis* alignment for technical aspects needs to be determined. The Central Bank has a regulation in place that obliges commercial banks and other entities to withdraw all suspect banknotes and coins from circulation.

The Central Bank has continuously worked on improving professional knowledge and strengthening institutional capacities for analysing and processing monetary counterfeit data. The Central Bank also has the counterfeit registration system (CRS) application, through which all requests for the analysis of suspicious money, technical data on counterfeits, i.e. analysis results, and various statistical data related to counterfeit money are registered. However, no sanctions are imposed for failure to fulfil this obligation. There is no legal obligation for credit institutions and other payment service providers to ensure that euro banknotes and coins are checked for authenticity and that counterfeits are detected.

To enable all counterfeit banknotes and coins to be submitted for analysis to the Central Bank, in the future, the legal basis needs to be enforced and implemented. The Central Bank should sign an agreement obliging the signatory parties to exchange technical and other data on counterfeits that were the subject of their analysis with the European Commission and OLAF for counterfeit coins, as well as an agreement with the European Central Bank for banknotes.

3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Good neighbourly relations and regional cooperation form an essential part of Bosnia and Herzegovina's European integration process. They contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past.

Bosnia and Herzegovina maintained its involvement in a number of **regional cooperation initiatives** such as the Central European Free Trade Agreement (CEFTA), the Energy Community, the Transport Community, the South-East European Cooperation Process (SEECP) and the Regional Cooperation Council, of which it hosts the seat¹⁵. Bosnia and Herzegovina chaired the Adriatic and Ionian Initiative from June 2022 until May 2023.

The **EU-Western Balkans Summit** in December 2022 took place for the first time in the region, in Tirana. The summit focused on support for the region in the fields of energy and migration, and on youth cooperation, roaming, green lanes and overall progress on implementing the Economic and Investment Plan.

On the **Common Regional Market**, a political breakthrough was achieved at the Berlin Process Summit in Berlin in November 2022, where leaders adopted the three mobility agreements on higher education qualifications, on professional qualifications and on free movement with identity cards. Bosnia and Herzegovina needs to swiftly ratify the three regional mobility agreements. A number of important decisions agreed at the technical level within CEFTA remain blocked.

Bosnia and Herzegovina has continued to cooperate closely with Croatia, Montenegro and Serbia under the **Sarajevo Declaration Process**, which aims to find sustainable solutions for refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. Under the regional housing programme, 2 790 housing units were built, purchased or reconstructed by the end of August 2023 in Bosnia and Herzegovina, able to accommodate around 8 200 persons. The completion of the programme is at risk due to significant delays in construction, particularly in the *Republika Srpska* entity. Bosnia and Herzegovina also needs to urgently secure the agreed amount of co-funding from the state budget (EUR 11.5 million). Significant challenges remain with regard to the economic and social integration and well-being of many families, which is required to ensure the sustainability of return.

The unresolved fate of **missing persons** who disappeared during the conflicts of the 1990s remains a key issue to be solved in the Western Balkans. Despite steady progress in identification (70 persons in 2021 and 127 in the first half of 2022), 7 590 persons are still missing as a result of the conflict. Further efforts are needed at the regional level through the missing persons group established in 2018 under the Berlin Process to strengthen cooperation.

Bosnia and Herzegovina generally maintains good **bilateral relations** with other enlargement countries and neighbouring EU Member States.

Relations with **Albania** are friendly and without open issues, with occasional bilateral visits. The two countries have yet to establish fully fledged embassies. Trade flows remain low.

¹⁵ Bosnia and Herzegovina also actively participates in initiatives such as the Brdo-Brijuni Process, the Central European Initiative, the Adriatic-Ionian Initiative, the EU Strategies for the Danube Region and for the Adriatic-Ionian Region, the Migration, Asylum, Refugees Regional Initiative (MARRI), the Regional School of Public Administration (ReSPA), the Regional Youth Cooperation Office in the Western Balkans (RYCO), the South East European Cooperation Process (SEECP) and the Western Balkans Fund.

There are no official relations with **Kosovo**^{*}, as Bosnia and Herzegovina does not recognise Kosovo's independence and the two maintain a strict visa regime. Bilateral meetings took place occasionally in the margins of regional and multilateral summits. An initiative to simplify the visa procedure for citizens of Kosovo is still pending.

Bilateral relations with **Montenegro** are good, with occasional high-level bilateral visits. The agreed border demarcation is yet to be physically marked. Three joint border crossing points remains to be set up.

Relations with **North Macedonia** are good, with occasional high-level bilateral visits. Several bilateral agreements are in place, including on cooperation on EU integration.

Relations with **Serbia** are good and stable overall, with regular high-level bilateral visits. Bosnia and Herzegovina re-initiated internal discussion on tackling outstanding issues, including on state borders. The two countries also need to reach an agreement on two dams on the Drina river and a part of the Belgrade-Bar railway which crosses into Bosnia and Herzegovina's territory. The Commission for Concessions still needs to decide on the construction of three hydroelectric power plants on the upper Drina by Serbia and the *Republika Srpska* entity. Bosnia and Herzegovina opened a consulate general in Novi Pazar in August 2022.

Türkiye is a strong international supporter of Bosnia and Herzegovina and exchanges at high level are frequent. The two countries reaffirmed their commitment to the construction of the Sarajevo-Belgrade highway, which Türkiye committed to finance. Bosnia and Herzegovina sent financial assistance and entities' rescue teams to the areas hit by the February 2023 earthquake.

Relations with **Georgia** are good and without open issues, with sporadic bilateral contact. The two countries enjoy the visa-free regime. Trade flows remain low.

Relation with the **Republic of Moldova** are good. The two countries have several bilateral agreements in place including on investment protection, double taxation and tax evasion. The visa-free regime is in force since 2016. While both countries are part of CEFTA, trade flows remain low. Official exchanges mainly take place at the margins of regional summits.

Bosnia and Herzegovina supports the territorial integrity and sovereignty of **Ukraine**, condemning Russia's war of aggression. Bilateral relations are generally good but have been affected by statements, by certain members of the Presidency, on Russia's role in Europe and significant hindrances, due to political contestation, in the implementation of restrictive measures against Russia. The two countries enjoy the visa-free regime. A number of agreements are in place, including on trade and on investment protection. Trade flows remain low.

Relations with **Croatia** are good overall, although affected by outstanding bilateral issues. Bilateral visits took place at high level. The two governments held a joint session in Zagreb in June 2023, discussing open issues and joint projects. Bosnia and Herzegovina opened a consulate general in Rijeka in August 2022. There are open issues concerning land and sea borders. Bosnia and Herzegovina relaunched procedures for concluding the 1999 border agreement, which has not been ratified by either side. Implementation of the 2001 succession agreement has been affected by issues on private property and acquired rights. Bosnia and Herzegovina adopted a strategy for legal protection of its interests in October 2022, and

^{*} This designation is without prejudice to positions on status and is line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

reaffirmed its support for an expert and legal team to dispute Croatia's plan to build a facility for radioactive waste at Trgovska Gora near the border.

4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

CLUSTER 2: INTERNAL MARKET

This cluster covers: the free movement of goods (Chapter 1); freedom of movement for workers (Chapter 2); right of establishment and freedom to provide services (Chapter 3); free movement of capital (Chapter 4); company law (Chapter 6); intellectual property law (Chapter 7); competition policy (Chapter 8); financial services (Chapter 9), and consumer and health protection (Chapter 28).

This cluster is key for Bosnia and Herzegovina's preparations for the requirements of the EU's internal market and is of high relevance for accelerated integration and growth, including the development of the Common Regional Market. Bosnia and Herzegovina has some level of preparation in the areas of free movement of workers, company law, competition and financial services, while it is moderately prepared in free movement of capital and intellectual property. It is at an early stage of preparation on free movement of goods, services and right of establishment as well as on consumer and health protection. Unfortunately, Bosnia and Herzegovina has made no progress in any of the internal market areas. There is no clear overview of the country level alignment and implementation of the SAA. Preparing to join the EU internal market means that there cannot be separate markets within one country.

Chapter 1: Free movement of goods

The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.

Bosnia and Herzegovina is at an **early stage of preparation** in the area of free movement of goods. **No progress** was made in this area. Bosnia and Herzegovina still needs to take major steps to align its legislative framework with the EU *acquis*, in particular on technical requirements for products, accreditation, conformity assessment and market surveillance. Last year's recommendations were not addressed and remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- establish a list of technical regulations in force and start to repeal country-wide the domestic legislation that conflicts with EU legislation, including ex-Yugoslav standards that conflict with those aligned with European standards;
- adopt a country-wide strategy for the quality infrastructure;
- examine all existing legislation and administrative practices in the non-harmonised area to assess if they comply with Articles 34-36 of the Treaty on the Functioning of the European Union and start to plan how to address all non-compliant elements.

General principles

On the general principles, the legislative and institutional framework for the **production, distribution and marketing of industrial products** is still not in place. Bosnia and Herzegovina has not taken any steps to comply with commitments under the SAA or to repeal conflicting regulations at all levels of government. It does not have a coherent country-wide approach or a strategy or action plan for alignment with the EU *acquis* in this chapter.

In September 2023, the Constitutional Court annulled the RS Law on technical regulations due to lack of entity competence on the matter, which is already regulated by state-level law. Bosnia and Herzegovina should also improve access to and information on regulations and standards and conformity-relevant information for economic operators and the public on the obligations of this chapter.

Non-harmonised area

No steps were taken to ensure that legislation and administrative practices for the non-harmonised area are aligned with the obligations of **Articles 34-36** of the Treaty on the Functioning of the European Union. No specific body is established or empowered to fulfil the obligation of notifying technical regulations.

Harmonised area: quality infrastructure

While Bosnia and Herzegovina's legal bases and administrative structures to ensure technical regulations, standards, conformity assessment, accreditation, metrology and market surveillance are in place, they are not aligned with the EU *acquis* and remain uneven and fragmented. The relevant institutions exist at both state and entity levels, but coordination between them remains weak. There is still no country-wide strategy for the quality infrastructure, which is necessary for Bosnia and Herzegovina to have a coherent country-wide approach.

The Institute for **Standardisation** of Bosnia and Herzegovina is a full member of the European Telecommunications Standards Institute (ETSI) and an affiliate member of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC). In 2022, the standardisation institute adopted 7 050 European standards as national standards. The percentage of adopted European standards is 93.60%. However, the standardisation institute remains understaffed and conflicting mandatory ex-Yugoslav standards have still not been withdrawn in a systematic manner across the country. There is still no country-wide register of the legislation in force.

The Institute for **Accreditation** of Bosnia and Herzegovina (BATA) is the single national accreditation body and full member of the European Cooperation for Accreditation (EA) and party to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement (ILAC). The Institute remains understaffed. There are 178 conformity assessment bodies in Bosnia and Herzegovina, comprising 91 testing laboratories, 4 medical and 11 calibration laboratories, 6 product certification bodies and 66 inspection bodies. The Law on accreditation is still not aligned with the EU *acquis*. The designation of conformity assessment bodies and conformity assessment procedures are still not applied consistently throughout the country.

The Institute of **Metrology** of Bosnia and Herzegovina participates in EU technical committees, European development programmes and cooperation projects with EU metrology institutes. It became a member of International Measurement Confederation (IMEKO) in August 2022. Metrology institutes in Bosnia and Herzegovina need to cooperate and coordinate their activities when implementing the legislation. Legislation on Metrology is not applied evenly across the country undermining legal certainty and the single economic space including the adoption of a new Law on metrology in the *Republika Srpska* entity.

The **market surveillance** system is still largely based on mandatory standards and pre-market control. The legal base dates from 2009 and is not aligned with the EU *acquis*. In the reporting period, the Market Surveillance Agency, which remains understaffed, and the inspection bodies of the entities and the Brčko District carried out 221 checks as part of

proactive surveillance and 14 checks on reactive surveillance. As a result of 189 product models checked, 3 906 unsafe products were withdrawn from the market (of which 2 313 were destroyed), and 8 612 products were brought into compliance with safety requirements.

Harmonised area: sectoral legislation

On the EU ‘**new and global approach**’ **product *acquis***, no alignment has taken place over the past 11 years. Bosnia and Herzegovina adopted legislation designed to align with the EU *acquis* on low-voltage devices, machinery, electromagnetic compatibility, lifts, personal protection equipment, non-automatic weighing instruments and pressure equipment. However, all EU legislation apart from the EU product *acquis* on machinery were replaced between 2014 and 2019, so *de facto* the level of alignment is constantly going down. Furthermore, even legislation designed to align with the EU *acquis* is not applied across the country, as the legislative framework is fragmented and the *Republika Srpska* entity implements its legislation separately.

There is no country-wide approach to align with the EU ‘**old approach**’ **product *acquis*** or with **procedural measures**. No progress has been made since 2013 on aligning the legislation with the EU *acquis* on registration, evaluation, authorisation and restriction of chemicals (REACH), on classification, labelling and packaging (CLP), or on strengthening administrative capacity in this area. Bosnia and Herzegovina is not aligned with the EU *acquis* on motor vehicles, two or three wheeled vehicles, tractors (agricultural, forestry), or non-road mobile machinery emissions.

There were no activities noted on alignment at national level on drug precursors, firearms, crystal glass, textile labelling, mixtures and footwear. Bosnia and Herzegovina’s legislation remains to be further aligned with the EU *acquis* on the pricing of medical products. On **civil explosives**, Bosnia and Herzegovina still does not have a comprehensive legal framework for the transport of dangerous goods. Legislation on returning **cultural objects** unlawfully removed from the territory of an EU Member State is not aligned with the EU *acquis*.

As regards anti-corruption under this chapter there are no specific nor cross-cutting measures in place to monitor and analyse the transparency of public bodies when acting in the areas of market surveillance and conformity assessment.

Chapter 2: Freedom of movements for workers

Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

Bosnia and Herzegovina has **some level of preparation** in the field of free movement of workers. However, **no progress** was made in the reporting period, due to the fragmentation of the country’s system of coordinating social security schemes, limited administrative capacity and lack of formal cooperation among relevant authorities. Last year’s recommendations therefore remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- start developing a country-wide database on vacancies;
- continue negotiating and concluding new bilateral agreements on social security, notably with EU Member States.

Regarding access to the labour market, the legislation does not differentiate between EU workers and other third-country nationals. To work in Bosnia and Herzegovina, an EU citizen must obtain a work permit and meet certain conditions (with several exceptions) as provided

by the Law on foreigners. Employment in the public administration is reserved for Bosnia and Herzegovina citizens. In 2022, 3 780 work permits were issued to third-country nationals (in 2021, 955), of which 367 to EU citizens (in 2021, 418). The main sectors are civil construction, trade, art and recreation, real estate, manufacturing and services.

The laws on the employment of foreigners of the entities and of the Brčko District still need to be fully harmonised with the state-level Law on foreigners, especially when it comes to regulating the issuance/approval of a residence permit for the purpose of work.

Bosnia and Herzegovina still lacks a country-wide database of vacancies.

As regards the **coordination of social security systems**, Bosnia and Herzegovina has 10 bilateral agreements on social security in place, of which six are with EU Member States. Another 16 agreements (of which 12 with EU Member States) are implemented on the basis of succession from the former Yugoslavia. The country's system of coordinating social security schemes remains fragmented, with limited administrative capacity and lack of formal cooperation among relevant authorities covering all levels of government.

There has been no progress on the European Health Insurance Card (EHIC).

Chapter 3: Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.

Bosnia and Herzegovina is at an **early stage of preparation** regarding the right of establishment and the freedom to provide services. **No progress** was made in this area and last year's recommendations remain valid. The existing legislation needs to be aligned with the EU Services Directive and does not provide for the mutual recognition of qualifications for regulated professions. A country-wide strategy for the development of postal services needs to be established to adopt a consistent regulatory framework that is aligned with the EU *acquis*.

In the coming year, Bosnia and Herzegovina should in particular:

- establish a monitoring mechanism to screen, check and align relevant legislation in force with the EU Services Directive and to identify and remove barriers to the right of establishment and freedom to provide services in the single economic space;
- adopt a country-wide law on postal services to further align the legislation with the EU *acquis*, including the Regulation on cross-border parcel delivery services, and open the postal market to competition;
- align with the EU *acquis* on mutual recognition of professional qualifications, including with the Directive on recognition of professional qualifications and with the Directive on a proportionality test before adoption of new regulation of professions.

The legislation on the **right of establishment and freedom to provide cross-border services** is not aligned with the EU *acquis*. In particular, no progress was made to develop a horizontal law that covers its principles, and no screening of sector-specific legislation took place to prepare it, due to diverging views on how to align with the Services Directive. A register of service-related legislation needs to be established to identify laws that need to be amended and to further align them with the EU Services Directive. Also lacking is a

comprehensive inventory of the administrative and technical steps needed for companies to register and/or operate country-wide. Compiling such an inventory would help abolish requirements that hamper the creation of a single economic space. No point of single contact was established. Legislative alignment in this area requires administrative capacity and strong coordination between administrative bodies at all levels of government.

The legal framework for **postal services** is partly aligned with the EU *acquis*. Further efforts are needed to prepare a state-level strategy with a timeline on the development of postal services and adopt a consistent country-wide regulatory framework aligned with the EU Postal Services Directive. The reserved area to the universal service provider is still to be abolished and the postal market needs to be gradually opened up to full competition in line with the Postal Services Directive. The institutional and the administrative capacity of the Agency for Postal Traffic needs strengthening to carry out its regulatory and monitoring functions in the postal market. There was no progress in aligning national legislation with the EU Regulation on cross-border parcel delivery services.

The legislation does not provide for the **mutual recognition of qualifications for regulated professions** as required by the EU *acquis*. The general roadmap for alignment with the EU *acquis* has not been implemented. Significant efforts are needed to establish an adequate institutional framework that includes e-government facilities and national contact points assisting citizens who request the recognition of their professional qualifications. Bosnia and Herzegovina needs to establish a list of regulated professions.

Chapter 4: Free movement of capital

In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.

Bosnia and Herzegovina is **moderately prepared** in the area of free movement of capital. There was **no progress** in alignment with the EU *acquis* on the free movement of capital. Last year's recommendations were not addressed and remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- reduce the extensive administrative requirements for short-term capital transactions and amend the legislation to comply with SAA commitments on the acquisition of real estate by EU citizens;
- adopt urgently a new law on anti-money laundering and countering the financing of terrorism, including a country-wide, central register of beneficial ownership information for legal persons and private individuals and a register of beneficial ownership information for legal arrangements, in line with the EU *acquis*;
- adopt legislation to align with the Payment Services Directive 2, the Electronic Money Directive 2 and the SEPA Regulation.

As regards **capital movements and payments**, Bosnia and Herzegovina continues to apply full current account convertibility. Long-term capital transactions are mostly liberalised, but restrictions remain for short-term capital transactions, including financial credits and loans provided by residents to non-residents and residents' payments of life-insurance premiums to non-residents. Investment rules for institutional investors are subject to limitations on investment in foreign securities. In addition, residents may only open and hold a foreign exchange account abroad for a limited amount of time, in specific cases stipulated by law and only after obtaining the prior approval of the Ministry of Finance.

Entity laws on foreign investments still provide for a cap of 49% of foreign ownership for companies operating in media affairs and the military industry unless, in case of justified interest, the entity government issues a decision to exceed 49% of the founding capital.

The state-level law on foreign direct investments does not provide for equal treatment of foreign and domestic natural persons for the acquisition of real estate. The Stabilisation and Association Agreement (SAA) requires Bosnia and Herzegovina to adjust its legislation on the acquisition of real estate so that as of 2021 nationals of EU Member States should be treated in the same manner as nationals of Bosnia and Herzegovina. However, Bosnia and Herzegovina still lags this commitment, as the possibility for foreign natural persons, including nationals of EU Member States, to acquire real estate depends on the regime applied to citizens of Bosnia and Herzegovina by their countries of origin (reciprocity) or on bilateral agreements. Moreover, agricultural land cannot yet be owned by foreign natural or legal persons.

The Central Bank of Bosnia and Herzegovina (CBBH) has operated a modern **payment system** since introducing a new current account clearing system in 2019. Although since mid-2020 all banks in the country have the required technical specifications to handle Single Euro Payment Area (SEPA) payments, Bosnia and Herzegovina needs to adopt legislation to align with the EU *acquis* (Payment Services Directive 2, the Electronic Money Directive 2 and the SEPA Regulation) before being able to adhere to the SEPA schemes for communities of banks or financial institutions outside the European Economic Area.

Payment services need to be further liberalised and modernised to benefit existing and new players on the market. The system should be open to operators other than banks, including Electronic Money Institutions. No Electronic Money Institutions have been licensed so far in either entity.

Bosnia and Herzegovina needs to adopt a new law on **anti-money-laundering and countering the financing of terrorism (AML/CFT)** in line with international standards and further align with the EU *acquis* on anti-money laundering and countering the financing of terrorism. It should in particular address customer due diligence requirements, the reporting of suspicious transactions and the transparency of beneficial ownership. Bosnia and Herzegovina should continue to improve its AML/CFT framework, including by introducing a register of beneficial ownership information for legal persons and a register of beneficial ownership information for legal arrangements, in line with the EU *acquis*. The activities envisaged in the AML/CFT action plan need to be implemented without further delay. Moneyval's evaluators will visit Bosnia and Herzegovina in February 2024, assessing its AML/CFT framework, in order to complete the 5th Round Mutual Evaluation Report. The risk for Bosnia and Herzegovina of being listed by the Financial Action Task Force (FATF) remains, and in addition, no track record on investigations, prosecutions and final court rulings has been provided.

Bosnia and Herzegovina therefore needs to improve its track record of financial investigations, prosecutions and convictions for related offences; make more consistent use of legal rules on asset confiscation; and establish an asset recovery office. Preventive measures, supervisory action and penalties in case of breaches – especially in the non-financial sector – also still need to be implemented.

Chapter 6: Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting and statutory audit.

Bosnia and Herzegovina has **some level of preparation** in the field of company law, corporate accounting, and audit. **No progress** was made in this area. Further efforts are needed to align with the EU *acquis* on company law, on accounting and on non-financial reporting. No harmonisation of company law requirements across the country has been carried out and the different regional business registers operate independently and without any communication or coordination between them. There is still no single country-wide authority for the oversight of statutory auditors. The Commission's recommendations from last year were not implemented and remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- finalise the review of the existing legislation in the area of company law to identify amendments needed to further align with the EU *acquis*;
- improve the connection and coordination of business registers among entities and the Brčko District;
- review the existing legislation in the area of accounting, transparency, and statutory audit to identify the legislative amendments necessary to align with the EU *acquis*.

On **company law and corporate governance**, Bosnia and Herzegovina is aligned to a limited extent with the EU *acquis*. The existing legislation needs to be reviewed to identify the amendments needed to harmonise company law at country level. The different independent business registers among entities and the Brčko District are not connected and have no established ways of coordination. Due to the lack of coordination, different requirements exist for setting up and manage a company between the entities. Companies have to register several times to be allowed to operate throughout the country which is not in line with the EU Company Law *acquis*. Further alignment is needed with the Directive on the use of digital tools and the Directive on cross-border operations (mergers, divisions, conversions) as well as with rules on shareholder rights, including the encouragement of long-term shareholder engagement (Shareholder Rights Directive) and gender equality on boards of directors.

The legislation on **company reporting** remains partially aligned with the EU *acquis*. Bosnia and Herzegovina will need to align its legal framework with the EU *acquis* on corporate reporting in terms of financial and non-financial information and on transparency requirements for listed companies. It also needs to align with the most recent EU *acquis* on corporate sustainability reporting. The state-level Accounting and Audit Commission of Bosnia and Herzegovina acts as an expert body responsible for accounting and auditing standards, accompanying instructions and practices. The respective laws in the entities and the Brčko District prescribe the use of international financial reporting standards (IFRS) for annual and consolidated accounts of all legal entities. In December 2022, the *Republika Srpska* entity amended its Law on accounting and auditing companies on additional financial reports and on the double-entry accounting. The Federation entity amended several rulebooks related to the FBiH Law on accounting and auditing. Bosnia and Herzegovina still needs to designate, in line with the EU *acquis* requirements, one single supervisory authority with country-wide competence responsible for the oversight of statutory auditors.

Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and

broadcasting.

Bosnia and Herzegovina is **moderately prepared** in the area of intellectual property law. **No progress** was made in this area. Significant efforts are required on legislative alignment and, in particular, on improving enforcement and coordination. An intellectual property strategy 2022-2026 has not yet been adopted. The recommendations from last year were not addressed and remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- adopt and implement the strategy on intellectual property 2022-2026 and implement the strategy on enforcement of intellectual property rights;
- further align the legal framework on copyright and related rights with the EU *acquis* and amend the Law on patents;
- take steps to increase the coordination and capacity of policymaking institutions to enforce intellectual, industrial, and commercial property rights.

The legal framework on **copyright and related rights** is moderately aligned with the EU *acquis*. The rules in the area of orphan works and collective management rights need to be revised to align with the EU *acquis*. No strategy on intellectual property is in place. Copyright works and related rights are deposited and registered in the Institute for Intellectual Property. Six organisations in the country are authorised for the collective management of copyright and related rights. The intellectual property strategy 2022-2026 has not yet been adopted.

On **industrial property rights**, the legislative framework is partially aligned with the EU *acquis*. Further alignment is needed in most areas, in particular on patents, trademarks and trade secrets, but also on topographies of semiconductor products and on industrial designs. Bosnia and Herzegovina has acceded to the relevant multilateral conventions, as required by the SAA, except for the European Patent Convention, for which it still needs to adopt relevant amendments to the Law on patents.

Regarding **enforcement**, in the reporting period, the Indirect Taxation Authority received 79 requests for customs measures based on protected trademarks, designs and one due to the violation against the indication of geographical origin. It issued 82 decisions on temporary retention and seizure of goods (compared with 113 requests and 114 decisions in the previous reporting period). The State Investigation and Protection Agency investigated 40 cases, of which 13 were closed.

The administrative and judicial capacity of enforcement institutions on intellectual property rights is insufficient and their coordination needs to improve. The coordination body has been established in 2021 and is composed of representatives of enforcement institutions from all levels of government. The body held two sessions since its creation and remains understaffed. Bosnia and Herzegovina's existing strategy on IPR enforcement remains to be implemented. Nor is there a reliable system for collecting, analysing and exchanging data between enforcement institutions. Steps need to be taken to raise the awareness of businesses and consumers on IPR in general as well as on the prevention of counterfeiting and piracy. Prosecutors, judges, and court panels following infringement cases are not sufficiently trained on intellectual property rights to handle cases efficiently and consistently.

Chapter 8: Competition policy

EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of dominant position, and also include rules on concentrations

between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.

Bosnia and Herzegovina has **some level of preparation** in the area of competition policy. There was **no progress** in this area. Bosnia and Herzegovina took no steps to remove all ethnic-based decision-making procedures and vetoes from the Competition Council and State Aid Council, in line with the Commission Opinion's key priorities. Bosnia and Herzegovina should further align its implementing legislation on State aid with the EU *acquis*. Recommendations from last year were not addressed and remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- amend the Law on competition and the Law on State aid to revise the voting procedures in line with the Commission's Opinion;
- improve the enforcement record of the State Aid Council by ensuring that State aid measures are notified *ex-ante* by granting authorities;
- in line with SAA provisions, ensure that the State Aid Council operates independently and that the existing aid schemes introduced before the State Aid Council's establishment are aligned with the EU *acquis*.

Antitrust and mergers

The **legislative framework** on antitrust and mergers is broadly aligned with the EU *acquis*. The Law on competition of Bosnia and Herzegovina largely mirrors the rules in the EU treaties on restrictive agreements and abuse of dominant position. It still needs to be brought into line with the most recent EU *acquis*, including implementing legislation.

As for the **institutional framework**, the functioning of the Competition Council is still significantly impeded by tight procedural deadlines and ethnic-based decision-making procedures, which require decisions to be supported by at least one representative of each constituent people to have legal effect. The Law on competition needs to be amended, notably to revise such voting procedures in line with the Commission's Opinion.

Regarding **enforcement capacity**, the Competition Council is composed of six members assisted by 20 staff. The staff's level of expertise needs to be further developed and supported through relevant training.

On **implementation**, in 2022 the Competition Council took 35 decisions, including 2 on prohibited agreements, 3 on abuse of dominant position and 12 on concentrations. It issued 18 expert opinions, and 3 fines were imposed for about EUR 155 000. The Competition Council should strengthen the enforcement of competition rules, as the impact of competition enforcement is limited and fines are negligible. No dawn raids were carried out in the reporting period. The leniency programme for companies providing information on cartel cases has never been used. The Competition Council should conduct more on-site inspections and raise awareness about its leniency programme and mergers, by imposing remedies where necessary. The judiciary's capacity to handle complex competition cases is improving and needs to be further strengthened. In advocacy, the Competition Council should conduct market studies so as to gain a better understanding of competition in key sectors, detect sources of competition problems and identify solutions. To tackle unfair competition in the market, the Competition Council needs to increase cooperation with other regulatory bodies, such as the Public Procurement Agency and the Procurement Review Body.

State aid

The **legislative framework** on State aid, including the Law on the State aid system, is partially aligned with the EU *acquis* and with SAA provisions. The implementing legislation is not developed evenly across the country and needs to be aligned with the EU *acquis*, including on *de minimis* aid and on services of general economic interest. A regional aid map has not yet been drawn up and the existing aid schemes have not been aligned with the EU *acquis* on State aid as per SAA rules and deadlines.

As for the **institutional framework**, the State Aid Council responsible for the consistent implementation of the State aid law is composed of eight members appointed by the Council of Ministers and the governments of the entities and Brčko District. As in the case of the Competition Council, the functioning of the State Aid Council is significantly impeded by ethnic-based decision-making procedures, which require decisions to be supported by at least one representative of each constituent people to have legal effect. The Law on State aid needs to be amended, notably to revise the voting procedure in line with the Commission's Opinion. The mandate of the members of the State Aid Council from the *Republika Srpska* entity expired in 2020, while that of the Federation entity and the state level ended in 2021. The appointments of the new members by the relevant authorities are still pending.

The **enforcement capacity** of the State Aid Council is insufficient. With only six staff members, its secretariat is not able to fulfil its tasks. Furthermore, its capacity needs to be developed through relevant training.

On **implementation**, the State Aid Council issued six decisions during the reporting period. Most State aid measures are put in place by granting authorities without notification or prior approval by the State Aid Council. Bosnia and Herzegovina needs to ensure the transparency of all State aid measures. The State Aid Council should continue monitoring the implementation of State aid rules in large projects carried out in cooperation with third countries.

Liberalisation

Concerning **liberalisation**, the Law on competition and the Law on State aid apply to public undertakings and undertakings with special or exclusive rights. Bosnia and Herzegovina needs to demonstrate that these rules are being enforced. The rules on financing services of general economic interest are not fully aligned with the EU *acquis*.

Chapter 9: Financial services

EU rules aim to ensure fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.

Bosnia and Herzegovina is **in between some and moderate level of preparation** in the area of financial services. There was **no progress** in implementing last year's recommendations. Further steps are needed to significantly improve coordination in supervision and enforcement within the sector. The overall level of preparedness in the securities market remains low.

Last year's recommendations remain largely valid. In the coming year, Bosnia and Herzegovina should in particular:

- improve cooperation in the area of financial stability among all stakeholders through a Memorandum of Understanding;
- strengthen the bank resolution framework by amending the entities' banking laws and the law on deposit insurance to enable the creation of a financial stability fund;

→ demonstrate improvements in the coordination between corrective and enforcement powers of supervisory bodies, including banking agencies.

As regards **banks and financial conglomerates**, the banking sector appears sufficiently capitalised and liquid. The overall capital adequacy ratio was 19.6% at the end of 2022, well above the regulatory minimum of 12%. However, the fragmented market remains a drag on the moderate profitability of the banking sector. Strategies on implementing Basel III are in place.

In September 2022 and April 2023, banking agencies adopted decisions on temporary measures to reduce the risk of increasing interest rates and to limit banks' exposures. The aim of these temporary measures was to introduce additional rules for expected credit losses and offset the consequences of a potentially significant increase in the amount of debt repayment. Financial stability will have to be closely monitored, including through more frequent meetings of the Standing Committee for Financial Stability, which brings together the Central Bank, the ministries of finance at State and entity level, the entity banking agencies and the Deposit Insurance Agency.

The fragmentation of the institutional and regulatory set-up continues to impede effective banking supervision. The Standing Committee for Financial Stability did not meet during the reporting period, raising concerns about the coordination and regularity of financial stability monitoring. To ensure financial stability, Bosnia and Herzegovina needs to improve cooperation among the banking agencies, the Central Bank, the Deposit Insurance Agency and relevant ministries (a memorandum of understanding to this end has yet to be signed), and to adopt a common methodology to determine systematically important banks.

The deposit insurance scheme is operational, but the amount of insured deposits (increased to EUR 35 800 in November 2022) still remains below the requirements of the EU *acquis*. While the implementation of the Law on deposit insurance strengthens depositors' confidence and should prevent bank runs, the bank resolution framework should be established to enable the creation of a single financial stability fund that could enable bank resolution and provide sufficient liquidity. This is a major shortcoming as, without such a fund, the financial sector safety net remains inadequately prepared to deal with a potential bank failure which, unlike the case of the Sberbank subsidiaries in March 2022, might not be quickly resolved through change of ownership.

The implementation of the methodology for the supervisory review and evaluation process (SREP) continued and enabled risks and corrective measures to be identified for individual banks. To be complete, the legal framework must notably strengthen supervisors' corrective and enforcement powers and introduce consolidated supervision of banking groups across the entities.

The ratio of non-performing loans declined to 4.7% of the outstanding loan portfolio at the end of 2022. Nevertheless, institutional and legal obstacles to swift and effective resolution need to be reduced.

Regarding **insurance and occupational pensions**, no progress was made in the alignment and harmonisation of the entities' legislation on compulsory vehicle insurance to ensure a country-wide harmonised approach to the liberalisation of the insurance market in Bosnia and Herzegovina.

Some preparatory steps were made at entity level for the transition to a Solvency II-based regulatory framework. The Insurance Agency of Bosnia and Herzegovina has to finalise a conformity analysis of the entity laws with the Solvency II Directive. The Federation entity

postponed application of International Financial Reporting Standard 17 (IFRS 17) to January 2026 due to the low level of readiness of insurance companies, for which a working group has been established to prepare for implementation. No progress was made on voluntary pensions.

Alignment with the *acquis* governing financial supervision of institutions for occupational retirement provision has yet to be addressed.

No progress was made in terms of **financial market infrastructure**. The legislation is not in line with the EU *acquis*.

The regulatory framework for **securities markets and investment services** is under the entities' competence. Both entities have a securities market regulator (the Securities Commissions) and a dedicated, though not harmonised, legal framework on the securities market and investment funds.

With regard to the **investment funds sector**, some progress was made on alignment with the Directive 2011/61/EU on Alternative Investment Fund Managers and Directive 2009/65/EC for collective investment in transferable securities (UCITS). The Ministry of Finance adopted a proposal for a Law on amendments to the Law on investment funds. Coordination between the entities needs to be improved to ensure consistent alignment with key areas of the EU securities market *acquis*, such as market manipulation and market abuse rules. The entity-level Securities Commissions is fully operational and holds monthly sessions.

On **digital finance**, the presence of fintech start-ups is marginal compared to traditional banks, which are perceived as the main financial institutions for utilising digital financial technologies. Approximately 80% of executed payments are carried out in cash, due to a lack of consumer trust in online payments, high credit-card fees and inadequate legislation to enable payment service providers to enter the market. The banking sector in Bosnia and Herzegovina is dominated by foreign capital and allows transfer of knowledge and solutions. However, without a legal and regulatory framework for digital identity, banks can only offer hybrid solutions, i.e. using digital solutions and technology to the level permitted by this framework. The majority of banks in Bosnia and Herzegovina have already digitalised some processes and introduced principles of sustainability in their day-to-day operations and credit analysis, but further development is subject to comprehensive reform.

On **sustainable finance**, the management and monitoring of climate-related and environmental risks in the banking sector were included in the Strategic Priorities for 2023-2025. This envisages a series of concrete measures to be implemented in the area of risk assessment, supervision and international cooperation, as well as the establishment of rules for managing to climate-related and environmental risks. Bosnia and Herzegovina should ensure these Strategic Priorities are fully implemented and make further progress on the integration of sustainable considerations in its regulatory financial framework.

Chapter 28: Consumer and health protection

EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats, including communicable diseases.

Bosnia and Herzegovina is at an early stage of preparation in the field of consumer protection and public health. No progress was made in the area - none of last year's
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recommendations were implemented, so they remain valid. The legislation on serious cross-border health threats, including communicable diseases, is not yet aligned with the EU *acquis* at all levels of government.

In the coming year, Bosnia and Herzegovina should in particular:

- adopt legislation at all levels banning smoking in public places in line with the EU *acquis*, ratify the protocol to eliminate illicit trade in tobacco, and start to enforce both measures;
- further align its legislation with the *acquis* on substances of human origin and on medicines for human use, and establish an oversight system in this field with a view to ensuring efficient coordination in the whole country;
- further align the state-level law on consumer protection and product safety with the EU *acquis*.

Consumer protection

On **horizontal aspects**, the state-level law on **consumer protection** was adopted in 2006 and is now very outdated. It needs urgent alignment with the latest EU *acquis* to address rapidly changing digital markets and to address the risk of unequal protection of consumers in the entities. The legal framework for consumer credit and distance marketing of financial services is also not aligned with the EU *acquis*. The Ombudsperson's office for consumer protection failed to provide data on decisions issued in 2022.

The legal framework for **product safety** is still not aligned with the EU *acquis*. Over the reporting period, the Market Surveillance Agency and the inspection bodies of the entities and the Brčko District conducted 221 checks as part of proactive surveillance, and 14 checks on reactive surveillance. As a result of 189 product models checked, 3 906 unsafe products were withdrawn from the market (of which 2 313 were destroyed), and businesses brought 8 612 products into compliance with safety requirements.

Public health

On **horizontal aspects**, no progress was made in drafting a health strategy at the state level or in the Brčko District. There is no state-level health information strategy and no progress was made on **e-health** or on an integrated health information system.

On **tobacco control** policies, legislation at the level of the entities and the Brčko District is not aligned with the relevant EU *acquis*. The Federation entity Law on tobacco control entered into force in May 2023. It regulates the use, advertising, flavouring and packaging of tobacco and other smoking products. However, the law includes extensive exceptions and is likely to have a limited impact, including on indoor smoking in public and commercial areas. Although Bosnia and Herzegovina is a party to the WHO Framework Convention on tobacco control, it does not fully implement it due to the lack of systematic monitoring, and it has still not ratified the protocol to eliminate illicit trade in tobacco products.

The legal framework on **blood, tissues, cells and organs** at the level of the entities and the Brčko District is not aligned with the EU *acquis*. The legal framework on biomedically assisted fertilisation remains fragmented, so it cannot be evaluated as aligned with the EU *acquis* across the country. Bosnia and Herzegovina does not have the necessary administrative capacity to fulfil the requirements laid down in the *acquis* on human organ, tissue and cell transplantation. The entities have established institutes for transfusion medicine, whose transplantation programmes are organised at entity level with very limited cooperation between them. No progress has been made in setting up a state-level oversight system to ensure efficient coordination throughout the country.

Legislation on **serious cross-border health threats, including communicable diseases**, has not yet been aligned with the EU *acquis* at all levels of government. Bosnia and Herzegovina needs to strengthen coordination between the entities and the state level on communicable disease surveillance and response. Bosnia and Herzegovina's participation in the technical activities of the European Centre for Disease Control and Prevention (ECDC) remains limited and it has not yet taken part in the ECDC assessment on the status of communicable diseases.

Measures to promote healthy lifestyles in connection with the prevention of **non-communicable diseases** are regulated and partially implemented by the competent institutions of the entities and the Brčko District. On **cancer screening**, Bosnia and Herzegovina still has no country-wide cancer control plan or country-wide early detection programme, and the Federation entity has no systematic cancer registers or screening programmes for the treatment of cancer, due to legislative issues and limited financial capacity. Both entities have cancer registers. The *Republika Srpska* entity has an early detection programme in place. The Brčko District has no register or early detection programmes.

Bosnia and Herzegovina has 74 community-based **mental health** centres with multidisciplinary teams and some of them have additional specialists. A special forensic psychiatric hospital provides treatment to forensic patients from across the country. On preventive measures, activities to reduce **alcoholism** and for the prevention of alcohol-induced disorders were carried out with the participation of NGOs. **Drug abuse** prevention and harm-reduction preventive measures are not implemented systematically, though some are implemented through education and NGO activities. There is no systematic approach to rehabilitation and social reintegration, and such programmes have been introduced unequally in different parts of the country.

In September 2022 the *Republika Srpska* entity expanded the scope of health insurance and increases its coverage by introducing the right to health protection and right to salary compensation due to health incapacity.

On **health inequalities**, accessibility to healthcare for all citizens is still a key challenge despite legislation stipulating that equal access to health should be in place. One of Bosnia and Herzegovina's key reform priorities is to provide good quality accessible public healthcare for all, including marginalised groups. Access to healthcare services for Roma is only possible if they are registered at the employment or education administrations, which means that many Roma do not have health insurance. Obstacles to the mobility of patients between different entities or cantons persist and illustrate the complexity and inefficiency of the system; this must be improved and harmonised with the EU *acquis*. Women and girls face problems with healthcare due to lack of health insurance and poorly organised services related to sexual and reproductive health, among other things. This especially affects women from marginalised groups (including Roma women, women from rural areas, women with disabilities), through a disproportionate lack of access to healthcare. Women and girls were disproportionately affected by the COVID-19 pandemic, most particularly by being on the frontlines of the pandemic and owing to the loss of jobs in care, hospitality and service. Bosnia and Herzegovina still needs to take concrete steps to include a gender perspective in the planning and implementation of relief and recovery measures in case of a healthcare crisis. Bosnia and Herzegovina needs to improve conditions in hospitals and maternity hospitals and ban obstetric violence, in line with its obligations under the Istanbul Convention. While there has been improvement in addressing gender-based violence, Bosnia and Herzegovina still needs to make significant investments in developing its multi-sectoral response mechanisms, including in healthcare institutions, for victims of gender-based

violence, including sexual violence. Bosnia and Herzegovina needs to continue aligning healthcare, maternity, paternity and parental leave benefits and ensure that women, including women from marginalised groups, have equal access to health insurance and services. (See also Chapter 19)

For **medicinal products for human use** and **medical devices** the state-level Agency for Medicines and Medical Devices (ALMBiH) is the regulatory body in charge of securing the functional, coordinated and uniform system for regulation of such products, supervising a single market for them, and ensuring their availability on the entire territory of the country. The *Republika Srpska* entity Law on pharmaceuticals and medical devices, which provides for the establishment of an entity-level agency with the same responsibilities as ALMBiH, was repealed by the Constitutional Court in December 2022.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers: Digital transformation and media (Chapter 10); Taxation (Chapter 16); Economic and monetary policy (Chapter 17); Social policy and employment (Chapter 19); Industrial policy (Chapter 20); Science and research (Chapter 25); Education and culture (Chapter 26); and Customs union (Chapter 29).

Bosnia and Herzegovina has some level of preparation in the areas of taxation, social policy and employment, science and research and customs. It is at an early stage of preparation on digital transformation and media, economic and monetary policy, industrial policy, and education and culture. Unfortunately, Bosnia and Herzegovina has made limited or no progress in any of these areas.

Chapter 10: Digital transformation and media

The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.

Bosnia and Herzegovina is at an **early stage of preparations** in the area of digital transformation and media. **No progress** was achieved in implementing last year's recommendations, which remain valid. The legislation and strategic framework are not in place and not aligned with the EU *acquis*. The country still needs to introduce the European emergency number 112. The regional roaming agreement, enabling 'roam like at home' (RLAH), was successfully implemented. Negotiations on association to the Digital Europe Programme should be finalised by the end of 2023. Last year's recommendations remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- complete phase two of the digital switchover and adopt a framework strategy for access to the broadband network;
- develop and adopt a law on electronic identity and trust services for electronic transactions with a single supervisory body for the whole country in line with the EU *acquis*; develop a legislative framework on cybersecurity in line with the EU *acquis*;
- develop and adopt a law on electronic communications and electronic media in line with the EU *acquis*.

Regarding **electronic communications and information and communication technology**, Bosnia and Herzegovina has still made no progress in adopting the legislation related to electronic communications and electronic media in line with the 2018 EU regulatory

framework, nor has it made progress in aligning with the EU Broadband Cost Reduction Directive. Bosnia and Herzegovina has not developed a broadband strategy, even though it introduced the 4G network in 2019. The Communications Regulatory Agency still lacks financial independence and no efforts were made to improve the procedure for appointing its management to ensure full political independence. The mandate of its Board expired at the end of 2017 and the Parliament has still not appointed a new board.

In 2022, there were 61 internet providers, 875 598 broadband subscribers and 3 705 589 internet users (110.9% penetration rate, counting both households and business connections), with a penetration rate of 24.8% for broadband internet.

Regarding **information society services**, Bosnia and Herzegovina made no progress in adopting a country-wide strategy and action plan for development of the information society. No progress was made in the adoption of the law on electronic identity and trust services for electronic transactions with a single supervisory body for the whole country in line with the EU *acquis*. Nor has progress been made in ensuring the interoperability of the electronic signature system aligned with the EU *acquis* throughout the country. A functional and interoperable electronic signature system would facilitate secure electronic communication and digital transactions, allowing various sectors (public administration, taxation, customs, banking, judiciary) to operate in a more efficient and effective manner, improving business environment and enabling swift access of citizens to public services. One company and two state-level institutions now offer e-signature services. Bosnia and Herzegovina has no national open data policy in place. Alignment with the Digital Services Act and Digital Markets Act needs to be stepped up, to provide predictability for the business community. Bosnia and Herzegovina should also align with the European Interoperability Framework and the Interoperable Europe Act.

Concerning **cybersecurity**, Bosnia and Herzegovina does not have a comprehensive legislative framework on the security of networks and information systems (a law on information security is in place only in the *Republika Srpska* entity), and made no progress in adopting a country-wide strategy. Moreover, the country made no progress in designating a country-wide single point of contact responsible for coordination and cross-border cooperation. Bosnia and Herzegovina needs to establish a network of computer security incident response teams (CSIRT) to facilitate strategic cooperation and the exchange of information; a CSIRT is operational only at the Ministry of Defence and in the *Republika Srpska* entity.

As regards **audiovisual policy**, Bosnia and Herzegovina made no progress in developing and adopting a law on electronic communications and electronic media in compliance with the EU *acquis* and to harmonise entity legislation with the state-level law on the public broadcasting system. No progress has been made in adopting legislation on media ownership transparency, including a register of ownership structures, or in adopting legislation on advertising in the media. The Communications Regulatory Agency adopted by-laws to align national rules with the EU *acquis*. The government also committed to strengthen the independence of the media regulatory authority. Bosnia and Herzegovina has thus met the requirements for continuing their participation in the MEDIA and cross-sectoral strands of the Creative Europe programme. Bosnia and Herzegovina took limited steps in the preparation of the second phase of the digital switchover, with public broadcasting services acquiring equipment needed to switch to digital terrestrial broadcasting. Bosnia and Herzegovina has failed to introduce a suitable model to collect broadcasting fees that would ensure the public broadcasting system's financial sustainability and political independence. The Public Services Broadcasting Corporation, as prescribed by the respective law, is still not

established. The financing of local public broadcasters from the public budget also needs to be brought in line with the EU *acquis*, as it constitutes State aid and provides opportunities for political pressure and influence. (See also Chapter 23 – Freedom of expression)

Chapter 16: Taxation

EU rules on taxation cover value-added tax, excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.

Bosnia and Herzegovina has **some level of preparation** in the area of taxation. **No progress** was made in implementing the recommendations from last year which therefore remain valid. Country-wide harmonisation remains insufficient, hindering progress towards a single economic space.

In the coming year, Bosnia and Herzegovina should in particular:

- bring the legislation on VAT and on excise duties in line with the EU *acquis*, notably on excise duties on beer;
- make progress on the electronic signature (e-signature) in order to ensure its interoperability and a harmonised country-wide system.

The legislative framework for **indirect taxation** is partially aligned with the EU *acquis*. The country needs to further align VAT legislation with the EU *acquis* and improve cooperation between the Indirect Taxation Authority and the tax administrations of the entities and Brčko District, including through joint audits. Its ability to fulfil its vital country-wide role must be maintained.

As regards excise duties on tobacco, alcohol and energy, there are considerable discrepancies with the *acquis* on the scope and classification of excisable goods as well as exemptions, structures and minimum rates. The country needs to align its Law on excise tax fully with the EU *acquis*.

On **direct taxation**, the tax and social contribution regimes in the two entities have continued to diverge, hindering progress towards a single economic space. There was no progress in the field of direct taxation in the Federation entity, as new legislation on income tax and social contributions to reduce the tax burden on labour and increase take-home pay has yet to be adopted.

On **administrative cooperation and mutual assistance**, Bosnia and Herzegovina has ratified the OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters. The country has not yet committed to automatically exchanging financial account information based on the OECD single global standard. Bosnia and Herzegovina has signed and implemented 38 double taxation agreements, of which 19 with EU Member States.

Concerning **operational capacity and computerisation**, there needs to be further improvement of coordination, cooperation and data exchange among Bosnia and Herzegovina's different tax administrations, including the country-wide harmonisation and interoperability of the e-signature. The administrative capacity and staffing levels of the Indirect Taxation Agency should be substantially strengthened, especially in key operational posts.

Chapter 17: Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

Bosnia and Herzegovina is at an **early stage** of preparation on economic and monetary policy and there was **no progress**, in particular in terms of the cooperation and coordination of macroeconomic and fiscal policies, as evidenced by the difficulties in the preparation and execution of the Economic Reform Programme (ERP) and the failure to appoint a new governing board of the Central Bank. Monetary policy underpins economic stability, but the full independence of the Central Bank has yet to be ensured.

The 2022 Commission's last year's recommendations were not met and therefore remain valid. In the coming year, Bosnia and Herzegovina should in particular:

- maintain the integrity of the currency board arrangement and the independence of the Central Bank, and appoint the members of its governing board without any further delay;
- enhance cooperation and coordination on socio-economic reforms among the different levels of the government and strengthen the analytical capacity of governmental institutions, in particular of the state-level Ministry of Finance and Treasury;
- ensure consistent political support for and high visibility, country-wide ownership and coherence of the Economic Reform Programme, including its medium-term macro-fiscal framework; enhance administrative capacity to design, implement and monitor economic reforms.

As regards **monetary policy**, the exchange rate regime continues to be characterised by a currency board arrangement, which links the convertible mark (BAM) to the euro as the anchor currency. This provides stability within the country's complex institutional environment. The Central Bank's objective of keeping the domestic currency stable remains in contrast with the primary objective of monetary policy in the EU, which is price stability.

The Law on the Central Bank does not ensure the Bank's unconditional independence and is not fully aligned with the EU *acquis* as regards the prohibition of monetary financing. The Central Bank is required to report to the Parliamentary Assembly on its audited annual financial statements and to the Presidency on the preliminary financial reports.

The mandate of the Central Bank's governing board expired in August 2021 and the Presidency has still not appointed a new one. The outgoing governing board remains in office *ad interim*, to ensure the core tasks and functions of the Central Bank. The circumstances of the appointments in 2020 of now-acting members of the board (following a change in the composition of the Presidency) and previous dismissals, as well as the failure to appoint a new board after the expiry of the previous mandate, raise concerns about the vulnerability of the Central Bank to political interference. Proposals for the use of Central Bank reserves for fiscal purposes resurfaced occasionally, although such measures would undermine the currency board arrangement. Therefore, preserving the integrity of the currency board arrangement and the independence of the Central Bank remains crucial.

The Central Bank has improved its operational risk management and became a member of the International Operational Risk Working Group (IORWG). In July and December 2022, the Central Bank amended the reserve remuneration rates in order to harmonise with the ECB reference rate, but also to partly cushion the impact of the increasing ECB reference rate on banking sector operations.

Banking supervision powers lie with the two entities' banking agencies, but remain impeded by fragmented competences and insufficient coordination, cooperation and information sharing.

Concerning the **budgetary framework**, some work has been going on in order to improve the reporting in the context of the EU's excessive deficit procedure. Fiscal rules remain at entity level and there is still no independent fiscal institution to monitor and enforce compliance with country-wide fiscal rules. The medium-term budgetary framework remains insufficiently developed and underused as a policy-guiding instrument, as its adoption is often severely delayed by political disagreements. The alignment of the underlying statistical framework with the requirements and definitions of the European System of National and Regional Accounts (ESA 2010) remains limited. The still outstanding agreement on the sectorisation of public accounts as well as the country's fragmented institutional set-up and limited cooperation between the different authorities and bodies involved are important impediments in this respect. The Central Bank and the Directorate for Economic Planning (DEP), which is an independent state-level institution, are producing regular macroeconomic forecasts. However, their quality is strongly impeded by the poor quality and late submission of country-wide statistics. While the Central Bank's methodological underpinning of its forecast is publicly available, this is not the case with the forecast method of the DEP. The Medium-Term Budgetary Framework forms the base of the country's annual budgets, although with a strong entity-level emphasis. The adoption of this framework is often impeded by the country's frequent political stalemates. The underlying assumptions are not very transparent and the description of medium-term policies and their fiscal implications is very limited and usually only focussed on entity level. The country does not have a fiscal council, as required by the EU *acquis*.

Regarding **economic policy**, the overall quality of Bosnia and Herzegovina's medium-term economic reform programme (ERP) did not improve this year and was again submitted with a two-month delay. The Council of Ministers was late in adopting the activity plan formally empowering the Directorate for Economic Planning to effectively coordinate the preparation of the programme. All of this points to long-standing and significant weaknesses in administrative cooperation and policy formulation. The policy guidance jointly agreed at the July 2022 Economic and Financial Dialogue between the EU and the Western Balkans and Türkiye was implemented only to a limited extent. The capacity to design, implement and monitor structural reforms remains very limited. A country-wide medium-term reform programme that is coherent, consistent and based on a jointly agreed prioritisation has not been established yet. In addition, the coordination role of the Directorate for Economic Planning remains weak and lacks sufficient resources and competences.

Chapter 19: Social policy and employment

EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at EU level.

Bosnia and Herzegovina has **some level of preparation** in the field of social policy and employment. There was **limited progress** in the area. Serious challenges remain to be addressed as regards employment, social inclusion and protection, and poverty reduction, especially related to coordination among the responsible institutions across the country. Limited progress was made on the recommendation related to development of the Youth Guarantee implementation plan. The Commission's recommendations from last year were only partially implemented and therefore remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- develop and adopt entity-level and country-wide employment strategies as a policy framework, while providing for additional capacity for implementation and monitoring;
- finalise and adopt the Youth Guarantee implementation plan in line with the EU model and guidance;
- introduce a uniform minimum level of maternity leave benefits and protection throughout the country, starting by harmonising the definitions of maternity, paternity and parental leave.

The **labour laws**, in place at the level of the entities and Brčko District, apply to all employees except civil servants, and guarantee a minimum level of protection of employee rights. In order to fully meet EU standards, the legal framework would need to be further improved, notably as concerns the protection of workers from discrimination.

In January 2023, the new Brčko District Law on employment and rights during unemployment entered into force, replacing an earlier law. The new law increases unemployment benefits, extends the duration of the right to unemployment benefit, regulates public works and establishes the obligation to develop a Brčko District employment strategy.

The right to strike is regulated by the entity-level labour laws and by the laws on striking that are in place at all levels of the government. Implementation of the labour laws remains inadequate, especially when it comes to social dialogue, protection of workers and the enforcement of labour inspections. Shortcomings in labour laws as concerns crisis management, were made clear during the COVID-19 pandemic. For instance, the labour legislation generally lacks provisions regarding remote work and organisation of work during emergency situations.

Laws on **health and safety at work** are in place in the entities and the Brčko District. Following the adoption of new occupational safety and health law in the Federation entity, new bylaws regulate risk assessment, the licencing of authorised entities and the performance of periodic review in the area of occupational safety and health. The bylaws regulating specific aspects of occupational safety and health are not harmonised with the EU *acquis* throughout the country.

The enforcement and implementation of legislation remains partial, especially when it comes to inspection capacity, proper prevention of injuries at work, investment in safety and relevant training for employers, and assistance to conduct a proper risk assessment in the workplace. The system of collection and dissemination of statistical data on work-related injuries and diseases still needs to be improved. Official data on reported accidents and fatalities, along with the most affected sectors, was not published for 2022.

Social dialogue remains weak at all levels and no significant improvements have been made. The involvement of social partners in the implementation of policies is limited as well as their internal capacity. The number of branch and sectoral collective agreements concluded remains low. Economic and Social Councils operate at entity level, with different approaches and effectiveness. The state-level Economic and Social Council has not been established. There are no general collective agreements in the two entities, but a number of branch agreements are in place, limited mainly to the public sector and some state-owned enterprises.

Although laws on social entrepreneurship are adopted in the *Republika Srpska* entity and in Brčko District, their adoption is still pending in the Federation entity. Regarding

employment policy, there is still no country-wide employment strategy in place. A 2021-2027 employment strategy was adopted in the *Republika Srpska* entity, including the Youth Guarantee. An employment strategy still needs to be adopted in the Federation entity.

According to the data of the labour force survey in 2022, only 40.2% of the working age population is employed, but only 47.6% of the working age population is actually active in the labour market, with a markedly lower share of women (less than 40% of the total). When it comes to employment, the share of women is even lower, standing at 36.8% of the total number of employed people. Shares of men and women in the unemployed population are roughly the same, pointing to the significantly lower activity rate of women of working age (over 60% of the inactive population are women). Youth unemployment remains high, as 40% of those aged 15-24 actually looking for work are unable to find it. 81% of the unemployed are younger than 50. Long-term unemployment prevails, as almost 57.8% of the total unemployed have been looking for work for more than 2 years and have been unable to find it. This also points to a mismatch between the outputs of the education system and the real needs of the labour market, and the predominantly structural nature of unemployment.

The highest share in educational structure of unemployed people are those who completed secondary education and specialisation (70.1%), followed by those who completed primary school or lower education (15.3%), and those with a college, university, master and doctoral degree (14.5%).

The trend of labour emigration from Bosnia and Herzegovina to the EU has been increasing for years, with the number of first residence permits in EU Member States granted to Bosnia and Herzegovina nationals rising steadily from 11 506 in 2011 to 56 363 in 2019 and decreasing to 33 147 only in 2021 due to the COVID-19 pandemic.

The capacity of **public employment services** to provide quality services to jobseekers has been gradually improving, but remains weak. The administration of social benefits further limits the ability of public employment services to assist active jobseekers. In the *Republika Srpska* entity the public employment service has been discharged from administrative duties related to health insurance and other social benefits for the registered unemployed. This is not yet the case in other parts of the country.

Bosnia and Herzegovina needs to swiftly complete and adopt the Youth Guarantee Implementation Plan.

The level of informal employment remains high. Measures to reduce informal employment are supported by active employment measures such as self-employment, incentive programmes for employers and improvement of business climate, and some repressive measures and efforts to reduce para-fiscal charges.

On **social inclusion and protection**, there are still no country-wide strategies on poverty reduction, social inclusion and protection. Nor is there a system at state level for monitoring policy implementation. For persons with disabilities, institutional care is still prevalent. The issue of accessibility to public buildings needs to be addressed in a systematic manner. Services within the community that enable independent living are not adequately supported and there is no comprehensive strategy for deinstitutionalisation. At entity level, there is a wide range of strategies and laws related to social inclusion and protection, but they are not enforced due to lack of funding, inadequate procedures, standards and referral practices, and a general lack of coordination.

The social protection system remains underdeveloped and the effectiveness of social transfers is limited. Social assistance is neither well targeted nor needs-based due to the absence of an

adequate system for data collection. A large number of people in Bosnia and Herzegovina are not covered by public health insurance and as such are not entitled to the basic package of healthcare services. In addition, because of the highly decentralised governance structure, the eligibility conditions for social assistance differ between entities, districts and cantons. Along with differences in eligibility criteria, there are differences in coverage, targeting efficiency and generosity. Cooperation between social service centres and employment services is not well established. The transformation of institutions for social protection and, in particular, of institutions for children without parental care is still ongoing. **Deinstitutionalisation** requires comprehensive reform of financing of new services for both capacity building and support for social service centres across the country. Both entities and Brčko District started developing the roadmap for deinstitutionalisation.

The scope and duration of the employment and social rights related to maternity, paternity and parental leave remains uneven throughout the country. Although most of the existing legislation envisages various rights including mandatory maternity leave and protection from dismissal, the issue of wage compensation for employed parents during maternity leave is still unresolved.

There are still no country-wide systematic measures to improve the situation of older persons. Bosnia and Herzegovina should adopt a new action plan for children, as each entity implements the child reform activities based on their existing strategies and legal framework.

In the Federation entity, a new Law on material support for families with children entered into force in October 2022, introducing uniform standards for the financial support of children and unemployed mothers and reducing some of the inequalities among cantons. However, this law does not regulate wage compensation for employed parents during maternity leave, which remains regulated separately by each canton.

The EU statistics on income and living conditions (EU-SILC) are still not available in Bosnia and Herzegovina, although the country conducted the necessary surveys in 2022 and spring 2023

On **non-discrimination in employment and social policy**, although labour laws within the country address the issue of non-discrimination, there are still different maternity leave benefits and definitions of parental leave across the country. Bosnia and Herzegovina needs to establish uniform minimum maternity leave benefits across the country and harmonise the definition of maternity, paternity and parental leave to eliminate discrimination. Apart from policy frameworks that target the increase of employment opportunities for persons with disabilities, there are no strategies or action plans in place specifically developed for employment-related discrimination. No official data on the employment of persons with disabilities were published. The labour market and social policies have not been very successful in addressing the specific needs of vulnerable populations, including the Roma. According to the mapping performed under the EU supported analysis of persons with disabilities and Roma, around 82% of the Roma interviewed reported that they are either unemployed (40%) or inactive of the labour market (42%). The weak links between the responsible ministries and lack of cooperation constitutes a barrier to progress. In 2022, the Ombudsperson dealt with 387 cases of employment-related discrimination. Complaints concern mainly irregularities in employment, labour rights in general, dismissal procedures and in the payment of pensions. A significant number of workers do not initiate proceedings, nor do they seek judicial protection for fear of being fired. Most public bodies do not have mechanisms for dealing with complaints of harassment and discrimination, as required by the anti-discrimination legal framework.

The principle of **equal opportunities and equal treatment of men and women in matters of employment and social policy** is regulated by the laws on gender equality and antidiscrimination, and by the entity-level labour laws. These laws contain rules on gender equality covering different areas (employment, education, training and professional qualification) but in practice the enforcement of non-discrimination legislation remains low. The employment rate for the population aged 20-64 slightly increased from 39.1% in 2021 to 40% in 2022 for females, and from 66% to 67.7% for men, resulting in a high gender employment gap of 27.7 percentage points. The gender pay gap remains significant, at around 25%.

Chapter 20: Enterprise and industrial policy

EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).

Bosnia and Herzegovina remains at an **early stage of preparation** in the area of enterprise and industrial policy. **Limited progress** was made, notably in updating entity-level industrial policy strategies. The investment environment remains unsatisfactory.

The recommendations from last year were partially implemented, therefore remain in large part valid. In the coming year, Bosnia and Herzegovina should in particular:

- simplify and harmonise business registration in both entities in order to reduce the administrative burden on entrepreneurs, by centralising company registration and licencing under one-stop-shops and by broadening online registration;
- harmonise the industrial policy strategies and action plans of the various levels of government, ensuring coordination and involvement of industrial enterprises in policy formulation and implementation;
- assess the needs of businesses, particularly SMEs, when it comes to modernising skills and adopt strategic guidelines for harmonisation of SMEs and entrepreneurship support.

During the reporting period, the entities and Brčko District continued COVID-19 supported measures for businesses in the form of subsidies and tax relief, while guarantee funds continued operations.

Regarding **enterprise and industrial policy principles**, the *Republika Srpska* entity introduced new indicators and improved databases to monitor implementation of its industrial development strategy and its accompanying action plan. Nevertheless, Bosnia and Herzegovina still lacks a country-wide industrial development strategy and a state-level body promoting consistency between industrial strategies and coherence with other related policies, notably to encourage foreign direct investment, improve the business environment and SME's development, and to effectively adapt to the emerging energy crisis and the rising prices of production inputs.

Limited steps were taken to **improve the business environment** and to attract investments. The *Republika Srpska* entity adopted a decree on direct investments of special importance, aiming to attract investors who will provide better jobs and new technologies. New administrative procedures include the option of electronic access to registration documents and e-settlement of taxes. While electronic registration of businesses was launched in the *Republika Srpska* entity and in Brčko District, the systems are not yet fully functional and interoperable due to delays in the issuing of e-signatures and e-seals. Although laws on bankruptcy are in place throughout the country, bankruptcy proceedings are not resolved in a

timely manner, with insufficient emphasis on companies' rehabilitation and reorganisation.

Despite these developments, the investment environment and the level of competitiveness remain unsatisfactory. Bosnia and Herzegovina still lacks a country-wide strategic framework to encourage foreign direct investment and to improve the business environment. Common causes of informality like high barriers to starting a business and rules on taxes and para-fiscal charges continue to be among the most salient business environment issues, together with 'red tape' and the regulatory differences across various levels of government. Bosnia and Herzegovina lacks a comprehensive inventory of all administrative and technical steps needed for domestic and foreign companies to register and operate, in order to abolish requirements that hamper the single economic space across the country. Bosnia and Herzegovina has not yet provided for the electronic registration of businesses by all levels of government, nor has it improved the connection and coordination of business registers among entities and with the Brčko District. Regulatory impact assessment is applied across the country and has been expanded to cover the impact on SMEs, though it is still often perceived as a mere formal obligation. Overall, the simplification of business-related legislation is being carried out on an *ad hoc* basis and is not harmonised throughout the country, e.g. as regards additional administrative and compliance requirements between entities.

Bosnia and Herzegovina continued to participate in ongoing multi-annual projects funded by the previous EU Programme for the competitiveness of enterprises and SMEs (COSME). The Association Agreement for participation of Bosnia and Herzegovina in the Single Market Programme was signed in July 2023.

Oversight and governance of public enterprises still need to be strengthened, including actions to put public companies on an equal footing with other industrial enterprises and to reduce substantial payment arrears. The *Republika Srpska* still does not have a single register of public companies containing all the required information. Oversight and risk management units have been established and incorporated respectively in the General Secretariat of the *Republika Srpska* entity government and the entity Ministry of Finance. The Federation entity has a single register of public enterprises and has added comprehensive non-financial information. However, no oversight and management units have been put in place in the Federation entity.

Preparations for the **green and digital transitions and global competitiveness of industry**, in line with the EU industrial strategy, are at a very early stage. Only 4% of companies rely on digitalisation and innovation as a key driver to their business growth.

Energy diversification is slowly progressing and Bosnia and Herzegovina's economy is about six times more carbon-intensive than the EU average. Therefore, a greater focus on green investments is required, including actions at the SME level. Evidence-based government support should also improve accountability for the use of public funds and ensure that businesses, in particular SMEs, can obtain financing for the twin transition.

The innovation performance of Bosnia and Herzegovina decreased between 2016 and 2022, in contrast to increasing EU average, widening the gap in innovation performance. As the 2022 Global Innovation Index shows, Bosnia and Herzegovina produces less innovation compared to its level of innovation investments. The low-level commercialisation of research and development is linked to low public investments in this area and the weak linkages for technology transfer and cooperation in clusters (*see Chapter 25 – Science and research*). The collaboration of SMEs and research institutions is not sufficiently developed to create conditions for the application of innovative financing models like innovation vouchers or

collaborative grants. Amending the Law on patents could improve both collaboration and financing of innovation activities for higher value-added business. (*see Chapter 7 – Intellectual property law*)

The capacity and funding to perform monitoring and evaluations of enterprise and industrial policy measures are still limited, and the statistical data remain insufficient to describe the structure and dynamics of industry.

As for **enterprise and industrial policy instruments**, no progress was made in aligning the legislation against late payments in commercial transactions with the EU *acquis*, including in the Brčko District.

As regards **sectoral policies**, the *Republika Srpska* entity adopted its tourism strategy for the period 2021-2027 in January 2022, while the strategy is still pending adoption in the Federation entity.

Chapter 25: Science and research

The EU provides significant support for research and innovation. All Member States can participate in the EU's research and innovation programmes and benefit from them, especially where there is scientific excellence and a solid investment in research and innovation.

Bosnia and Herzegovina has **some level of preparation** in the area of science and research. **Limited progress** was made, notably by developing a roadmap for research infrastructure. The country's research capacity and innovation efforts remain very limited. Overall, the research and innovation gap with the European Union is widening. The recommendations from last year were only partially implemented, therefore remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- develop a new 2023-2028 strategy and action plan for scientific development;
- develop and adopt a smart specialisation strategy;
- improve reporting on research and innovation statistics.

On **research and innovation policy**, the legislative framework regulating research and innovation development remains fragmented and still needs to be improved throughout the country. No action plan was in place from 2017 till 2023. Bosnia and Herzegovina needs to develop and adopt a new strategy and action plan for scientific development (2023-2028).

The country's estimated total allocations for research and innovation remain below 0.3% of GDP. A substantially increased budget, particularly in the area of innovation, is essential for the country's economic recovery. Further progress should be made to ensure reliable and comprehensive statistics on research and innovation, e.g. for the European Innovation Scoreboard and the European Research Area. The country's research capacity remains limited, while brain drain continues, most notably in the health, medical, and IT sectors, with no systematic measures having been introduced so far to address the issue.

The government's efforts in upgrading research and innovation policies and related activities (e.g. the strategy for the development of science and the pending adoption and implementation of the related action plan) as well as grants provided to organisations for submitting proposals under Horizon Europe are delivering some results. However, systemic collaboration and interaction need to be strengthened between 'triple helix' actors – academia, industry and governments. The development of a smart specialisation strategy is still at a very early stage. Its absence hampers research and innovation efforts.

As regards **international cooperation**, Bosnia and Herzegovina takes part in Horizon Europe as an associated country, having competitively received EUR 1.65 million in 2021. Preliminary and partial figures for 2022 show an encouraging increase: so far already EUR 2.1 million have been gained by researchers and innovators from Bosnia and Herzegovina in 2022. The selection of Sarajevo for the Horizon Europe Mission on climate-neutral and smart cities and its outreach to Mostar is encouraging.

Bosnia and Herzegovina is included in the European Innovation Scoreboard, enabling its participation in the European Institute of Innovation & Technology's Regional Innovation Scheme as of 2025; participation in the activities of the European Institute of Innovation & Technology are encouraged. In the scoreboard, Bosnia and Herzegovina was found to be an emerging innovator. Over time, its performance relative to the EU has declined, in particular in the last two years.

Chapter 26: Education and culture

The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policies through the 'open method of coordination'. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

Bosnia and Herzegovina is **at an early stage** of preparation in the area of education and culture. There was **no progress** in the area. A fully functional system of accreditation of higher education institutions and in particular study programmes is still lacking. Bosnia and Herzegovina needs to align legislation at all levels of government with the framework laws on education, and ensure application of the common core curriculum based on learning outcomes. Social inclusion at all stages of education needs to be ensured. Youth strategies across the country should be developed and implemented. Having only been partly addressed, the recommendations of last year's report remain relevant.

In the coming year, Bosnia and Herzegovina should in particular:

- extend and update the action plan for the national qualification framework (NQF) and establish an inter-sectoral commission for NQF;
- ensure a fully functional system of (re-)accreditation of higher education institutions and study programmes across the country;
- ensure continued participation in international assessment studies¹⁶ and the implementation of findings to improve PISA results.

In the area of **education and training**, Bosnia and Herzegovina failed to participate in 2021 PIRLS and 2022 PISA, and has not confirmed participation in 2025 PISA yet. Coordination of the processes linked with participation in international assessment studies needs to be significantly improved. No clear measures have been taken by Bosnia and Herzegovina to address the findings of 2018 PISA and 2019 TIMSS; in the absence of a countrywide approach, some cantons have started reforming their curriculum based on student learning outcomes to improve quality in line with 2018 PISA and 2019 TIMSS recommendations. Bosnia and Herzegovina has, however, decided to join the ICILS 2023, which can help the country to monitor its own national targets regarding students' digital competences and also

¹⁶ International Student Assessment – PISA, Trends in International Mathematics and Science Study – TIMSS and Progress in International Reading Literacy Study – PIRLS, International Computer and Information Literacy Study – ICILS, Teaching and Learning International Survey – TALIS.

to provide information for monitoring progress toward the UN Sustainable Development Goals.

Bosnia and Herzegovina was invited to take part in the European Education Area working groups 2021-2025. These working groups fosters collaboration among European Union Member States, as well as with candidate countries, in order to build more resilient and inclusive national education and training systems and prepare their youth for the green and digital transition.

Activities on implementation of the recommendations for action policies with the roadmap for promotion of inclusive education in Bosnia and Herzegovina should be intensified. The education of children with special needs remains a challenge, particularly in terms of ensuring the necessary infrastructure, provisions, transportation and school assistants to support both children and teachers.

Although the legal framework regulating the collection and systematisation of data for Bosnia and Herzegovina is in place, there is no mechanism to systematically measure or monitor the quality of education inputs, outputs or outcomes. An administrative database has been in operation since October 2022 to manage data needed for reporting to international institutions. However, data does not feed back into the policy-making process. The education system lacks common standards for the different levels of education, as well as for teacher training and performance evaluation. Comprehensive teacher training focusing on developing students' key competencies should be provided and a systematic approach for application of the common core curriculum based on learning outcomes should be established.

Due to demographic changes, the number of students enrolled at almost all levels of education is gradually declining. In early childhood education and care (ECEC), the enrolment rate remains very low but with a positive trend (+16%), now standing at 32%. Only 42% of three-to-five year olds are enrolled in pre-school education, and 25% of three-to-six years old Roma children. Concerning access to primary and secondary education, close to 100% of children are attending primary and 85% attending secondary education. Primary school completion rate is 92% (93% for boys and 90% for girls). Among Roma children, 69% attend primary and 23% secondary education, with a higher enrolment percentage for boys (the attendance of girls is 67% in primary and 18% in secondary education).

There has been limited effort in supporting the digital transformation of education and training, with a lack of a country-wide coordinated approach to the topic, despite the lessons of the COVID-19 pandemic. The country should continue to strengthen efforts towards effective, coherent and inclusive digital transformation of the education and training systems, including the capacity of the systems to develop digital skills.

A country-wide policy document on **vocational education and training** (VET) has been in place since 2021, based on the Riga conclusions. However, no noticeable progress followed its adoption.

There is no progress in developing a national qualification framework for Bosnia and Herzegovina. The related action plan ended in 2020 and should be extended and revised, since it was never operational and no specific commission for the national qualification framework has been established. Bosnia and Herzegovina's national qualification framework is not yet referenced to the European Qualification Framework, nor is there a mechanism for the validation of prior learning. Cooperation between the two accreditation agencies, one at state level and one in the *Republika Srpska* entity, has improved. Bosnia and Herzegovina should significantly intensify efforts to ensure a fully functional accreditation system of higher education institutions and in particular study programmes.

Bosnia and Herzegovina benefits from the international dimension of the 2021-2027 **Erasmus+** programme. In 2022, around 770 higher education staff members and 1 070 students from Bosnia and Herzegovina were selected to undertake a mobility period in EU Member States or associated third countries to the programme, while Bosnian higher education institutions are expected to host around 560 staff members and 490 students from Europe. The number of higher education capacity-building projects selected for funding increased from 8 in 2020 to 12 in 2022. In 2023, for the first time, higher education institutions from Bosnia and Herzegovina were eligible to participate in the call for proposals for the European universities initiative, with one university winning a grant as part of a successful alliance.

In the area of **culture**, Bosnia and Herzegovina is implementing measures under the UNESCO Convention on the protection and promotion of the diversity of cultural expression. The country has to ensure a permanent solution to the legal status and financing for the seven cultural institutions of significance for Bosnia and Herzegovina.

Implementation of the decisions of the Commission to Preserve National Monuments rests on the entities. The budget allocation for culture on all levels of government should be increased with longer-term, multi-annual funding decisions to provide stability for cultural creation and operation. Bosnia and Herzegovina has to establish formal partnership structures enabling transparent and organised participation in cultural policymaking.

Although there are **youth** strategies at some levels of government, Bosnia and Herzegovina should work on a country-wide youth strategy that would ensure equal treatment of young people.

Chapter 29: Customs union

All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementing and enforcement capacity and access to the common computerised customs systems.

Bosnia and Herzegovina has **some level of preparation** in the area of customs union. Customs legislation is not fully aligned with the EU *acquis*. There was **no progress** and last year's recommendations were not implemented. Bosnia and Herzegovina should support the Indirect Taxation Authority and progressively align its systems with EU customs requirements.

In the coming year, Bosnia and Herzegovina should in particular:

- ensure the interoperability of advanced e-signatures on a country-wide basis;
- strengthen the administrative and operational capacity of the Indirect Taxation Authority;
- increase post-clearance checks based on risk analysis, expand use of simplified procedures for reliable economic operators and upgrade interconnectivity and interoperability with the EU's IT systems and requirements.

The body in charge of implementing **customs legislation** and policies is the Indirect Taxation Authority. Further alignment with the Union Customs Code is needed, notably on customs procedures and simplified procedures. The 2015 Law on customs policy, partially aligned with the EU *acquis*, started to be implemented in August 2022 following adoption of the Law on customs offences. It introduced an Authorised Economic Operators program and simplified customs procedures requiring e-signature. No company has been recognised as authorised economic operator so far. The customs tariff and valuation classifications are harmonised with the EU's Combined Nomenclature. Regarding rules of origin, the country

continues to apply the Pan-Euro Mediterranean Convention and has begun the process of adopting the transitional rules of origin in trade with the EU.

Bosnia and Herzegovina is an observer in the Common Transit Convention and intends to join it once it has met all legal and technical requirements. These include the successful implementation of the new computerised transit system (NCTS), which began operating at the national level in August 2022. It will need to upgrade its NCTS system before it can join the Convention.

Bosnia and Herzegovina should also continue aligning its provisions concerning customs enforcement of intellectual property rights. Further alignment is also needed with the *acquis* for authorised economic operators, which has to be achieved through implementation of the Central European Free Trade Agreement (CEFTA) Additional Protocol 5. Cross-border smuggling of tobacco products and other illicit activities in the border regions continue to be an important area where further improvements in cooperation and anti-fraud tools are needed. As part of the anti-fraud effort, accession to the World Health Organization's Protocol to eliminate illicit trade in tobacco products, is recommended.

The **administrative and operational capacity** of the Indirect Tax Authority should be substantially strengthened, especially in key operational posts. Bosnia and Herzegovina needs to progressively align its systems with EU customs requirements, such as the new computerised transit system and internal control standards. Its capacity to conduct a risk analysis is hampered by an inadequate IT system. As a result, customs authorities still perform 60% of checks physically.

CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

This cluster covers Transport (Chapter 14); Energy (Chapter 15); Trans-European networks (Chapter 21); and Environment and climate change (Chapter 27).

Bosnia and Herzegovina is at early stage of preparation in most areas related to the Green Agenda and sustainable connectivity, namely on energy, environment and climate change. Legislation related to gas, electricity, renewable energy and energy efficiency still needs to be adopted. Bosnia and Herzegovina has some level of preparation in the areas of transport and trans-European networks. Additional efforts are needed to improve road safety to reduce traffic fatalities, and to strengthen the regulatory bodies on transport, including civil aviation. Further steps are needed on connectivity reform measures and in aligning with the Trans-European Transport Network (TEN-T) and Trans-European Networks for Energy (TEN-E) Regulations. The green transition and sustainable connectivity are key to economic integration within the region and with the EU. The implementation of the economic and investment plan and the Green Agenda needs further acceleration in the upcoming period.

Chapter 14: Transport policy

The EU has common rules on technical and safety standards, security, social standards State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

<p>Bosnia and Herzegovina has reached some level of preparation in this area, with no progress achieved. It needs to intensify its efforts to further align with and implement effectively the EU <i>acquis</i> in all areas of transport and at all levels of government. Bosnia and Herzegovina still needs to strengthen its administrative capacity, in particular concerning road safety with the establishment of a lead Road Safety Agency, as well as enforcement, inspection and investigation bodies for road transport, railways, inland waterways, combined</p>

/ intermodal transport and civil aviation. Last year's recommendations have not been addressed and remain valid.

In the coming year Bosnia and Herzegovina should in particular:

- develop enforcement capacity to reduce road traffic fatalities and make progress on establishing a national system for continuous road crash data collection;
- reinforce the independence, strengthen the capacity and ensure sufficient funding of regulatory bodies in the field of transport;
- draw up the strategic framework, adopt relevant legislation and ensure sufficient capacity and resources for implementing the intelligent transport system (ITS) on the core networks.

Regarding the **general EU transport *acquis***, Bosnia and Herzegovina is implementing its framework transport strategy for the period up to 2030. The reforms in the transport sector have been insufficient for several years and the pace of structural adjustment is too slow. The necessary investments are being delayed by failure to complete and approve technical documentation, by limited borrowing capacity and by financial constraints. In addition, the lack or change of focus on key priorities and lack of coordination and cooperation between government levels, especially where particular vested interests prevail, create further delays and overall inefficiency. Bosnia and Herzegovina should intensify efforts to deliver on the commitments contained in the Transport Community Treaty, its five actions plans and elements arising from the smart and sustainable mobility strategy for the Western Balkans. For larger transport agglomerations, sustainable urban mobility plans which respect environmental and social standards, should be developed following EU practice.

Further efforts are required to ensure full alignment with the intelligent transport systems (ITS) Directive, improve multimodality and secure the implementation of relevant national laws in the areas of road and rail. An overall strategy for ITS is yet to be adopted and appropriate resources should be allocated for its implementation.

The country is moderately prepared for **road transport**. Bosnia and Herzegovina should implement measures agreed in the TCT road safety action plan to develop climate-resilient, intelligent and resource-efficient TEN-T road networks. Implementation of road safety legislation remains a concern, as there is no visible and substantial decrease in the very high number of accidents and fatalities. Moreover, work is needed to tackle the discrepancy between the national figure and the significantly higher WHO estimate. There is still a lot to do to develop a harmonised road crash database system. The Ministry of Communications and Transport still needs to establish a lead road safety agency and a country-wide system for the continuous collection of road crash data, as a long-standing point of the TCT road safety action plan. Bosnia and Herzegovina needs to adopt, as an outstanding opening issue, a state-level law on the international transport of dangerous goods by road. It also still needs to strengthen its mechanisms for monitoring the implementation of the relevant international rules and EU legislation, including those on transportable pressurised equipment, roadside checks of vehicles and road safety. Bosnia and Herzegovina has not yet aligned its legislation with the Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management. It is highly recommended that Bosnia and Herzegovina establish a licensing system for road safety inspectors and auditors as well as to adopt the rulebooks for road safety inspections and audits.

On **rail transport**, Bosnia and Herzegovina is moderately prepared, but made only limited progress in the reporting period, mainly in developing, maintaining and improving

infrastructure; technical documentation for such interventions is under preparation. However, half of the railway infrastructure remains unsafe, outdated and unreliable, and cannot enable suitable international transit on the network. The country still needs to adopt the multi-annual maintenance plan for the entire core network, as the country-wide coordination of infrastructure interventions on railways is degrading. In line with EU standards, and as required by the TCT rail action plan, Bosnia and Herzegovina should use modern ITS for the reconstruction and new construction of railway sections. EU standards are not fully and systematically implemented, since less advanced variants – even sometimes incompliant with ITS – are deemed more cost-efficient, in particular in the *Republika Srpska* entity, although design and 50% of grants for reconstruction activities are funded by IPA programmes.

Bosnia and Herzegovina still needs to fully align the law on railways with the fourth EU railway package and to open the railway market. The railway laws in both entities aiming to provide non-discriminatory access to the network are to a large extent not compliant with EU *acquis* and still need to be reviewed. Another outstanding issue is the lack of progress on alignment with the *acquis* on rail passenger rights. Equally, network statements are prepared but still not published, and the amendment of the law on railways to enable the establishment of independent bodies, namely the railway safety authority and railway accident investigation body, is still pending. There was still no progress on negotiating protocols on railway border-crossing procedures with Croatia, due to technical concerns on border and customs-related issues.

On maritime transport Bosnia and Herzegovina remains at an early stage of preparation, as this is not considered a priority, since the country has very limited access to the sea and has neither a commercial port nor a maritime fleet. Institutional set-up to enable Bosnia and Herzegovina to become a maritime shipping flag holder country would bring a strong economic contribution to the economic prosperity of the country.

Inland waterway transport is at an early stage of preparation. The institutional, legal and regulatory set-up of waterway transport in Bosnia and Herzegovina still need to be developed to ensure the safety of navigation on inland waterways and its maintenance.

Preparation on **civil aviation** is still at a standstill. Although the Air Navigation Services Agency has been operational since December 2019, the 2009 Law on civil aviation still needs to be aligned with the requirements of the European Common Aviation Area Agreement (ECAA). Bosnia and Herzegovina urgently needs to address the chronic lack of adequately trained and qualified staff and the institutional set-up within the Bosnia and Herzegovina Directorate of Civil Aviation (BHDCA), which increases the risks of safety oversight. Although the new management has been in place for more than 2 years, it has not yet addressed this issue. There is no progress in harmonising legislation with the EU Regulation on passenger rights. Bosnia and Herzegovina needs to enhance the independence of the civil aviation regulator to reverse the negative trend.

Bosnia and Herzegovina has not started to develop its policy, institutions, legal and regulatory framework on **combined / intermodal transport**. The low level of priority in this sub-sector is caused by a physical infrastructural bottleneck at the Ivan tunnel and Bradina ramp on the railway in Corridor Vc, as well as by the inertia of the relevant institutions and administration.

Bosnia and Herzegovina should increase efforts to align with and implement **EU passenger rights** legislation.

Chapter 15: Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy, nuclear safety, radiation protection and nuclear safeguards.

The country remains at an **early stage of preparation** in the area of energy. **Limited progress** was made with the adoption of the law on electricity, the law on energy and the law on renewable energy in the Federation entity. Bosnia and Herzegovina still needs to make significant efforts to strengthen country-wide cooperation and coordination and improve the fragmented and inconsistent legislative and regulatory framework. Last year's recommendations have not been implemented and remain valid.

- In the coming year, Bosnia and Herzegovina should in particular: adopt gas and electricity laws and bylaws, in compliance with the third energy package and the Energy Community Electricity Integration Package, at state and entity levels and ensure the full harmonisation of laws at entity level in the area of electricity and gas to prevent delays in coupling with the EU internal electricity market;
- adopt state- and improve entity-level legislation on renewable energy and energy efficiency in line with the obligations stemming from the Energy Community Treaty and the commitments from the 2020 Sofia summit declaration on the Green Agenda for the Western Balkans; and
- finalise and adopt the national energy and climate plan (NECP) 2021-2030 by the end of June 2024, in line with the Energy Community 2030 energy and climate targets, taking due account of recommendations issued by the Energy Community Secretariat.

The national energy strategy of Bosnia and Herzegovina, adopted in August 2018, is outlined in the framework energy strategy until 2035. Its implementation is ongoing. Bosnia and Herzegovina still needs to finalise and adopt the national energy and climate plan (NECP) 2021-2030, which will replace the national energy strategy and the national energy efficiency action plan. Civil society organisations are involved in the drafting process.

Measures to improve **security of supply of electricity** need to be redirected from coal to renewables. A decision for an extension of the Tuzla coal-fired power plant (Block 7) is still pending. This may increase the country's security of supply, but might also significantly prolong dependency on coal which is not in line with the country's commitments to decarbonisation. An important supplier has stepped out of the Tuzla Block 7 contract. Although the Chinese consortium proposed to replace the contractor, the Federation entity did not agree to this. A final decision will have to be taken by the Federation entity's Parliament. The State Aid Council is yet to decide on the public guarantee granted in favour of the Export-Import Bank of China for a loan for Tuzla 7.

After the Federation's entity Parliament took the decision to extend the lifetime of two units of the Kakanj and Tuzla power plants, the Energy Community Secretariat opened an infringement procedure against Bosnia and Herzegovina in October 2022.

Bosnia and Herzegovina has not yet taken any actions towards gradually phasing out coal subsidies, although the country is considering how to align with the EU Emissions Trading System (ETS) to promote decarbonization. This will be particularly challenging for a country whose energy production and industry largely depend on fossil fuels. The appointment of the management of Transco is still pending.

Bosnia and Herzegovina needs to align with and implement the risk-preparedness regulation to increase resilience in the event of another energy crisis.

Regarding **security of supply** for **natural gas**, although only 3% of the energy supply comes from gas, the country is fully dependent on one gas pipeline which supplies gas through Turkish Stream, from Russia as its single source, rendering Bosnia and Herzegovina vulnerable in case of disruption. Both the Federation entity and *Republika Srpska* entity have a long-term contract with Gazprom.

The Federation entity should accelerate the adoption of the law and permit procedures on the Southern Gas Interconnector project, one of the flagship projects of the EU's Economic and Investment Plan, that will contribute to strengthening the integration into the European gas market and increasing the security of supply. Proposals for a new Eastern Gas Interconnector, to be funded by Gazprom, would not contribute to the diversification of gas supply. Decisions on both interconnectors need to be approved by the Presidency.

The former refinery in Brod that was connected to Croatia's natural gas network in 2021 without the required state-level approval remains in breach of the legal framework.

There was still no progress in the harmonisation of legislation on compulsory oil stocks and petroleum products. The development of the necessary legislation, establishment of a body at state level on compulsory oil stocks and harmonisation of legislation at entity level are still pending.

To prevent further delays in the opening and unbundling of energy markets and comply with the third and fourth energy package, Bosnia and Herzegovina still needs to adopt outstanding gas and electricity legislation, including alignment and implementation of the newly adopted Energy Community Electricity Integration Package. Some progress was made in the Federation entity with the adoption of the Law on electricity and the Law on energy. The country needs to adopt state-level legislation on electricity to enable electricity market coupling, appointment of the nominated electricity market operator (NEMO), establishment of the power exchange, and day-ahead and intra-day markets as a precondition to further integrate with the EU internal market, including market coupling. The entity-level laws will need to be fully harmonised with this legal framework. The country still needs to adopt and enforce a new law for adequate restructuring, certification, and operation of the gas transmission system operator in accordance with the third energy package.

On retail market, the electricity markets in both entities are formally open to competition. Introduction of the virtual power plant model in April 2022 has enabled small-scale renewable energy sources to reach wholesale markets via aggregation and most renewable energy producers stepped out of the support schemes in both entities. Regulated prices and tariffs do not reflect costs, as the energy sector is subsidised by direct and indirect subsidies.

Some measures protecting energy-vulnerable groups and mitigating energy poverty remain in place, focusing solely on direct financial support and only targeting the most vulnerable groups, notably recipients of various social welfare benefits.

Gas customers in the Federation entity are still captive. In the *Republika Srpska* entity, only a small portion of the gas market is supplied under regulated tariffs. Switching rules are in place. On the wholesale market, gas prices are not regulated in the *Republika Srpska* entity. In the Federation entity, the prices are regulated by the Ministry. Third-party access is granted under regulated tariffs for the gas network in the *Republika Srpska* entity. In the Federation entity, negotiated third-party access still applies to transmission and distribution networks. The gas market remains closed without adequate regulatory oversight and lacks

transparency, particularly regarding setting prices for end consumers. For electricity, the regulatory authorities at all levels are operational, but their independence continues to be hampered by political interference.

On **hydrocarbons**, the country has yet to align the legislative framework with the EU *acquis*, including the Directive on the safety of offshore oil and gas installations.

There has been some progress on **renewable energy** as the Federation entity adopted the law on renewable energy and both entities are currently working on secondary legislation; a state-level legal framework is still lacking. Both entities need to launch renewable energy support scheme auctions. In June, the *Republika Srpska* entity signed a direct agreement with the service provider to use electronic registers for issuance, cancellation and trade of guarantees of origin; the Federation entity is expected to do the same at the end of the year.

There are no limits on the maximum power which can be integrated into transmission electricity from non-dispatchable renewable energy sources. Despite large capacity, there are only three wind parks in place and an increasing number of solar PV plants. Hydropower planning continues to be carried out without consulting all stakeholders and without respecting the Espoo Convention on transboundary environmental impact assessment. Despite existing legal obligations, environmental impact assessments are still not consistently prepared and lead to protests and challenges in court, such as on the Buk Bijela hydropower plant (*see Chapter 27 – Environment and climate change*).

Further alignment with EU standards is still required for issuing, transferring and cancelling guarantees of origins and using minimum levels of renewable energy in new buildings and existing buildings subject to major renovation.

Renewable energy producers have priority access to the grid and pay 50% of the fixed part of the connection costs. On the distribution level, producers in the *Republika Srpska* entity have to fully cover connection costs, while renewable energy producers in the Federation entity cover 50% of the calculated average value of the connection costs.

On **energy efficiency**, no progress has been made in harmonising the legislation with EU requirements.

Bosnia and Herzegovina made no further progress on **nuclear energy, nuclear safety and radiation protection**. The country has no nuclear sites on its territory, nor does it have plans to build any. The country should still consider becoming a member of the European Community Urgent Radiological Information Exchange system (ECURIE). Bosnia and Herzegovina should also increase the administrative capacity and financial resources of the State Regulatory Agency for Radiation and Nuclear Safety, to meet international commitments on data submission and improve coordination and reporting.

On **nuclear safeguards**, upon accession, the existing systems of accountancy and control of nuclear materials in Bosnia and Herzegovina would need to be adapted to accommodate for the safeguard provisions (chapter 7) of the Euratom Treaty.

Chapter 21: Trans-European Networks

The EU promotes trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.

Bosnia and Herzegovina has some level of preparation in trans-European networks. There was limited progress in the area, with the continuation of the Corridor Vc motorway
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development. However, transport and energy infrastructures remain insufficiently developed and the implementation of connectivity reform measures remains slow. Therefore, the recommendations from previous reports remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- continue with the development of the indicative extension of the TEN-T and TEN-E core networks in line with the priorities identified in the economic and investment plan for the Western Balkans, the Green Agenda and the Transport Community five-year rolling work plan for the development of the indicative TEN-T extension in the Western Balkans;
- accelerate the implementation of connectivity reform measures and continue with the adoption of the multi-annual maintenance plans for the entire road and rail core networks;
- align the legislation with Regulation (EU) N° 347/2013 on guidelines for trans-European energy infrastructure.

On transport networks, Bosnia and Herzegovina participates in the Transport Community meetings, however, the country should increase efforts and resources to deliver on the obligations contained in the Transport Community Treaty action plans.

Bosnia and Herzegovina should accelerate the implementation of connectivity reform measures and aim to continue with the adoption of the multi-annual maintenance plans for the entire road and rail core networks. Border-crossing agreements with neighbouring countries remain a challenge; more efforts are required to strengthen mutual relations and cross-border cooperation.

In May 2023, Bosnia and Herzegovina signed a high-level agreement with the Commission to adapt the TEN-T network. Priority connectivity projects on the indicative TEN-T core network to the Western Balkans have been planned through the single project pipeline. The preparation and implementation of these projects continued during the reporting period. In relation to the Corridor Vc motorway, works on the Medakovo-Ozimice subsection started, while 90% of works were completed for the subsection Ponirak Vraca-Zenica tunnel in September 2023. Bosnia and Herzegovina and Croatia still need to agree on the category of the Svilaj border crossing. Efforts are still necessary to speed up construction, improve preparedness and close the financing gap to complete the construction of the Corridor Vc motorway in the Federation entity. As regards the two infrastructural investments located in the *Republika Srpska* entity (Corridor Vc road and rail), the Commission has taken no decision on the issue yet and will assess when the time is ripe to proceed with the signature of the contribution agreements.

Although the construction of the interstate bridge between Bosnia and Herzegovina and Croatia at Gradiška was completed in May 2022, the border crossing is expected to become operational in 2023 upon completion of the access expressway on Croatian territory. Technical documentation and tender dossiers for Route 2b of the comprehensive road network and Banja Luka-Lašva and the main design for the Route 2a core network have been finalised. Conceptual design for railway route 9a Tuzla-Zvornik and technical documentation and tender dossiers for Corridor Vc sections Sarajevo-Doboj and Visoko-Konjic have been finalised, but not endorsed yet by the final beneficiary. A serious effort is needed to accelerate progress in the rail core network where investments continue to be limited in particular due to lack of financial support through fuel levies, as it was done for roads and motorways. The navigability of the Sava River still requires further demining and rehabilitation. Work on the rehabilitation of the Brčko Port is progressing. .

On energy networks, Bosnia and Herzegovina has not made any progress in aligning with

Regulation (EU) No 347/2013 on guidelines for trans-European energy infrastructure in the reporting period, so the infringement established by the Energy Community in November 2018 has still not been rectified.

Bosnia and Herzegovina should finalise the single project pipeline to also include the energy sector; this will ensure the eligibility of the project of Energy Community interest (Trans-Balkan corridor) and the two mutual interest gas projects (North and South interconnectors with Croatia). More efforts are required to accelerate progress for the preparation and development of these projects. Tender documentation for the southern gas interconnector with Croatia (Zagvozd – Posušje – Novi Travnik with a branch to Mostar) is prepared. Bosnia and Herzegovina remains heavily dependent on carbon-intensive infrastructure and still needs to develop its regional connections to unlock the potential of the economic and investment plan and the Green Agenda for the Western Balkans.

Chapter 27: Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

Bosnia and Herzegovina is **in between an early stage and some level of preparation** in the area of environment and climate change. **Limited progress** was made with the adoption of a national adaptation plan and a national climate-change adaptation and low-emission development strategy. To align with the EU climate *acquis* and implement and enforce it, Bosnia and Herzegovina still needs to reaffirm its political commitment and set up the necessary administrative capacity at all levels of government. It needs to ensure an even, country-wide harmonised and consistent approach in strategic planning and alignment with the EU *acquis*, in particular in the field of air quality, industrial emissions and water and waste management. In May 2023, Bosnia and Herzegovina ratified the agreement on its membership in the Union Civil Protection Mechanism (UCPM), showing its capacity to bring together the relevant decision making structures. Bosnia and Herzegovina needs to continue working to further improve its national civil protection system and especially that international assistance is provided in a coordinated manner at national level. The recommendations from last year were not fully addressed and remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- implement the country-wide environmental approximation strategy and adopt an environmental protection strategy, and provide for a consistent and uniform application of environmental *acquis* across the country;
- urgently formalise the procedures for the appointment and functions of the national focal point for Bosnia and Herzegovina for the implementation of all environmental conventions to which Bosnia and Herzegovina is a signatory;
- continue implementing the Paris Agreement by putting in place policies and measures to deliver on its updated nationally determined contribution (NDC), implement the revised climate-change adaptation and low-emissions development strategy, adopt an integrated national energy and climate plan (NECP), and urgently prepare alignment with the EU Emissions Trading System (ETS) in line with the Energy Community requirements.

Environment

Horizontal legislation is aligned with the EU *acquis* to a limited extent. The willingness to act and capacity to ensure country-wide harmonisation with the EU *acquis* continues to be limited, leaving the environment sector unevenly regulated across the country. The environment approximation strategy still needs to be fully harmonised and implemented, requiring a single integrated action plan. Bosnia and Herzegovina still needs to enhance the legal framework, strengthen administrative capacity and monitoring systems, implement structural reforms, and improve inter-institutional coordination, in line with the Green Agenda for the Western Balkans and the 2050 climate neutrality target. Bosnia and Herzegovina still needs to adopt a country-wide environmental protection strategy and to align the provisions of Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) in the legislation at all levels of government and across relevant sectors. The provisions need to be considerably strengthened and enforced, and the necessary improvements need to be made on access to information and the participation of the public in the decision-making process. Bosnia and Herzegovina needs to implement the provisions of Espoo convention concerning planned investments in the transboundary context (*see also Chapter 15 - Energy*). A strategy and functioning structure for gathering, transferring and reporting environmental data still needs to be adopted. The legal framework regulating environmental inspections and their enforcement needs to be improved in line with the EU *acquis*. Stricter control of pollutants and polluter-pays principle have to be put in place. Alignment with a number of horizontal environmental directives such as the Directive on environmental liability, the Directive on infrastructure for spatial information (INSPIRE) and the Directive on environmental crime is still pending. The long-overdue requirement for formalising the procedure for the appointment of national focal points concerning the implementation of environmental conventions to which the country is a signatory party, has yet to be met.

Alignment with the *acquis* on **air quality** did not progress. A well-functioning harmonised air monitoring network still needs to be established to be able to provide reliable data, and a programme for air-quality improvement needs to be developed. Alignment with the EU Directive on the reduction of national emissions of certain atmospheric pollutants, establishment of functional national emission inventories and reporting and full ratifications and implementation of the Air Convention and its protocols, are still pending. The country remains in serious and persistent breach of the Energy Community Treaty on alignment with the *acquis* on reducing the sulphur content of certain liquid fuels, on which penalties have been applied since January 2021. Alignment with *acquis* on volatile organic compounds (VOC) is lagging behind.

A country-wide strategy for **waste management**, with particular attention to the circular economy context, the EU plastic strategy and the Single-Use Plastics Directive still needs to be developed. To align with the landfill Directive, Bosnia and Herzegovina needs to close down or rehabilitate non-compliant landfills. Awareness-raising measures are required to reduce waste generation and promote reuse and recycling. Alignment with the *acquis* on sewage sludge, batteries, packaging, polychlorinated biphenyls / polychlorinated terphenyls and end-of-life vehicles is still required.

On **water quality**, a consistent and harmonised country-wide strategy and sustainable investment plan on water management and urban wastewater management is still missing. Specific plans for implementing EU legislation on drinking water, urban wastewater and flood risk management still need to be adopted. A countrywide roof report for Bosnia and Herzegovina on river basin management plans still needs to be adopted, as well as a revised

action plan for flood protection and river management. Flood hazards and risks are being mapped for the entire country.

There is no progress on alignment with the *acquis* on **nature protection**. The list of potential Natura 2000 sites and implementing legislation still needs to be adopted. Investments in renewable energy need to comply with all relevant EU *acquis*, including the nature *acquis* (see Chapter 15 - Energy). A system to systematically monitor biodiversity still needs to be established. While Bosnia and Herzegovina reports to the Convention on international trade in endangered species of wild fauna and flora (CITES), full implementation of the Convention and capacity building need to be strengthened. Bosnia and Herzegovina should prepare the legislation and establish the conditions for ratification and implementation of the Nagoya Protocol on access to genetic resources and fair distribution of profits generated by their use.

There is no progress on alignment with the *acquis* on **industrial pollution control and risk management**. The pollutants release and transfer register (PRTR) protocol to the Aarhus Convention still needs to be ratified. This includes the obligation to report to PRTR at country level, enabling public access to and integration of the collected data and its transmission to the EU institutions. Bosnia and Herzegovina needs to ensure the implementation of the national emissions reduction plan (NERP) and adopt technical and financial measures necessary for that purpose. Bosnia and Herzegovina still needs to further align with the directives on industrial emissions, eco-labelling and eco-management and audit schemes. It should also align with the Directive on the control of major-accident hazards involving dangerous substances (Seveso III).

On **chemicals**, the country's alignment with the EU Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) Regulation remains uneven. Alignment with the EU Regulation on classification, labelling and packaging of substances and mixtures (CLP) and appointment of the responsible bodies to formulate the necessary preventive and remedial measures are still needed. Alignment with the *acquis* on asbestos and on the protection of animals used for scientific purposes is also lagging behind. Bosnia and Herzegovina still needs to implement the Rotterdam Convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade, to which it is a party. There has been no progress in acceding to the Minamata Convention.

Significant further efforts are still needed to align with the *acquis* on environmental **noise**.

In recent years Bosnia and Herzegovina made significant progress in building the capacity of its **civil protection** system at local and entity levels. In May 2023, Bosnia and Herzegovina ratified the agreement on its membership in the Union Civil Protection Mechanism (UCPM). As a participating state of the UCPM, Bosnia and Herzegovina is expected to actively participate in activities under the mechanism and ensure, when necessary, that international assistance is provided in a coordinated manner at national level. A positive development of the coordination at the national level was demonstrated when Bosnia and Herzegovina offered assistance to Slovenia via the UCPM in response to floods in August 2023. The country needs to proceed with establishing Trans-European Services for Telematics between Administrations (TESTA) as a precondition to be connected to the Common Emergency Communication and Information System (CECIS), improve legislation for preparedness and response, and strengthen governance. Bosnia and Herzegovina still needs to speed up the implementation of the 2020-2025 action plan on civil protection. A comprehensive training programme for emergency response units still needs to be developed and systematic inspections ensured. Bosnia and Herzegovina still needs to make additional efforts to establish the 112 European single emergency number, also adopting the necessary legal basis.

Climate change

The level of alignment with the EU **climate acquis** remains limited. Bosnia and Herzegovina still needs to adopt a country-wide climate strategy to align with the new EU climate *acquis* as per the important modifications brought in by the Fit for 55 package, and develop a state-level framework law on climate change. In line with the Green Agenda, Bosnia and Herzegovina is urged to take the necessary steps to prepare alignment with the EU Emissions Trading System (ETS) to advance the implementation of the EU *acquis*, prioritise alignment with the new governance regulation, and adequately prepare for the EU Carbon Border Adjustment Mechanism, that enters into force in its transitional phase as of 1 October 2023. In October 2022, Bosnia and Herzegovina adopted the national adaptation plan with measures until 2030 and submitted it to the UN Framework Convention on Climate Change (UNFCCC) secretariat; it also published a national climate change adaptation and low emission development strategy consistent with the EU 2030 framework on climate and energy policies. Both will need to be implemented. Bosnia and Herzegovina needs to finalise and adopt the 2021-2030 national energy and climate plan (NECP) by the end of June 2024 (*See Chapter 15 – Energy*). The country still needs to significantly reinforce its administrative and inspection capacities in the sector and structural reforms need to be implemented to ensure meaningful implementation of the required measures.

Bosnia and Herzegovina needs to step up the implementation of its revised nationally determined contribution for 2020-2030 (NDC) submitted in 2021 to the UNFCCC. It plans to reduce greenhouse gas emissions by slightly more than one third by 2030 and almost two thirds by 2050 compared with 1990. There has been no progress in aligning with the EU monitoring and reporting regulation. There is still no national greenhouse gas emissions inventory system or accompanying state-level legal regulatory framework. No progress has been made in aligning with the directives on fuel quality, ozone depleting substances, fluorinated gases, carbon capture and storage or on other relevant legislation. Following ratification of the Kigali amendment to the Montreal Protocol on substances that deplete the ozone layer in 2021, Bosnia and Herzegovina is urgently required to freeze hydrofluorocarbon production and use in 2024, with an 80% reduction by 2045.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

This cluster covers: agriculture and rural development (Chapter 11); food safety, veterinary and phytosanitary policy (Chapter 12); fisheries and aquaculture (Chapter 13); regional policy & coordination of structural instruments (Chapter 22); and financial & budgetary provisions (Chapter 33).

While implementing the 2018-2021 strategic plan for rural development, Bosnia and Herzegovina must step up its efforts to adopt a post-2021 country-wide strategy for rural development and start implementing agricultural reforms in order to reduce the number of small and ineffective farms as well as fragmentation of agricultural land. The Parliament adopted a state-level Law on the organisation of the wine market in August 2023. It has yet to adopt a state-level law on organic production and harmonise across the country the legislation on quality policy. It needs to align the legislation on food safety, veterinary and phytosanitary policy and strengthen its administrative capacity; in particular, it should speed up preparations for national reference laboratories, implement an updated national salmonella control plan and maintain vaccination against rabies and brucellosis. Bosnia and Herzegovina must step up its efforts to prepare and adopt a country-wide strategy on fisheries and aquaculture and harmonise data collection. It should start preparing a country-wide regional

development strategy, improve public investment planning and develop a single project pipeline in all relevant sectors. It should take steps to ensure the management of own resources, notably by reinforcing the capacity of the Indirect Tax Authority to implement customs legislation effectively, stepping up the fight against tax and customs fraud, and adopting a master plan for the production of national accounts.

Chapter 11: Agriculture and rural development

The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.

Bosnia and Herzegovina is at an **early stage of preparation** in the area of agriculture and rural development. There was **limited progress** in implementing last year's recommendations, with the adoption of a state-level Law on the wine market, for which the related by-laws now need to be adopted. Bosnia and Herzegovina is unevenly implementing the 2018-2021 strategic plan for rural development and has not yet made any significant steps in the adoption of a post-2021 state-level strategic plan; it still needs to adopt a state-level law on organic production and to update the legislation on quality policy, in line with the EU *acquis*. The 2022 recommendations remain broadly valid.

In the coming year, Bosnia and Herzegovina should in particular:

- complete the implementation of the 2018-2021 strategic plan for rural development, in particular by harmonising across the country and aligning with the EU *acquis* and adopt a country-wide strategy for agriculture and rural development for 2022-2027;
- adopt a state-level law on organic production and all the required by-laws for the implementation of the Law on the organisation of the wine market, in line with the EU *acquis*;
- update and adopt a state-level law on quality policy, in line with the EU *acquis*.

Concerning **horizontal issues**, the necessary administrative structures required for the common agricultural policy (CAP), including a paying agency, were not established and there was no progress in developing elements of an integrated administration and control system (IACS) or a farm accountancy data network (FADN). Bosnia and Herzegovina needs to improve sector coordination and strengthen administrative capacity at all levels of government. For the country to benefit from the instrument for pre-accession assistance for rural development (IPARD), the authorities need to set up the necessary institutional structures. Direct payments still need to be aligned with the EU *acquis*. Bosnia and Herzegovina needs to develop farm advisory services.

As regards **common market organisation (CMO)**, there was no progress in preparing and setting up the regulatory framework in line with the EU *acquis*. The Parliament adopted a state-level Law on the organisation of the wine market, for which all required by-laws now need to be adopted for it to start being applied. The setting up of a register of grapes and wine producers and of a vineyard register is still pending.

Bosnia and Herzegovina made no progress in harmonising **rural development** programmes and support measures. The relevant levels of government should address it in their policy implementation.

Reporting on the implementation of the 2018-2021 strategic plan for rural development is lacking, as the last report available is from 2018. The system of data collection and processing for planning agricultural and rural development policies and its implementation as well as monitoring and reporting needs to substantially improve. A 2022-2027 country-wide strategic plan for agriculture and rural development still needs to be adopted.

No progress was noted **on quality policy**. The legal framework still needs to be improved and harmonised with the relevant EU *acquis* and a clear distribution of competences in this area is needed.

There was no progress on **organic farming**. The state-level law still needs to be developed in line with the EU *acquis* and the regulatory framework harmonised across all levels of government. Support measures remain unevenly implemented across the country.

Chapter 12: Food safety, veterinary and phytosanitary policy

EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with the quality of seeds, plant protection material, the protection against harmful organisms and animal nutrition.

Bosnia and Herzegovina has **some level of preparation** in this area. **No progress** was made over the reporting period. Significant work is still necessary to align with the EU *acquis*, particularly as regards official checks, animal health and plant health. The administrative capacity of laboratories has yet to be strengthened and official checks need to be bolstered. To ensure alignment with the EU *acquis*, the country's central databases and animal registers require further improvements. The Commission's recommendations from last year were not met, therefore they remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- introduce inter-laboratory comparative test system as a regular practice, particularly between laboratories in charge of the analysis of samples for notifiable diseases, to increase checks and administrative capacity, especially of inspection services and laboratories;
- speed up preparations for national reference laboratories through further alignment with the *acquis*, and notably by increasing the accreditation of laboratory methods used in hygiene, veterinary and phytosanitary inspections, food and feedstuff analysis;
- improve the action plan for reliable certification of the necessary animal health statements contained in the certificate for the export of fresh meat to the EU market;

In the area of **general food safety, food safety rules and specific rules for feed**, no progress was made in improving the current system to fulfil the public and animal health requirements for the export of bovine, ovine and caprine meat. This means the authorities still cannot reliably certify the necessary animal health statements contained in the certificate for the export of fresh meat and meat products to the EU market. The database for animals and official checks is not fully reliable, and the surveillance programme for relevant notifiable diseases is very limited. Official laboratories lack the necessary capacity and are not accredited for methods to detect foot and mouth disease. Bosnia and Herzegovina prepared its action plan aiming to respond to the inefficiencies identified, but these have not yet been addressed.

Further work is still needed to improve the official control system in Bosnia and Herzegovina, notably for the registration of farm holdings and the deregistration of holdings

that are no longer active, plus to ensure the reliability of livestock numbers and species present on active holdings. Substantial work is also required to ensure the reliability of information in the central database for animal identification. Alignment has yet to be ensured for the surveillance of notifiable diseases, particularly when it comes to an early detection system and the awareness-raising of farmers. The inter-laboratory comparative test system in Bosnia and Herzegovina is still not set up, so not all laboratories can take part in disease validation and verification on a regular basis. The full national reference laboratories system is still not in place. To fully implement the EU *acquis* in this area, the setting up of national reference laboratories for food and feed needs to be stepped up; hygiene, veterinary and phytosanitary checks need to be improved; and the accreditation of laboratory methods used for these checks needs to be accelerated. Bosnia and Herzegovina has not yet met the criteria for the export of table eggs to the EU and its updated national salmonella control plan is not yet fully implemented. No progress was made on setting up its flock register, nor in ensuring the availability and completeness of data to ensure accurate reporting, in particular regarding prevalence and incidence.

Bosnia and Herzegovina's alignment with the EU *acquis* remains low, notably on the state-level laws on food (2004) and veterinary medicine (2002). A state-level law on official checks has not yet been prepared or adopted, and both the law on animal health and the law on animal welfare have yet to be updated. Further work is still necessary to implement effectively and harmonise the legislation at all levels of governance, particularly the hygiene package.

Bosnia and Herzegovina continued to monitor pesticide residues in and on food of plant and animal origin. The system for recognition of mineral and spring waters as well as for table waters was improved and the state register of these waters was updated.

No progress was made on **veterinary policy** and substantial work is still necessary on the control, prevention and eradication of communicable animal diseases. Significant work is required to improve monitoring and surveillance of brucellosis and rabies, which is not yet considered eradicated in Bosnia and Herzegovina as well as to improve coordination of managing the outbreak of African swine fever.

The country's system of managing animal disease notification and outbreak information is not yet aligned with the EU *acquis*; nor are the central animal identification and registration systems for sheep, goats, pigs and horses. While Bosnia and Herzegovina obtained permission to export fishery products to the EU market, there continue to be concerns about the monitoring of residues and contaminants in live animals and animal products, including inspections of veterinary medicinal products.

No progress was made concerning the **placing on the market of food, feed and animal by-products**. Bosnia and Herzegovina's food and feed control system is not yet aligned with the EU *acquis* and further structural and administrative work is still necessary at all levels of the government, particularly concerning inspection services and laboratories, for which inter-laboratory comparative tests have still not been introduced.

In the area of **phytosanitary policy**, to align with the EU *acquis*, reforms are still needed. Key state-level laws, notably the new plant health law and a state-level law on official checks, have not been adopted. While the implementation of the programme for special surveillance of quarantine pests for potatoes continued, as well as the registration of plant operators and varieties in a single phyto-registry, no progress was made on issuing plant passports and nor were the OECD seed schemes adopted. The country has not yet fulfilled the EU *acquis* requirements of setting up its laboratories as reference laboratories providing

phyto-sanitary checks. The principles of integrated pest management have yet to be implemented in a harmonised manner.

No progress was made in the area of **genetically modified organisms (GMOs)**, on which the level of alignment with the EU *acquis* remains low. Inspection services at all levels of the government are still insufficient and no progress was made in setting up the country's reference laboratory for testing, controlling and monitoring the presence of GMOs in food and feed.

Chapter 13: Fisheries and aquaculture

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

Bosnia and Herzegovina is at an **early stage of preparation** in this area. There was **no progress**. The country still needs to prepare, adopt and implement a country-wide fisheries and aquaculture strategy in line with EU *acquis*. As the recommendations of 2022 were not implemented, they remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- prepare and adopt a country-wide strategy on fisheries and aquaculture in view of aligning the legislation with the EU *acquis*;
- harmonise the methodology for data collection for fish and fishery and aquaculture products across the country and establish relevant statistics.

There was no progress in developing a country-wide policy framework and legislation on inland and marine fisheries to prepare for the EU's common fishery policy (CFP). Preparation and adoption of a country-wide strategy and state-level legislation on fisheries and aquaculture should be stepped up and country-wide harmonisation ensured.

Institutional capacity and administrative structures need to be substantially strengthened. There are no specific **structural actions** in place to support small-scale and/or inland fisheries and aquaculture.

No progress was made in setting up relevant measures and strengthening administrative capacity to implement **resource and fleet management**. Bosnia and Herzegovina still needs to set up a fleet register and the system for management and control of fishing activities in line with the EU common fisheries policy. On **inspection and control**, the country still needs to improve and harmonise the data on catches and landings per type of fishery. More information is required on methodologies and planning for data collection. Bosnia and Herzegovina still lacks any structural and **State aid** measure in line with the EU *acquis*.

Concerning **market policy**, marketing standards for certain fishery and aquaculture products are in place, but there was no further progress including on the framework to recognise producer organisations in line with the EU *acquis*.

Regarding **international agreements**, Bosnia and Herzegovina continues to cooperate on fisheries with the General Fisheries Commission for the Mediterranean (GFCM), of which it is a cooperating non-contracting party and the UN's Food and Agriculture Organisation (FAO). As a party to the Malta *MedFish4Ever* Declaration, Bosnia and Herzegovina should contribute to its effective implementation.

Bosnia and Herzegovina is encouraged to promote regional cooperation with partner countries.

Chapter 22: Regional policy and coordination of structural instruments

Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU acquis elements such as environmental or public procurement legislation.

Bosnia and Herzegovina remains at **an early stage of preparation** in the area of regional policy and coordination of structural instruments. **No progress** was made during the reporting period. Although the IPA III Framework Partnership Agreement (FFPA) was ratified in August 2022, the obligation to appoint a National IPA Coordinator (NIPAC) for IPA III has not been met. Last year's recommendations were not implemented and remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- prepare a country-wide regional development strategy;
- improve public investment planning and update the single project pipeline in all relevant sectors, and ensure its endorsement by the National Investment Committee and its regular update;
- urgently appoint a National IPA Coordinator (NIPAC) for IPA III and reach an agreement on coordination procedures for the effective use of pre-accession funds while respecting the NIPAC functions as provided for in the IPA II Framework Agreement and IPA III Financial Framework Partnership Agreement.

On the **legislative framework**, Bosnia and Herzegovina still needs to establish a system for managing EU structural funds. It still lacks a number of country-wide strategies in fields relevant to cohesion policy. There is no sound country-wide regional development policy with accompanying institutional structure and performance monitoring framework. The NUTS II regions are only provisionally defined and accepted by the Commission until Bosnia and Herzegovina finalises and agrees the entire classification including definition of the NUTS III level. Bosnia and Herzegovina needs to improve the statistical and analytical basis (including definition of NUTS regions) to develop a sound strategic framework for cohesion policy. GDP per capita figures harmonised at NUTS II level are still to be provided. Existing budget laws allow for both flexibility and multi-annual budgeting, but the multi-annual programmes need to be included in a more comprehensive manner in the entities' budgets and more consistently across administrative levels. Legislative frameworks establishing financial control and independent internal audit structures are in place at both state and entity levels.

Concerning **the institutional framework** for IPA planning, the IPA III FFPA was ratified in August 2022. In order for IPA funding to continue, Bosnia and Herzegovina needs to urgently appoint a National IPA Coordinator (NIPAC) for IPA III, in line with the FFPA. The authorities need to agree on coordination procedures for the effective use of pre-accession funds while respecting the role of the NIPAC. The role of the NIPAC also needs to be strengthened.

Administrative capacity, including training in key institutions managing EU funds, is insufficient. The capacity for programming and managing EU pre-accession funds and introducing cohesion policy needs to be improved. To avoid an absorption shock at a later stage, Bosnia and Herzegovina needs to develop a systematic plan such as a management and control system roadmap to strengthen administrative capacity to implement EU regional policy.

Difficulties persist as a result of lack of agreement on how to reconcile the IPA legal framework with the system of coordination of European integration.

The National Investment Committee needs to revise its single project pipeline for the environment sector and finalise the one for the energy sector.

Bosnia and Herzegovina continues to gain experience in the programming and implementation of regional policy territorial cooperation through cross-border cooperation and transnational and interregional cooperation programmes. Bosnia and Herzegovina also participates in two macro-regional strategies for the Adriatic and Ionian region and for the Danube region, which promote cooperation and synergies among participating EU and non-EU countries.

Regarding **monitoring and evaluation**, the NIPAC office should urgently strengthen its capacity.

With the exception of cross-border cooperation programmes, Bosnia and Herzegovina is still lacking a **financial management, control and audit system** for EU funds. Structures and bodies defined in Annex A of the Framework Agreement under IPA II and the IPA III FFPAs still need to be established.

Chapter 33: Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.

Bosnia and Herzegovina is at an **early stage** of preparation in the area of financial and budgetary provisions. **No progress** was made on strengthening administrative capacity for coordination and management of own resources. Significant further efforts are needed to ensure sound capacity, institutional set-up and cooperation of institutions and bodies to be involved in application of the own-resources system. The recommendations from last year remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- strengthen capacity and inter-agency cooperation to combat tax and customs fraud;
- bolster the capacity of the Indirect Tax Authority (ITA) to effectively implement customs legislation;
- adopt a master plan for the production of national accounts for Bosnia and Herzegovina.

There was no progress in improving the capacity of ITA and in implementing an accounting system for customs duties to distinguish between recovered debts and outstanding debts, in line with the EU's **traditional own resources** accounting. There was no progress in aligning the VAT law with the EU *acquis*, in particular as regards special schemes and exceptions.

On **gross national income (GNI) resource**, the definitions and accounting rules of ESA 2010 are used for compilation of the GNI. There was no progress in setting up a common, coordinated and appropriate national accounts system for the whole country. This should be given high priority. A master plan for the development of national accounts still needs to be adopted to facilitate development of this system, in line with ESA 2010.

In terms of **administrative infrastructure**, there was no progress in providing sufficient human and administrative resources to ensure the full and correct application of EU rules concerning payments into the EU budget. Better coordination among administrative structures and implementing rules are needed to ensure correct forecasting, calculation, accounting, collection, payment and monitoring of own resources.

CLUSTER 6: EXTERNAL RELATIONS

This cluster covers: external relations (Chapter 30); foreign, security and defence policy (Chapter 31).

Bosnia and Herzegovina should implement the action plan for the Common Regional Market by adopting and implementing the relevant protocols to the Central European Free Trade Agreement (CEFTA). Bosnia and Herzegovina should finalise its accession to the WTO and consider establishing a development and humanitarian aid policy. The country's alignment with EU foreign policy significantly improved, notably on statements and restrictive measures following Russia's war of aggression against Ukraine, although implementation of sanctions remains a challenge. The country should appoint a 'political director' and 'European correspondent', and strengthen arms control and monitoring regimes.

Chapter 30: External relations

The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules on humanitarian aid and development policy.

Bosnia and Herzegovina has reached **some level of preparation** in the area of external relations. There was **no progress**. The capacity to tackle key challenges in trade policy has yet to be strengthened. Bosnia and Herzegovina again introduced temporary export restrictions in May 2023 on certain wood products. These decisions should be revoked without delay, and Bosnia and Herzegovina should abstain from taking further unilateral trade measures without valid justification and prior consultation with the Commission in line with its obligations under the SAA. The Commission's recommendations of 2022 were not implemented and remain valid.

In the coming year, Bosnia and Herzegovina should in particular:

- finalise its accession to the World Trade Organization (WTO);
- implement the 2021-2024 Common Regional Market action plan, in particular by implementing CEFTA Additional Protocol (AP) 5 on trade facilitation and CEFTA AP 6 on trade in services, and negotiate and ensure swift adoption of CEFTA AP 7 on dispute settlement;
- start the process leading to the establishment of a development and humanitarian aid policy.

On the **common commercial policy**, no progress was made on accession to the WTO, although membership negotiations have been at a very advanced stage for some time. The Russian Federation is the only WTO member that has not completed its bilateral negotiations

with Bosnia and Herzegovina on market access for goods and services, having raised one outstanding issue on the need to amend the legislation on the quality of liquid petroleum fuels. The decision to amend this legislation has yet to be approved by the Council of Ministers.

Bosnia and Herzegovina needs to adopt CEFTA AP 5 on trade facilitation and CEFTA AP 6 on trade in services as soon as possible. In addition Bosnia and Herzegovina should negotiate and ensure swift adoption of the CEFTA AP 7 on dispute settlement and proceed with the implementation of the 2021-2024 Common Regional Market action plan.

In May 2023, Bosnia and Herzegovina introduced a further temporary export ban for certain wood products, following similar measures taken in 2022. The ban was introduced without providing sufficient justifications or notifying or consulting the Commission in advance, as required under the SAA. This decision has now lapsed but Bosnia and Herzegovina should abstain from taking further unilateral trade measures, without prior consultation with the Commission and without a valid justification, in line with its obligations under the SAA. Bosnia and Herzegovina should also take action to cease the practice by certain cantons of excluding certain imported medicines from the lists of medicines that can be prescribed and dispensed at the expense of the compulsory health insurance.

Bosnia and Herzegovina applies export controls on **dual-use goods** in accordance with its legislation. The framework legislation needs to be aligned with the latest EU *acquis*, namely Regulation (EU) 2021/821 and its annual updates as regards the list of dual-use items.

As regards **bilateral agreements with third countries**, Bosnia and Herzegovina needs to further strengthen its administrative capacity and improve cooperation and coordination between ministries and the different levels of competent authorities in order to ensure consistency of implementation and enforcement. Bosnia and Herzegovina has 36 bilateral investment treaties in force, 18 of which are with EU Member States.

There were no changes in the areas of **development policy** and **humanitarian aid**. The country is a recipient of aid programmes and has so far provided humanitarian aid only ad hoc. Bosnia and Herzegovina is encouraged to start the process of establishing a legal framework covering international cooperation and development policy as well as humanitarian aid, in accordance with EU policies and principles, and to build dedicated administrative structures.

Chapter 31: Foreign, security and defence policy

Member States must be able to conduct political dialogue under the EU foreign, security and defence policy, align with EU statements, take part in EU actions, and apply agreed sanctions and restrictive measures.

Bosnia and Herzegovina has **some level of preparation** in the area of common foreign, security and defence policy. There was **some progress**, as the country significantly improved its alignment with EU foreign policy, notably on statements and restrictive measures following Russia's war of aggression against Ukraine, upon the initiative of the Ministry of Foreign Affairs. Alignment with EU restrictive measures remains a matter of political dispute, and certain ministries have hindered their implementation. Bosnia and Herzegovina has yet to join a number of international arms control regimes as well as to strengthen the monitoring regime regarding weapons and military equipment. Bosnia and Herzegovina continued to participate in EU crisis management missions and operations under the common security and defence policy.

In the coming year, Bosnia and Herzegovina should in particular:

- achieve and maintain full alignment with EU Common Foreign and Security Policy, ensure the thorough implementation of restrictive measures stemming from EU alignment, and make further efforts to close space for foreign interference and information manipulation;
- align legislation and procedures with EU standards on marking and deactivation of small arms and light weapons, including for seized and confiscated weapons;
- appoint the ‘political director’ and ‘European correspondent’ within the Ministry for Foreign Affairs.

The **political dialogue** between the EU and Bosnia and Herzegovina on foreign and security policy issues continued, including at high level. In March 2023, Bosnia and Herzegovina participated at ministerial level at the first Schuman Security and Defence Forum and in May 2023 in the working lunch with members of the Foreign Affairs Council. In April 2023, the deputy foreign minister participated in the informal EU-Western Balkans meeting of political directors in Brussels.

The implementation of Bosnia and Herzegovina’s 2018-2023 foreign policy strategy in the reporting period was affected by frequently divergent positions among the members of the Presidency.

Bosnia and Herzegovina still needs to appoint a ‘political director’ and ‘European correspondent’ within the Ministry of Foreign Affairs. Rules and practices based on ethnic quotas in appointing the diplomatic and consular staff have a negative impact on the capacity of the ministry, adversely affecting Bosnia and Herzegovina’s foreign policy objectives.

On **common foreign and security policy (CFSP)**, Bosnia and Herzegovina has significantly improved its alignment with EU statements and relevant Council Decisions, including with restrictive measures following Russia’s unprovoked war of aggression against Ukraine. Alignment with EU sanctions remains a matter of political contestation as one member of the Presidency advocated for a neutral stance on Russia’s war of aggression against Ukraine, which resulted in significant hindrances to their implementation, including not banning flights from Russia or the broadcast of Russian state-sponsored media. In 2022, Bosnia and Herzegovina’s alignment rate with relevant High-Representative statements on behalf of the EU and with Council Decisions reached 80%. As of August 2023, Bosnia and Herzegovina’s alignment rate was of 98% as the country started to align also with EU positions on Iran and Syria. Bosnia and Herzegovina aligned with the EU position at the United Nations General Assembly (UNGA), the OSCE and the Council of Europe on Russia’s war of aggression against Ukraine, including the UNGA resolution on the principles underlying a comprehensive, just and lasting peace in Ukraine adopted in February 2023. Bosnia and Herzegovina should reach full alignment with EU foreign policy to signal its commitment to the EU path and continue to strengthen its capacity to implement and enforce the sanctions in place.

Regarding **cooperation with international organisations**, Bosnia and Herzegovina is a member of and actively participates in the work of major international organisations, including the United Nations, the Council of Europe and the OSCE. Bosnia and Herzegovina chaired the OSCE Forum for Security Co-operation from January to April 2023. Bosnia and Herzegovina has been participating in NATO’s membership action plan since 2019.

Bosnia and Herzegovina maintains a bilateral immunity agreement with the United States, granting US citizens exemptions from the jurisdiction of the International Criminal Court. In doing this, Bosnia and Herzegovina does not comply with the EU common positions on the

integrity of the Rome Statute or related EU guiding principles on bilateral immunity agreements. Alignment with the EU position is therefore needed.

Bosnia and Herzegovina supports all EU measures and instruments for **conflict prevention**.

On **non-proliferation**, Bosnia and Herzegovina has yet to join international control regimes such as the Wassenaar Arrangement, the Australia Group, the Missile Technology Control Regime and the Nuclear Suppliers Group.

On trade in conventional weapons, military equipment and dual-use items, the country's overall legal and institutional framework is broadly in line with the EU *acquis*. Further improvements are required regarding the monitoring regime of weapons and military equipment produced and traded within the country.

Bosnia and Herzegovina is party to the Chemical Weapons Convention and has legislation in place to implement it, together with a state-level coordination body.

As regards small arms and light weapons, Bosnia and Herzegovina is implementing the 2018 regional roadmap and the 2021-2024 strategy and action plan. Bosnia and Herzegovina needs to mark and register all weapons of the country's security forces into a single registry to ensure adequate traceability, develop post-manufacture marking requirements for weapons earmarked for deactivation, in line with EU standards, and improve the traceability of seized and confiscated weapons, notably by amending the Law on marking to cover these types of firearms.

In terms of **security measures**, Bosnia and Herzegovina continued to implement the agreement with the EU on security procedures for the exchange of classified information.

Regarding the **common security and defence policy** (CSDP), Bosnia and Herzegovina has established a framework with the EU for participation in crisis management missions and operations. Bosnia and Herzegovina contributes to the EU Training Mission (EUTM) in the Central African Republic. Bosnia and Herzegovina also takes part in UN missions in the Democratic Republic of the Congo and in Mali. The Armed Forces of Bosnia and Herzegovina act as a functional, professional military organisation in spite of the protracted shortage of personnel and equipment. Bosnia and Herzegovina is invited to step up participation in CSDP military missions and operations.

The demining battalion of the Armed Forces of Bosnia and Herzegovina is essential to achieve a mine-free Bosnia and Herzegovina. The civilian mine action authorities (Demining Commission and BH Mine Action Centre) need to develop and adopt the bylaws and standard operating procedures required by the new land release method.

Bosnia and Herzegovina takes part in the European Peace Facility Balkan Medical Task Force assistance measure and is a beneficiary of an assistance measure for the Armed Forces of Bosnia and Herzegovina.

Bosnia and Herzegovina does not have an overall assessment or a policy framework for addressing **hybrid threats**, and remains vulnerable to cyberattacks. In 2022, several serious cyberattacks targeted the country's institutions, including the Parliament. Banja Luka-based provider M-tel continued to carry the signal of the RT and Sputnik channels, despite Bosnia and Herzegovina's alignment with EU sanctions on Russia prohibiting the broadcast of content from these Russian state-sponsored media outlets. In line with the Declaration of the EU – Western Balkans summit (Tirana, 6 December 2022), Bosnia and Herzegovina needs to make further efforts on closing space for foreign interference and information manipulation, including disinformation, taking actions towards building societal resilience against all forms

of hybrid threats.

ANNEX I – RELATIONS BETWEEN THE EU AND BOSNIA AND HERZEGOVINA

The **Stabilisation and Association Agreement (SAA)** entered into force in June 2015. Policy dialogue in the joint bodies under the agreement restarted throughout the reporting period after political blockade in 2021-2022. Following completion of the 6th cycle of subcommittees, the SA Committee took place on 16 June and the SA Council on 19 July 2023. The country also participates in Economic and Financial Dialogue between the EU and the Western Balkans and Türkiye, where joint recommendations were adopted at ministerial level on 16 May 2023.

The SAA and its Interim Agreement, applied since 2008, have allowed progressive **trade** liberalisation and mutual duty-free access for most goods. Since 2000, Bosnia and Herzegovina has also been benefiting from autonomous trade measures. The country joined the Central European Free Trade Agreement (CEFTA) in 2007. The EU is the main trading partner of Bosnia and Herzegovina, accounting for 63% of the country's trade in goods (74% of exports and 57% of imports), for a total trade volume of EUR 15.1 billion in 2022.

Bosnia and Herzegovina had applied for EU membership in 2016, and in May 2019 the Commission adopted its **opinion (avis)** setting out **14 key priorities** in the areas of democracy/functionality, rule of law, fundamental rights, and public administration reform. Fulfilling the 14 key priorities will allow the Commission to recommend opening EU accession negotiations with Bosnia and Herzegovina. In December 2022 the European Council granted Bosnia and Herzegovina **candidate country** status, on the understanding that a number of steps are taken, as outlined in the Commission recommendation in October 2022.

Visa liberalisation for citizens of Bosnia and Herzegovina travelling to the Schengen area has been in force since December 2010. A readmission agreement has been in force since 2008. The Commission's sixth report under the visa suspension mechanism in October 2023 concluded that Bosnia and Herzegovina continues to meet the visa liberalisation benchmarks.

Bosnia and Herzegovina significantly improved alignment with EU **common foreign and security policy** positions and declarations. Bosnia and Herzegovina continued to participate in EU crisis management missions and operations under the common security and defence policy. The EU continued to deploy considerable resources in Bosnia and Herzegovina. The enhanced presence of the combined Office of the EU Special Representative and the EU Delegation in Bosnia and Herzegovina continued to be instrumental in communicating EU priorities to citizens and in implementing the objectives of the EU agenda in key areas. The **EUFOR Althea** military operation remained deployed in the country, retaining deterrence capacity to support a safe and secure environment. The UN Security Council extended EUFOR's mandate until November 2024.

The Armed Forces of Bosnia and Herzegovina benefit from EUR 20 million assistance from the **European Peace Facility (EPF)**, which enhances their capacity to participate in CSDP military missions and operations. Their demining battalion is essential for achieving a mine-free Bosnia and Herzegovina and benefits from EPF support in purchasing vehicles and metal detectors. The Armed Forces of Bosnia and Herzegovina received EPF support in chemical, biological, radiological and nuclear (CBRN) protection, and also take part in the EUR 6 million EPF Balkan Medical Task Force assistance measure.

The EU is the main provider of **financial assistance** to Bosnia and Herzegovina, notably under the **Instrument for Pre-accession Assistance (IPA)** with a total allocation of EUR 565.77 million under IPA II in 2014-2020 and EUR 188 million under IPA III 2021-23. Bosnia and Herzegovina benefits from EUR 70 million (IPA 2023) for a State and Resilience

Building Contract as part of the EUR 1 billion Energy Support Package for the Western Balkans, aimed to help to mitigate the increase of energy prices for vulnerable households and businesses in the immediate term and support energy transition and energy security in the Western Balkans. Under the EIP, Bosnia and Herzegovina benefits from a portfolio of **EUR 934 million** of ongoing/active bilateral IPA funds, mobilising additional funding of EUR 2.595 billion.

The EU provides support via IPA and the Foreign Policy Instrument to strengthen Western Balkans partners' resilience to face hybrid threats including cyber and foreign information manipulation and interference.

Bosnia and Herzegovina also benefits from investments through the **Western Balkans Investment Framework (WBIF)**. WBIF provided to Bosnia and Herzegovina since 2009 approx. EUR 717 million of grants for investment and technical assistance. The current WBIF portfolio amounts to EUR 640 million of grants leveraging investments estimated at **EUR 2 billion**.

Bosnia and Herzegovina participates in three **cross-border cooperation programmes**, as well as in transnational cooperation programmes. To facilitate the development of public procurement in the country, Bosnia and Herzegovina is participating as an observer in a pilot project under the Technical Support Instrument.

Bosnia and Herzegovina also participates union programmes, such as Horizon 2020, Creative Europe, Fiscalis 2020, Erasmus+ (international dimension), the Civil Protection Mechanism of the Union (as of 2023), and the Single Market Programme. Bosnia and Herzegovina has expressed interest or is considering joining several more programmes: Customs, Health, Justice, Citizens, Equality, Rights and Values (CERV), Employment and Social Innovation (EaSI), as well as Digital Europe programme, during or after 2023.

STATISTICAL DATA (as of 31/08/2023)
Bosnia and Herzegovina

Basic data	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		3 844 s	3 510 s	3 500 s	3 492 ps	:	:
Total area of the country (km ²)	1)	51 209 w	51 209 w	51 209 w	51 209 w	51 209 w	51 209 w

National accounts	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million national currency)		25 365	31 803	33 942	35 785	34 728	39 107
Gross domestic product (GDP) (million euro)		12 969	16 261	17 354	18 297	17 756	19 995
GDP (euro per capita)		3 374 s	4 633 s	4 958 s	5 240 ps	:	:
GDP per capita (in purchasing power standards (PPS))		7 500	9 300	10 000	10 500	10 200	:
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		29.8 s	31.1 s	32.4 s	32.7 s	33.1 s	:
Real GDP growth rate: change on previous year of GDP volume (%)		0.9	3.2	3.8	2.9	- 3.0	7.4
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		8.0	6.5	6.9	6.5	7.0	6.0
Industry (%)		21.3	23.1	23.8	22.9	22.8	24.5
Construction (%)		5.2	4.8	4.8	5.0	5.4	5.1
Services (%)		65.6 s	65.5 s	64.6 s	65.6 s	64.7 s	64.3 s
Final consumption expenditure, as a share of GDP (%)		106.9	95.7	93.0	91.7	92.7	87.5
Gross fixed capital formation, as a share of GDP (%)		20.8	21.7	22.4	22.7	22.1	21.4
Changes in inventories, as a share of GDP (%)		- 1.1	3.0	2.0	2.1	1.0	4.6
Exports of goods and services, relative to GDP (%)		29.7	40.3	42.0	40.0	34.2	42.2
Imports of goods and services, relative to GDP (%)		51.3	56.3	56.4	54.5	47.9	53.9
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)		93.7	107.7	109.5	103.5	96.7	106.2
Number of active enterprises (number)		:	68 761 b	68 085	67 981	66 873	70 794 pw
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	11.5 p	11.1 p	10.4 p	:	:

Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	9.5 p	10.3 p	3.8 p	:	:
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		:	69.5 bsw	69.1 sw	69.1 sw	69.6 sw	69.1 psw
Value added by SMEs (in the non-financial business economy) (EUR million)		:	4 845 bsw	5 269 sw	5 780 sw	5 677 sw	6 733 psw
Total value added (in the non-financial business economy) (EUR million)		:	7 681 b	8 393	9 040	8 829	10 689 pw

Inflation rate and house prices	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)	2)	2.1 w	0.8 w	1.4 w	0.6 w	- 1.1 w	2.0 w
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		- 782.8	- 777.3	- 559.3	- 474.1	- 575.1	- 472.0
Balance of payments current account: trade balance (million euro)		- 3 674.3	- 3 792.2	- 3 845.5	- 4 071.4	- 3 204.5	- 3 666.0
Balance of payments current account: net services (million euro)		876.0	1 191.0	1 335.6	1 430.2	763.4	1 314.6
Balance of payments current account: net balance for primary income (million euro)		210.9	- 134.6	- 99.6	- 30.8	- 99.2	- 288.7
Balance of payments current account: net balance for secondary income (million euro)		1 804.6	1 958.5	2 050.2	2 198.0	1 965.3	2 168.0
Net balance for primary and secondary income: of which government transfers (million euro)		76.2	35.9	15.1	49.1	66.7	31.6
**3 year backward moving average of the current account balance relative to GDP (%)		:	- 4.8	- 4.2	- 3.5	- 3.0	- 2.7
**Five year change in share of world exports of goods and services (%)		:	31.3	30.6	25.1	13.9	20.8
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)	3)	272.2 w	366.8 w	491.0 w	377.8 w	322.2 w	459.8 w
Foreign direct investment (FDI) abroad (million euro)	4) 3)	58.8 w	88.4 w	16.4 w	19.7 w	61.6 w	68.9 w
of which FDI of the reporting economy in the EU-27 countries (million euro)	5)	:	59.4 w	- 14.4 w	- 26.1 w	27.3 w	26.2 w
Foreign direct investment (FDI) in the reporting economy (million euro)	4) 3)	331.0 w	455.2 w	507.4 w	397.4 w	383.8 w	528.7 w
of which FDI of the EU-27 countries in the reporting economy (million euro)	3) 5)	156.7 w	292.7 w	290.8 w	207.7 w	253.6 w	213.0 w
**Net international investment position, relative to GDP (%)	4)	- 53.7 w	- 46.4 w	- 42.2 w	- 37.3 w	- 35.3 w	- 30.8 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)	4)	7.8 sw	8.3 s	8.4 s	8.4 s	7.3 s	7.8 s

Public finance	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)		- 2.4 w	2.6 w	2.3 w	1.9 w	- 5.3 w	:
General government gross debt relative to GDP (%)	6)	30.2 w	36.1 w	34.1 w	32.7 w	36.6 w	w
Total government revenues, as a percentage of GDP (%)	6)	42.9 w	43.0 w	43.0 w	42.5 w	42.1 w	:
Total government expenditure, as a percentage of GDP (%)	6)	45.3 w	40.4 w	40.8 w	40.6 w	47.4 w	:

Financial indicators	Note	2010	2017	2018	2019	2020	2021
Gross external debt of the whole economy, relative to GDP (%)	4)	72.0 sw	66.8 sw	65.6 sw	63.1 sw	64.3 sw	60.1 sw
Gross external debt of the whole economy, relative to total exports (%)	4)	242.4 w	163.4 w	153.9 w	155.5 w	185.6 w	136.1 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	7)	3 016.6 w	5 405.6 w	6 209.7 w	6 775.2 w	7 697.6 w	9 166.2 w

Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	8)	6 967.5 w	11 307.9 w	12 368.7 w	13 463.7 w	14 443.5 w	16 113.7 w
Money supply: M3 (M2 plus marketable instruments, million euro)	10)	w	w	w	w	w	w
Total credit by monetary financial institutions to residents (consolidated) (million euro)	10) 11)	7 232.3 w	9 419.2 w	9 962.9 w	10 620.9 w	10 403.5 w	10 776.7 w
**Annual change in financial sector liabilities (%)	12) 13)	- 0.1 w	8.3 w	9.1 w	8.0 w	3.7 w	9.9 w
**Private credit flow, consolidated, relative to GDP (%)	12)	- 0.6 w	3.4 w	3.3 w	3.8 w	- 1.2 w	:
**Private debt, consolidated, relative to GDP (%)	12)	61 w	58 w	58 w	59 w	59 w	:
Interest rates: day-to-day money rate, per annum (%)	14)	w	w	w	w	w	w
Lending interest rate (one year), per annum (%)	15)	7.89 w	4.38 w	3.79 w	3.29 w	3.05 w	3.20 w
Deposit interest rate (one year), per annum (%)	16)	0.19 w	0.07 w	0.05 w	0.06 w	0.07 w	0.05 w
Euro exchange rates: average of period (1 euro = ... national currency)		1.956	1.956	1.956	1.956	1.956	1.956
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)		98 w	102 w	103 w	104 w	106 w	108 w
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)		0 sw	0 sw	0 sw	0 sw	0 sw	0 sw
Value of reserve assets (including gold) (million euro)	4)	3 301.8 w	5 427.0 w	5 944.1 w	6 441.1 w	7 091.0 w	8 359.1 w

External trade in goods	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		6 962	9 298	9 855	9 969	8 634	11 042
Value of exports: all goods, all partners (million euro)		3 628	5 653	6 085	5 876	5 379	7 298
Trade balance: all goods, all partners (million euro)		- 3 334	- 3 646	- 3 770	- 4 093	- 3 254	- 3 744
Terms of trade (export price index / import price index * 100) (number)	17)	:	101.3 sw	102.7 sw	102.3 sw	105.6 sw	104.4 sw
Share of exports to EU-27 countries in value of total exports (%)		69.0 s	70.4 s	72.2 s	72.3 s	72.4 s	72.8 s
Share of imports from EU-27 countries in value of total imports (%)		60.3 s	60.0 s	59.7 s	61.1 s	60.8 s	58.9 s

Demography	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		- 0.4	- 2.0	- 2.4 p	:	:	:
Infant mortality rate deaths of children under one year of age (per thousand live births)		6.4	:	:	:	:	:
Life expectancy at birth: male (years)		:	:	:	:	:	:
Life expectancy at birth: female (years)		:	:	:	:	:	:

Labour market	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)	18) 19)	58.4 w	58.4 w	58.4 w	59.0 w	62.3 bw	63.4 bw
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)	18) 19)	42.8 w	46.6 w	47.7 w	49.7 w	52.5 bw	52.6 bw
Male employment rate for persons aged 20–64 (%)	18) 19)	54.6 w	58.1 w	59.5 w	61.6 w	64.9 bw	66.0 bw
Female employment rate for persons aged 20–64 (%)	18) 19)	31.2 w	35.1 w	35.8 w	38.0 w	40.0 bw	39.1 bw
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)	18) 19)	26.8 w	32.5 w	32.6 w	36.2 w	35.4 bw	35.6 bw
Employment by main sectors							

Agriculture, forestry and fisheries (%)	18) 19)	:	18.9 w	15.7 w	18.0 w	12.0 bw	9.4 bw
Industry (%)	18) 19)	:	22.2 w	23.5 w	23.8 w	23.9 bw	24.4 bw
Construction (%)	18) 19)	:	7.3 w	8.7 w	7.9 w	9.5 bw	9.1 bw
Services (%)	18) 19)	:	51.6 w	52.1 w	50.3 w	54.7 bw	57.0 bw
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	18) 19)	18.6 w	18.4 w	18.4 w	17.2 w	19.1 bw	19.8 bw
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	18) 19)	81.4 w	81.6 w	81.6 w	82.8 w	80.9 bw	80.2 bw
Unemployment rate: proportion of the labour force that is unemployed (%)	18) 19)	27.3 w	20.7 w	18.5 w	15.9 w	15.9 bw	17.4 bw
Male unemployment rate (%)	18) 19)	25.6 w	19.0 w	17.3 w	13.8 w	14.2 bw	14.4 bw
Female unemployment rate (%)	18) 19)	29.9 w	23.3 w	20.5 w	19.0 w	18.6 bw	22.0 bw
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)	18) 19)	57.5 w	45.8 w	38.8 w	33.8 w	36.6 bw	38.3 bw
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)	18) 19)	22.3 w	17.0 w	15.2 w	12.1 w	11.9 bw	13.7 bw
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)	18) 19)	28.2 w	19.5 w	19.1 w	:	19.5 bw	21.8 bw
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)	18) 19)	13.2 w	14.6 w	13.9 w	10.9 w	10.9 bw	10.8 bw

Social cohesion	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)	22)	798 w	851 w	879 w	921 w	956 w	998 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		:	:	:	:	:	:
GINI coefficient		:	:	:	:	:	:
Poverty gap		:	:	:	:	:	:
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)	18) 23)	7.9 w	5.1 w	5.4 w	3.8 w	4.7 w	4.7 w

Standard of living	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		189.0	230.0	240.0	245.0	244.0	256.0
Number of mobile phone subscriptions relative to population size (number per thousand population)	24)	784.3 ew	981.7 w	989.9 w	1 075.5 w	1 010.0 w	1 088.6 ew
Mobile broadband penetration (per 100 inhabitants)	24)	:	43.4 w	52.7 w	44.7 w	46.7 w	52.3 ew
Fixed broadband penetration (per 100 inhabitants)	24)	:	19 w	20 w	21 w	22 w	23 ew

Infrastructure	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km²)	1)	20.1 sw	19.9 sw	19.9 sw	19.9 sw	19.9 sw	19.9 sw
Length of motorways (kilometres)		35 w	172	198	208	218	218

Innovation and research	Note	2010	2017	2018	2019	2020	2021
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Public expenditure on education relative to GDP (%)		:	4.1 sw	4.0 sw	4.1 sw	4.3 sw	:
*Gross domestic expenditure on R&D relative to GDP (%)		:	0.20 sw	0.19 sw	0.19	0.20	:
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	0.04	0.06	0.09	0.09	:
Percentage of households who have internet access at home (%)		:	:	69.2	72.0	72.8	75.5

Environment	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)		75.6 w	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		:	428.4	456.8	429.3	435.2	420.4
Electricity generated from renewable sources relative to gross electricity consumption (%)		60.4 w	39.6	41.5	45.5	49.3	46.3
Road share of inland freight transport (based on tonne-km) (%)	25)	62.3 w	78.9 w	78.7 w	77.4 w	78.8 w	78.8 w

Energy	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		:	4 624	5 672	5 405	5 237	5 223
Primary production of crude oil (thousand TOE)		:	0	0	0	0	0
Primary production of solid fuels (thousand TOE)		:	3 612	3 659	3 403	3 329	3 121
Primary production of gas (thousand TOE)		:	0	0	0	0	0
Net imports of all energy products (thousand TOE)		:	2 299 s	1 814 s	1 979 s	1 805 s	2 002 s
Gross inland energy consumption (thousand TOE)		:	6 754	7 478	7 230	7 108	7 374
Gross electricity generation (GWh)		:	16 438	19 160	17 493	16 874	18 536

Agriculture	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		1 708.7 e	1 762.0 e	1 779.6 e	1 806.3 e	1 845.6 e	1 865.8 e
Livestock numbers: live bovine animals (thousand heads, end of period)		462.0	445.0 e	438.0	430.0 e	427.0 e	339.5
Livestock numbers: live swine (thousand heads, end of period)		581.0	548.0 e	542.0 e	543.0 e	547.0 e	569.6
Livestock numbers: live sheep and live goats (thousand heads, end of period)		1 110.0 s	1 090.0 s	1 085.0 s	1 085.0 s	1 085.0 s	1 083.2 s
Raw milk available on farms (thousand tonnes)		:	:	:	:	:	:
Harvested crop production: cereals (including rice) (thousand tonnes)		1 264.4 e	1 176.9 e	1 764.1 e	1 685.6 e	1 966.8 e	1 425.1 e
Harvested crop production: sugar beet (thousand tonnes)		0.0	0.0	0.0	0.0	0.0	0.0
Harvested crop production: vegetables (thousand tonnes)		273.4 e	291.5 e	298.7 e	298.8 e	323.7 e	292.7 e

Source: Eurostat and/or the statistical authorities in Bosnia and Herzegovina

: = not available
b = break in series
e = estimated value
n = not significant value
p = provisional

s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) Inland waters estimated at 210 km².
- 2) Consumer price inflation
- 3) Based on IMF balance of payments manual, Asset - Liability Approach
- 4) Based on IMF balance of payments manual, sixth edition.
- 5) Based on IMF balance of payments manual, sixth edition and OECD Benchmark Definition of Foreign Direct Investment - 4th edition
- 6) End of year (31 December).
- 7) M1 money supply comprises cash outside banks and transferable deposit in domestic currency of all domestic sectors (except central government deposits).
- 8) M2 money supply is comprised of money supplies, M1 money and QM quasi money. QM money supplies covers other deposits in domestic currency, transferable and other deposits in foreign currency of all domestic sectors (except the deposits of the central government).
- 9) Central Bank of BiH produces only the following monetary aggregates: M1, QM and M2 based on IMF recommendations.
- 10) Based on IMF monetary and financial statistics manual, 2000.
- 11) In accordance with the Decision on Credit Risk Management and Determination of Expected Credit Losses, from supervisory body, since January 1, 2020, commercial banks have re-recorded some of the bank's balance sheet receivables on of balance sheet records, which caused a decrease in loan of approximately 400 millions KM in private enterprises and household sectors.
- 12) Data for monetary financial institutions.
- 13) The Central Bank of Bosnia and Herzegovina started with other financial corporation statistics from 2006.
- 14) Money market is not yet established in Bosnia and Herzegovina.
- 15) Short-term lending rates in national currency to non-financial corporations (weighted average).
- 16) Demand deposit rates in national currency of households (weighted average).
- 17) Paasche export and import unit value indices
- 18) Since January 2020, the Labour Force Survey in Bosnia and Herzegovina has been conducted continuously, throughout the year, with quarterly data release. Also, from 2020 the procedure of weight calibration according to population estimates by five-year age groups and sex is carried out.
- 19) From January 2021, the Agency for Statistics of Bosnia and Herzegovina began to apply the new, redesigned methodology of the Labour Force Survey. The redesign of the survey took place on the basis of and in accordance with the new Regulation of the European Parliament and the Council, which entered into force on 1st January 2021. With the introduction of the new, redesigned methodology of the Labour Force Survey from January 2021, the series of data published in the previous year was interrupted.
- 20) The public sector includes NACE Rev. 1.1 Sections L, M and N while the private sector includes other NACE Sections.
- 21) The public sector includes NACE Rev. 2 Sections O, P and Q while the private sector includes other NACE Sections.
- 22) Net earnings.
- 23) From 2020 onwards LFS is conducted on a quarterly basis leading to break in series compared to results from previous years. With the introduction of the new, redesigned methodology of the Labour Force Survey (Regulation (EU) 2019/1700; Implementing Regulation (EU) 2019/2240) from January 2021, the series of data published in the previous year was interrupted. This means that the data for 2020 and 2021 are also not comparable.
- 24) Data for variables TEL1200Z, TEL3100Z, TEL3200Z are estimated for 2021 based on estimated total number of population for 2020 reference year. Official estimate of total number of population for 2021 will be available by the end of October 2022. Revised data will be submitted in the 2nd wave of data collection
- 25) Data not collected on inland waterways. Road share of inland freight transport based on road and rail transport.

Brussels, 8.11.2023
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COMMISSION STAFF WORKING DOCUMENT

Türkiye 2023 Report

Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions**

2023 Communication on EU Enlargement policy

{ COM(2023) 690 final } - { SWD(2023) 690 final } - { SWD(2023) 691 final } -
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1. INTRODUCTION

1.1 CONTEXT

Türkiye¹ remains a key partner for the European Union and a candidate country. Türkiye has been linked to the EU by an association agreement since 1964 and a Customs Union was established in 1995. The European Council granted Türkiye the status of candidate country in December 1999 and accession negotiations were opened in October 2005. Within the framework of accession negotiations, 16 chapters have been opened and one has been provisionally closed. Accession negotiations with Türkiye, however, remain at a standstill, in line with the Council Conclusions of June 2018 as reiterated by the Council Conclusions of December 2022. Türkiye continued to move away from the EU and did not reverse the negative trend in relation to reform, despite its repeated statements of commitment to EU accession. The EU's serious concerns on the continued deterioration of democratic standards, the rule of law, the independence of the judiciary and respect for fundamental rights were not addressed.

Presidential and parliamentary elections were held in Türkiye in May 2023. The ruling coalition retained its majority in the parliament and the incumbent President was re-elected. The priorities of the new government include post-earthquake relief and reconstruction, financial stability and a constitutional overhaul.

In February 2023, two powerful earthquakes and multiple aftershocks struck south-eastern Türkiye. The devastating earthquakes caused the death of tens of thousands of people and resulted in widespread destruction of public and private infrastructure, including schools and healthcare facilities. The EU's reaction was immediate and substantial emergency assistance was provided both through humanitarian funding and the EU Civil Protection Mechanism. In March 2023, the European Commission and the Swedish Presidency of the Council of the EU hosted, in coordination with the Turkish authorities, an international donors' conference to mobilise funds from the international community to support the early recovery, relief and reconstruction of the affected areas. This conference raised more than EUR 6 billion. The implementation of the assistance pledged by the European Commission has begun.

The EU has a strategic interest in a stable and secure environment in the Eastern Mediterranean and in the development of a cooperative and mutually beneficial relationship with Türkiye. The European Council in June 2022 reconfirmed its expectation that Türkiye fully respects international law, contributes to the de-escalation of tensions in the interest of regional stability in the Eastern Mediterranean and promotes good-neighbourly relations in a sustainable way. The European Council in June 2023 invited the High Representative and the Commission to submit a report to the European Council on the state of play of EU-Türkiye relations, building on the instruments and options identified by the European Council and with a view to proceeding in a strategic and forward-looking manner. The Foreign Affairs Council discussed Türkiye in July 2023.

During the reporting period, Türkiye did not engage in any unauthorised drilling activities in the Eastern Mediterranean. It continued to refuse to recognise the Republic of Cyprus and repeatedly advocated a two-state solution in Cyprus, contrary to relevant UN Security Council Resolutions.

¹ In line with the request of the Republic of Türkiye regarding the use of the country's new official name in English, this document uses the name "Türkiye" instead of "Turkey" in English. This administrative change is limited to the nomenclature used in EU documents, does not have a retroactive effect, and entails no legal consequences. This approach is without prejudice to the nomenclature used by Member States.

The 2016 EU-Turkey Statement continued to yield results and remained the key framework for cooperation on migration. Türkiye sustained its remarkable efforts to host 3.6 million refugees from Syria and other countries. The EU has mobilised close to EUR 10 billion to support refugees and host communities since 2012. The Commission continued to implement the additional package of EUR 3 billion covering 2021-2023, providing assistance in areas such as basic needs, border management, education, healthcare, protection and socio-economic support.

1.2. SUMMARY OF THE REPORT ²

There are serious deficiencies in the functioning of Türkiye's **democratic institutions**. Democratic backsliding continued during the reporting period. Structural deficiencies in the presidential system remained in place.

Presidential and parliamentary elections took place on 14 May 2023. A second round of the presidential election was held on 28 May. The elections were held under the new electoral law adopted in March 2022. The elections offered voters a choice between genuine political alternatives and voter participation remained high, but biased media coverage and the lack of a level playing field gave an unjustified advantage to the incumbent.

The constitutional architecture kept powers centralised at the level of the Presidency and does not ensure a sound and effective separation of powers between the executive, the legislature and the judiciary. The ineffective checks-and-balances mechanism means that the executive branch is democratically accountable only through elections.

Political pluralism continued to be undermined by the targeting of opposition parties and individual members of parliament. The government's pressure on mayors from opposition parties continued to weaken local democracy. Most regulatory authorities remain directly linked to the Presidency. The recommendations by the Council of Europe's Venice Commission on the presidential system remain unaddressed.

The **situation in the south-east region** remained a cause for concern, particularly after the earthquakes in February 2023. The Turkish government conducted security and military operations in Iraq and Syria. Border areas faced a security risk with terrorist attacks by the Kurdistan Workers' Party (PKK), which is listed as a terrorist group by the EU. The government has a legitimate right and a responsibility to fight terrorism, but it is essential that it does so in full compliance with the principles of the rule of law, human rights and fundamental freedoms. Anti-terror measures need to be proportionate. There was no progress in resuming a credible political peace process to resolve the Kurdish issue. Following the earthquakes, the Kurdistan Communities Union (KCK) declared a period of unilateral truce, during the run-up to the May elections, which was terminated in June. Turkish officials linked the PKK-affiliated People's Protection Units (YPG) to an attack in Istanbul in November 2022, but the PKK denied involvement. The EU unambiguously condemned the PKK's attacks and expressed solidarity with the families of the victims. Türkiye continued to carry out airstrikes against the PKK and affiliated groups in northern Syria and Iraq.

² This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of Türkiye, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law.

The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

Serious backsliding regarding **civil society** issues continued. Civil society organisations faced increased pressure and shrinking space to operate , limiting their freedoms of expression, association and assembly. The implementation of the Law on preventing financing of proliferation of weapons of mass destruction placed further restrictions on civil society organisations. However, despite increasing pressure from the authorities, civil society continued to be vocal and to participate actively in civic life, including by providing support to the people affected by the February 2023 earthquakes.

Civilian oversight of the security forces was not consolidated. The executive branch maintained significant control over the security forces. The civilian component of the Supreme Military Council (YAŞ) remained unchanged. The military judicial system's authority was curbed, with civilian higher courts reviewing appeals against military court decisions. However, effective civilian oversight of the security forces remained incomplete and lacking in effective accountability mechanisms. Strengthening parliamentary oversight of security institutions is necessary.

Türkiye is in between some and moderate level of preparation in the field of **public administration reform**. It made no progress in this area over the reporting period. There is still a lack of political will to reform the public administration and public financial management. The restructuring of the executive branch and the overhaul of the public administration in line with the presidential system introduced in 2018 resulted in highly centralised policymaking system. The level of accountability of the administration remains insufficient. Its human resources management system needs to be reformed. Politicisation of the public administration has continued. The share of women in managerial posts in the civil service is still low.

Türkiye remains at an early stage of preparation in the area of **judiciary**. Serious backsliding continued and, despite several judicial reform packages in recent years, the structural deficiencies in the judicial system remained unaddressed. The continued refusal to implement certain rulings of the European Court of Human Rights (ECtHR) remains a matter of concern. There was no progress in eliminating undue influence and pressure by the executive on judges and prosecutors, which negatively affects the independence, impartiality and quality of the judiciary. Implementation of the 2021 Human Rights Action Plan (HRAP) and the 2019 Judicial Reform Strategy (JRS) continued, but the activities foreseen in these documents fell short of addressing the structural problems and issues identified in the previous reports of the European Commission. The lack of objective, merit-based, uniform and pre-established criteria for recruiting and promoting judges and prosecutors remains a source of concern.

Türkiye is at an early stage in the **fight against corruption**. There was no progress in the reporting period. Outstanding deficiencies in key areas of the fight against corruption over the last years remained unaddressed. A fully-fledged corruption prevention policy still remains to be developed, including the relevant institutions, contrary to the United Nations Convention against Corruption, to which Türkiye is party. Legislative gaps still remain in several fields of the fight against corruption. The limitations of the legal framework and the institutional architecture allowed undue influence on the investigation and prosecution phases of corruption cases. The accountability and transparency of public institutions need to be improved. The absence of an anti-corruption strategy and action plan indicates the lack of will to fight decisively against corruption. The Council of Europe's Group of States against Corruption (GRECO) recommendations remained unimplemented. Overall, corruption remains a problem.

Türkiye has some level of preparation in **the fight against organised crime** and there was some progress at operational level through participation in an increasing number of joint operations with EU Member States and neighbouring countries. Nevertheless, it is important for Türkiye to further increase its operational willingness to cooperate and exchange information with EU law enforcement partners. The legal framework for the fight against organised crime and police cooperation is only partially aligned with the EU *acquis*. The completion of an international agreement between the EU and Türkiye on the exchange of personal data between Europol and the Turkish authorities responsible for fighting serious crime and terrorism is still pending, considering also that the Turkish data protection legislation is still not aligned with the EU *acquis*. The legal framework regulating the fight against money laundering and terrorist financing needs to be improved in line with the recommendations of the Financial Action Task Force (FATF) and the Venice Commission on the Law on preventing financing of proliferation of weapons of mass destruction.

The deterioration of human and fundamental rights continued. The Turkish legal framework includes general guarantees of respect for human and fundamental rights, but the legislation and its implementation need to be brought into line with the European Convention on Human Rights (ECHR) and European Court of Human Rights (ECtHR) case law. No legislative amendments were adopted to eliminate the remaining elements of the 2016 state of emergency laws.

Türkiye's refusal to implement certain ECtHR rulings is a source of concern regarding the judiciary's adherence to international and European standards. Türkiye has not implemented the July 2022 ruling of the Grand Chamber of the European Court of Human Rights, which was issued in the framework of the infringement procedure launched by the Committee of Ministers against Türkiye, that points to a drifting away from the standards of human rights and fundamental freedoms that it has subscribed to as a member of the Council of Europe.

The implementation of the human rights action plan adopted in 2021 continued. However, it did not address critical issues. The overall human rights situation did not improve.

On freedom of expression, the serious backsliding continued. Broad restrictions on the activities of journalists, writers, lawyers, academics, human rights defenders and critical voices continued to have a negative effect on the exercise of their freedoms. The implementation of the criminal laws relating to national security and anti-terrorism continued to contravene the ECHR and to diverge from ECtHR case law.

The May 2023 election campaign witnessed restrictions on freedom of expression, both private and public media did not ensure editorial independence and impartiality in their coverage of the campaign, detracting from the ability of voters to make an informed choice.

There was no progress in the area of freedom of assembly and association, where legislation and its implementation are not in line with the Turkish Constitution, European standards or the international conventions that Türkiye is party to. There were recurrent bans, disproportionate use of force and interventions around peaceful demonstrations. Demonstrators were subject to investigations, court cases and administrative fines on charges of terrorism-related activities or of violating the Law on demonstrations and marches.

The rights of the most disadvantaged groups and people belonging to minorities need better protection. Roma³ people are still largely excluded from formal employment and their living conditions deteriorated severely. In January 2023, Türkiye adopted a new Roma strategy

³ In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

covering the period 2023-2030 and an action plan covering the period 2023-2025. The February 2023 earthquakes affected the Roma population disproportionately, and increased the difficulties they faced in the affected areas in terms of living conditions, livelihood and basic needs and health, especially for women and children. Gender-based violence, discrimination and hate speech against minorities and against lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons are still a matter of serious concern.

On **migration and asylum policy**, Türkiye made some progress. The EU-Turkey Statement remained the main framework for cooperation between the EU and Türkiye. Some progress was made in further strengthening the capacity for surveillance and protection of the land borders with Iran and Iraq. The Commission expects Türkiye to uphold its commitments under the EU-Turkey statement, in line with the European Council conclusions of October 2021, including prevention of irregular migration from land and sea routes, and resuming returns. The return of irregular migrants from the Greek islands under the EU-Turkey Statement remained suspended. The full and effective implementation of the EU-Turkey readmission agreement towards all EU Member States is pending. Political and technical dialogue is ongoing on migration and security. The next EU-Türkiye high level dialogue on migration is scheduled to take place on 23 November 2023. Overall, the number of illegal border crossings between Türkiye and Greece remained significantly lower than it was prior to the adoption of the EU-Turkey Statement. In 2022, the number of irregular migrants arriving increased on most routes by comparison with 2021. In the first half of 2023, the number of irregular arrivals from Türkiye into the EU was lower than in the same period in 2022. Arrivals in Greece increased by 62%, while the sea route to Italy saw a substantial decrease (down by 52%) and the number of arrivals in Cyprus via the Green Line went down significantly by 42%. Türkiye has still not implemented the provisions relating to third-country nationals in the EU-Turkey readmission agreement, which entered into force in October 2017.

Türkiye continued to make significant efforts to host and meet the needs of one of the largest refugee communities in the world. Out of the almost EUR 10 billion in EU support to refugees allocated since 2011, some EUR 7 billion had been disbursed by September 2023. Efficient integration measures are needed to address the prolonged presence of refugees in the country. Access to public health for migrants and refugees should be improved. No outstanding benchmarks under the visa liberalisation roadmap were fulfilled. Türkiye still needs to further align its legislation with the EU *acquis* on visa policy.

Türkiye is an active and significant actor in the area of **foreign policy**, which constitutes an important element in the context of the EU-Türkiye relationship. Nevertheless, Türkiye's unilateral foreign policy remained at odds with the EU's priorities under the common foreign and security policy (CFSP). Türkiye maintained a very low alignment rate of 10% with the EU stance on foreign and security policy (as of August 2023), compared to 8% in 2022. Its rhetoric in support to terrorist group Hamas following its attacks against Israel on 7 October 2023 is in complete disagreement with the EU approach.

Following Russia's war of aggression against Ukraine, Türkiye condemned the Russian military aggression, including at the UN General Assembly, and engaged politically and diplomatically, including by facilitating the export of Ukrainian grain and the exchange of prisoners. The UN- and Türkiye-brokered Black Sea Grain Initiative was terminated by Russia in July 2023. Türkiye also sought to facilitate talks between Ukraine and Russia and to work on de-escalation and bringing about a cease-fire. Nevertheless, Türkiye refrained from aligning itself with the EU's restrictive measures against Russia. As of March 2023, Türkiye has implemented a ban on exporting to Russia sanctioned goods originating from the EU, the

United States and the United Kingdom. This ban specifically targeted goods that were in transit, stored in warehouses or located within free zones in Türkiye. However, the potential transportation of dual-use and sensitive technology goods, as well as the unrestricted movement of sanctioned goods from Türkiye to Russia still need to be addressed. Overall, Türkiye significantly intensified its trade and economic ties with Russia, and the Turkish economy became more dependent on Russia in crucial sectors, particularly in energy.

Türkiye intensified its 'regional normalisation' policy with the Arab states, with Armenia and with Israel. Following the Hamas terrorist group's attacks against Israel in October 2023, Türkiye refrained from condemning and qualifying them as terrorism and strongly criticised Israel's response. Türkiye strongly condemned the loss of civilian lives on both sides and proposed to act as a mediator between Israel and Hamas. Türkiye is currently re-evaluating its ties with Israel. On the Middle East Peace Process (MEPP), Türkiye's position aligns with the EU's position supporting the two-state solution. Türkiye's *rapprochement* with the Syrian regime, brokered by Russia, occurred in spite of the lack of a political resolution to the Syrian conflict and is at odds with the EU's policy. At the same time, Türkiye shared a common goal with the EU to achieve a stable and prosperous Syria, primarily by implementing UNSCR 2254. Türkiye has a growing presence and geopolitical ambition in the South Caucasus and Central Asia. It also continued its efforts to extend its relations with African, Latin American and Asian countries. Türkiye's pragmatic engagement on Afghanistan and its vocal position on the developments in Sudan underscored its ambition to be a key player in the context of major international crises.

Türkiye continued to seek involvement in the common security and defence policy (CSDP) and EU defence initiatives while persisting in its exclusion of a Member State from all possible cooperation with NATO. Türkiye remained actively involved in EU crisis management missions and operations within the framework of the CSDP. In March 2023, the Turkish National Assembly approved Finland's NATO accession and during the NATO summit in July 2023, the Turkish President pledged to promptly submit Sweden's accession protocol to the Turkish parliament for ratification. The president submitted the bill for ratification to the Parliament on 23 October 2023.

Regarding **good neighbourly relations and regional cooperation**, Türkiye continued to refuse to recognise the Republic of Cyprus and repeatedly advocated a two-state solution in Cyprus, contrary to relevant UN Security Council Resolutions. The EU remains fully committed to a comprehensive settlement of the Cyprus problem within the UN framework, in accordance with the relevant UNSC resolutions, in line with the principles on which the EU is founded and the *acquis*. The EU has called, most recently in the European Council conclusions of June 2023, for the speedy resumption of negotiations and expressed its readiness to play an active role in supporting all stages of the UN-led process with all appropriate means at its disposal. There were no unauthorised drilling activities by Türkiye in the Eastern Mediterranean during the reporting period.

Relations between Türkiye and Greece deteriorated until early 2023. However, following the devastating earthquakes in Türkiye in February 2023, there was a marked improvement in the relations. As of February 2023, violations of Greek airspace diminished drastically, and no flights over Greek inhabited areas were reported.

Pursuing dialogue in good faith and abstaining from unilateral actions which run counter to the EU interests and violate international law and the sovereign rights of EU Member States is an essential requirement to ensure stable and secure environment in the Eastern Mediterranean and the development of a cooperative and mutually beneficial relationship between the EU and Türkiye. Türkiye is expected to unequivocally commit itself to good

neighbourly relations, international agreements and the peaceful settlement of disputes, in accordance with the United Nations Charter, having recourse, if necessary, to the International Court of Justice.

Regarding the **economic criteria**, the Turkish economy is well advanced but made no progress over the reporting period. Serious concerns persist over the proper functioning of Türkiye's market economy. There was backsliding on important elements, such as the conduct of monetary policy and the institutional and regulatory environments over most of the reporting period. Since the May parliamentary and presidential elections, the authorities have taken some steps to revert to more stability oriented macroeconomic policies. Although economic growth remained robust in 2022, Türkiye moved further away from market-oriented policies, which weakened its economic fundamentals and increased vulnerabilities and risks. Inflation decreased somewhat but remained very high as monetary policy prioritised exceptionally low interest rates, which remain deeply negative in real terms and are sustained by a web of regulatory and prudential measures. After the presidential and parliamentary elections in spring 2023, monetary policy has started to tighten, also signalling a gradual simplification of the macroprudential framework. The current account deficit increased to 5.4% of GDP in 2022, driven by a negative terms-of-trade shock and large imports of non-monetary gold. The relatively good budget performance in recent years masks an underlying trend of growing fiscal risks. The authorities' commitment to fiscal discipline wavered, as the fiscal stance turned pro-cyclical in 2023, with earthquake-related expenditure pressure adding to pre-electoral budgetary largesse. However, the fiscal stance was tightened after the elections and a revised budget, including sizeable tax increases, was adopted in July.

The institutional and regulatory environment lacks predictability and transparency, and complicates the post-electoral economic policy normalisation. Market exit remains costly and slow. However, Türkiye has made progress in digitalising government services to businesses. Although the size of the informal economy has fallen in recent years, it still accounts for a significant share of economic activity. State intervention in price-setting mechanisms persists. The provision of State aid lacks proper implementation rules, enforcement and transparency. The banking sector remained broadly stable but is facing financial stability challenges due to the numerous overly complex and far-reaching macroprudential and regulatory measures. The labour market strengthened further, although structural challenges remain significant, in particular for youth and female employment. Regional labour market disparities declined and reached one of the lowest levels in years. The recent net minimum wage increases were pro-cyclical.

Türkiye has a good level of preparation and made limited progress in achieving the capacity to cope with competitive pressure and market forces within the EU. Despite improved vocational training, the mismatch between the education system and labour market needs remains a concern. Expenditure on research and development continued to increase, albeit at a very slow pace, and is still below the government's target. Investment was relatively subdued in 2022. There was progress in the diversification of energy supplies and the share of energy generated from renewable sources increased significantly. However, the local content requirement in the renewable energy generation sector is a discriminatory practice and a cause for concern. Trade openness increased further, but integration with the EU continued falling, although remaining high. Deviations from Türkiye's obligations under the EU-Turkey Customs Union continue to hinder bilateral trade.

Türkiye is moderately prepared in the area of **public procurement**, with significant gaps remaining to align with the EU *acquis*. There was backsliding in the reporting period as Türkiye increased the use of the negotiated procedure and of discriminatory domestic price

advantage practices, and continued to allow offsets that favour local content. Türkiye is moderately prepared on **statistics** and made some progress, with work continuing to harmonise its statistical methodology with EU standards. The Turkish Statistical Institute (TurkStat) improved its compliance with the timeframes for publishing annual national accounts and excessive deficit procedure notifications. It took further steps to improve cooperation with other main data providers. However, Türkiye needs to increase the credibility of TurkStat and public trust in official statistics. Türkiye has a good level of preparation on **financial control**. It made no progress over the reporting period. The public internal financial control policy paper was not updated. The purpose, authority and responsibility of internal audit are undermined by the lack of a legal requirement to have internal audit units in ministries.

Regarding its **ability to assume the obligations of membership**, Türkiye has pursued alignment with the EU *acquis* on a rather ad hoc basis and to a limited degree.

The **internal market cluster** is key to the good functioning of the EU-Turkey Customs Union and to integrating Türkiye into the EU's internal market. Türkiye has achieved a good level of preparation for the free movement of goods. However, technical barriers to trade and requirements discriminating against EU products remained in place. Preparations in the areas of freedom of movement for workers, the right of establishment and freedom to provide services are at an early stage, and substantial efforts are still required to align with the *acquis*. Türkiye is moderately prepared on free movement of capital, as limitations remain on foreign ownership and on capital movement. Türkiye needs to continue to address outstanding issues in its framework regulating the fight against money laundering and terrorist financing.

Türkiye is well advanced in the area of company law but needs to make further progress in aligning with the EU *acquis*. Türkiye has a good level of preparation in the area of intellectual property law, notably in terms of legislative alignment, but it needs to improve implementation and enforcement. Türkiye has some level of preparation in the area of competition policy. Backsliding was observed as serious concerns persist in relation to the legislative framework, enforcement capacity and transparency in the field of State aid. Türkiye has a good level of preparation in the area of financial services, however the banking sector faced a challenging operating environment in the reporting period. Türkiye has a good level of preparation on consumer and health protection, with limited progress made, notably on strengthening its surveillance system for health (security) services. The capacity of the healthcare system was seriously affected by the February 2023 earthquakes in south-east Türkiye.

Within the **cluster on competitiveness and inclusive growth**, Türkiye has some level of preparation in the area of digital transformation and media. Türkiye's preparations in the area of science and research are well advanced and Türkiye made good progress during the reporting period, notably as a result of joining Horizon Europe and continued efforts to raise awareness of, and capacity for the programme. Türkiye is moderately prepared on education and culture, and continued to make some progress, notably through the continued implementation of the national qualifications system and the increased participation in some EU programmes. Access to education in south-east Türkiye was significantly impacted by the February 2023 earthquakes.

On the economy-related chapters, backsliding continued on economic and monetary policy, where Türkiye has some level of preparation. The Central Bank continued to loosen its unorthodox monetary policy stance, which triggered multi-year high inflation and unhinged inflation expectations. Until the parliamentary and presidential elections in May 2023, the

Central Bank was subject to significant political pressure to keep real interest rates deeply negative. Far-reaching prudential and regulatory measures disrupted the functioning of financial markets and increased risks. After the elections, the Central Bank has started to tighten monetary policy and the new government took measures to limit the bulging fiscal deficit. Türkiye is moderately prepared and made limited progress on enterprise and industrial policy. Major challenges in relation to measures incompatible with EU industrial policy principles remain unaddressed. Türkiye has some level of preparation in the area of social policy and employment. The labour market situation improved but concerns remain over trade union rights and effective social dialogue, persistent levels of informal economic activity and the gender gap in employment. The February 2023 earthquakes had a major impact on the labour market in the affected regions.

Türkiye is moderately prepared on taxation. It made no progress during the reporting period and still needs to enable tax information exchange with all EU Member States. Türkiye maintains a good level of preparation for the customs union but made limited progress over the reporting period. However, Türkiye's deviations from its obligations under the EU-Turkey Customs Union continued, contributing to a number of trade irritants.

Regarding the **cluster on the Green Agenda and sustainable connectivity**, Türkiye is moderately prepared in transport policy. It made limited progress during the reporting period, mainly linked to the update of the nationally determined contribution under the Paris Agreement with a specific chapter on transport mitigation policies. Türkiye is moderately prepared in the area of energy, and made limited progress overall. Efforts continued on renewable energy deployment, reforms in the natural gas sector and legislative alignment on nuclear safety. Türkiye continues to be an important transit country for the EU, but remains reliant on Russia for fossil fuel imports and nuclear energy. Türkiye is well advanced on trans-European networks and made no progress. The trans-Anatolian pipeline continues to operate smoothly and transmit gas to the European section of the Southern Gas Corridor. The construction of the flagship Halkali-Kapikule railway line connecting the EU border to Istanbul continued.

Türkiye has some level of preparation in the area of environment and climate change, and made limited progress over the reporting period. On climate change, Türkiye submitted its updated nationally determined contribution under the Paris Agreement. It faces critical environmental and climate challenges, and needs more ambitious and better coordinated environment and climate policies, strategic planning, substantial investment and stronger administrative capacity.

On the **cluster covering resources, agriculture and cohesion**, Türkiye reached some level of preparation in the area of agriculture and rural development. Backsliding continued during the reporting period, as its agricultural policy keeps moving away from the main principles of the EU common agricultural policy and as Türkiye continued to restrict imports of agricultural products from the EU. Türkiye is a major exporter of food products to the EU and made limited progress in the area of food safety, veterinary and phytosanitary policy, where it reached some level of preparation. Full implementation of the EU *acquis* in this area requires significant further work. Türkiye is moderately prepared in the area of fisheries and aquaculture, and made some progress on fisheries governance, inspection and control.

Türkiye is moderately prepared in the area of regional policy and the coordination of structural instruments, and continued to make some progress in accelerating the absorption of IPA II funds and setting up the structures for IPA III funds. Türkiye has some level of preparation in the area of financial and budgetary provisions but made no progress during the reporting period.

In the **external relations cluster**, Türkiye is moderately prepared in the area of external relations and made no progress over the reporting period. Türkiye has some level of preparation in the area of foreign, security and defence policy, and made no progress overall in the reporting period. Türkiye is a significant actor in the area of foreign policy, which constitutes an important element in the context of the EU-Türkiye relationship. Stepping up efforts to ensure alignment with the EU's common foreign and security policy would be a significant signal of Türkiye's commitment to the EU in the new geopolitical context.

2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

Democracy

The functioning of Türkiye's democratic institutions continued to be severely hampered. The structural shortcomings of the presidential system remained. Democratic backsliding and political polarisation increased in the run-up to the presidential and parliamentary elections. Following the earthquakes, which hit 11 provinces in February 2023, a state of emergency was introduced in the affected provinces and expired in May 2023. Furthermore, even though the nationwide state of emergency was lifted in July 2018, a number of legal provisions granting extraordinary powers to government officials and maintaining a number of the emergency's restrictive elements remain in effect. Some of these provisions have been extended for another 2 years, but most of the provisions related to the 2018 state of emergency expired in July 2022.

The State of Emergency Inquiry Commission ruled on all the applications within the scope of the 2018 Law on the establishment of the Inquiry Commission on the State of Emergency Measures and completed its work in January 2023. Of the total number of applications submitted to the Inquiry Commission (127 292), the Inquiry Commission accepted 17 960 cases and rejected 109 332.

Elections

Presidential and parliamentary elections took place on 14 May 2023. A second round to determine the new President of the Republic was held on 28 May. According to the preliminary conclusions of the OSCE's Office for Democratic Institutions and Human Rights (the ODIHR), which deployed an election observation mission, voters had a choice between genuine political alternatives and voter participation was high. However, the incumbent-biased media coverage and the lack of a level playing field gave an unjustified advantage to the incumbent.

Parliamentary elections were held in Türkiye on 14 May 2023 to elect the 600 members of the Grand National Assembly. The governing Justice and Development Party (AKP) of the incumbent President, Recep Tayyip Erdoğan, led the People's Alliance, which also included the Nationalist Movement Party (MHP), the Great Union Party (BBP) and the New Welfare Party (YRP). The People's Alliance retained its majority in the parliament with 322 members of parliament. During the second round of the presidential elections on 28 May, President Erdoğan was re-elected with 52.18% of the vote (the Republic People's Party CHP opposition candidate Kemal Kılıçdaroğlu received 47.82%). The elections took place in a deeply polarised environment. The elections offered voters a choice between genuine political alternatives and voter participation remained high, however, biased media coverage and the lack of a level playing field gave an unjustified advantage to the incumbent. In the

subdued yet competitive campaign, candidates were able to campaign freely. However, harsher rhetoric, inflammatory and discriminatory language by both contestants, along with the continued intimidation and harassment of supporters of some opposition parties undermined the process. Election days were generally calm and well-administered. However, instances of deficient implementation of certain procedures, particularly during the vote count, were noted. The electoral campaign was held during the state of emergency in the 11 provinces affected by the earthquakes, where voting difficulties were widely reported. OSCE/ODIHR deployed an election observation mission (EOM) with 28 long-term and 350 short-term observers, with additional embedded observers from the Parliamentary Assembly of the Council of Europe (PACE). Local NGOs and the political parties also deployed thousands of volunteers to monitor the elections. The elections were held under the new electoral law adopted in March 2022. The new law introduced significant changes, such as a revised seat allocation system, changes to eligibility criteria for political parties and changes to the method of appointing mid-level electoral councils. It positively addressed an ODIHR recommendation to lower the parliamentary threshold from 10% to 7%. Most other ODIHR recommendations (including those related to seat distribution, voter and candidate rights, campaign financing and election dispute resolution) remain unaddressed. The Venice Commission criticised several aspects of the amended law, such as the new system for selecting the chairpersons and members of provincial and district election appeal boards with a lottery rather than taking experience into account.

Any further amendments that Türkiye makes to its electoral framework, including its legislation on political parties, need to be made in line with international standards, after thorough consultation.

The 48 mayors displaced by government-appointed trustees following the 2019 local elections in the south-east have not been reinstated and no action was taken to address the relevant Venice Commission's June 2020 opinion. This remains a source of serious concern as it undermines local democracy and denies voters their preferred representation.

Parliament

The presidential system has largely weakened the national parliament's legislative and oversight functions. The President's extensive powers allow him to take decisions across a broad spectrum of policy areas, thereby limiting the parliament's legislative function. The parliament lacks the tools needed to hold the government to account. Targeting of the political opposition continued. The closure case of the People's Democratic Party (HDP) is still ongoing.

During the reporting period, the legislative function of the parliament was curtailed by the extensive use of presidential decrees and presidential decisions. From January to December 2022, the parliament adopted 80 of the 749 proposed laws. By contrast, during the same period, 273 presidential decrees issued under the state of emergency on a variety of policy issues (including socioeconomic issues) were brought before parliamentary committees.

The parliament's legislative and agenda-setting duties remained mainly under the control of the ruling AKP-MHP alliance, which has a parliamentary majority. Opposition parties had a very limited ability to influence parliamentary debates.

The fourth GRECO evaluation report of 2022 highlighted the points that the asset declarations made by members of parliament are not verified for their accuracy, and that there are no effective sanctions for violations of rules in this area. Moreover, the content of

these declarations is not made publicly available promptly after their submission to the parliament.

Parliamentary oversight of the executive remained very weak. The parliament lacks the necessary means to hold the government accountable. Members of parliament can submit written questions to the Vice-President and ministers, but it is not foreseen by the law that they can submit formal questions to the President. Ordinary presidential decrees are not subject to parliamentary review. However, presidential decrees issued under the state of emergency must be submitted to the parliament for approval. The supervision of public expenditure by the parliament must be substantially strengthened.

Political pluralism continued to be undermined by the judiciary's targeting of opposition parties and of individual members of parliament (particularly from the People's Democratic Party (the HDP)) for alleged terrorism offenses. The system of parliamentary immunity did not provide sufficient legal protection for opposition parliamentarians to express their views within the limits of free speech. Approximately 5 000 HDP members and officials are currently imprisoned. One of the detained defendants in the Gezi trial was elected as a deputy from the Workers' Party of Türkiye (the TIP) in the May 2023 elections but was not released from prison and was therefore not allowed to be sworn in as a member of parliament. By the end of the 27th legislative term (2018-2023), the total number of members of parliament subject to the legislative immunity resolution and a request for the lifting of their immunity was 206 (180 of them belonged to the parliamentary opposition). During the reporting period, no deputies had their immunity revoked or were detained on terrorism-related charges. Two former HDP co-chairs and several former HDP legislators are still in prison despite a European Court of Human Rights ruling in their favour.

The HDP's closure case on terrorism charges, including the banning from political life of 451 HDP members, remain pending before the Constitutional Court. In April 2023, the HDP waived its right to oral defence, arguing that the case was politically motivated and that it should be postponed until after the May 2023 elections. The General Assembly of the Court recorded the party's decision and sent the file to the Rapporteur. In January 2023, the Constitutional Court suspended State funding for the HDP but reinstated it in March following an appeal. In June 2023, the Constitutional Court ruled that the Treasury aid paid to the HDP could not be legally blocked.

Despite the March 2022 lowering of the electoral threshold from 10% to 7%, **the legal framework for elections and political parties** remains problematic. Türkiye has yet to implement the outstanding recommendations of the OSCE's Office for Democratic Institutions and Human Rights and of the Council of Europe's Venice Commission. The level of participation of women in decision-making, politics and employment remained low by international standards. Following the May 2023 elections, the percentage of women in the parliament increased from 17.1% during the previous term to 20.1% (from 104 to 121 out of 600). This is the highest ever ratio of women's representation in the parliament but women are still under-represented.

Governance

The presidential system continues to be characterised by a lack of checks and balances, as well as the politicisation of the public administration. Most regulatory authorities remain directly linked to the Presidency. The recommendations by the Council of Europe's Venice Commission on the presidential system still need to be addressed. The government's pressure on mayors from opposition parties continued to weaken local democracy.

As highlighted by the Venice Commission's 2017 opinion and the European Commission's previous country reports, the presidential system still lacks the necessary checks and balances to prevent an undue concentration of power and to safeguard the independence of the judiciary. The highly centralised presidential system continues to impair the legislative branch of government, the judicial branch and the public administration.

The use of traditional **instruments of oversight of the executive by the parliament**, such as a vote of confidence and the ability to ask the executive oral questions, has not been allowed since the entry into force of the presidential system in 2018. The absence of effective checks and balances and the parliament's inability to effectively supervise the office of the President mean that the latter's political accountability is limited to election time. The public administration, courts and security forces are under the heavy influence of the executive. The Presidency exercises direct authority over all key institutions and regulatory bodies. The public sector remained politicised, especially at senior management level.

The legal framework allowed regulatory authorities to be subject to excessive political influence. The President has the authority to appoint the chiefs and board members of the vast majority of the regulatory agencies. These regulatory bodies, notably in the media sector, issued decisions that disproportionately target (including with heavy pecuniary fines) media that are critical of the government.

The **Ombudsman's** caseload continued to increase during the reporting period and a high number of cases was adjudicated. However, the Ombudsman did not address politically sensitive issues concerning human rights and fundamental freedoms.

As regards **local self-governance**, the government maintained its pressure on opposition mayors, including through administrative and judicial investigations. In December 2022, the metropolitan mayor of Istanbul was sentenced to a suspended prison sentence on charges of insulting members of the Supreme Electoral Council. The mayor is also under administrative investigation by the Ministry of Interior for allegedly 'employing terrorists' in the municipality. In June 2023, a new case was opened against the mayor for alleged involvement in rigging a public works tender in 2015. In May, during a rally in Erzurum, the mayor was among those physically attacked, with the violence being condoned rather than condemned by senior AKP officials.

In the south-east, local democracy remained severely constrained. Since the 2019 municipal elections, 48 HDP mayors have been removed from office on terrorism-related accusations. Governors continued to serve as trustees in place of the deposed mayors. Hundreds of elected municipal officials have been detained on suspicion for ties to terrorism. These actions violate citizens' right to be governed by their elected representatives.

The legal framework governing the tutelary powers of the Ministry of Interior over locally elected officials was not revised in accordance with Türkiye's commitments under the European Charter of Local Self-Government.

The municipal law provides for the engagement of local administrations with the public and with civil society. Citizens' assemblies, which seek to bring together professional and civil society organisations and other local stakeholders, remained inactive in most provinces.

Civil society

Serious backsliding regarding the civil society environment continued. Civil society faced continuous pressure from the authorities. Human rights organisations, which were closed under the state of emergency, were not offered any legal remedy in relation to confiscations. Human rights defender Osman Kavala and his co-defendants in the Gezi trial remained in

prison without parole, despite a ruling by the ECtHR.

The implementation of the Law on preventing financing of proliferation of weapons of mass destruction added further restrictions and pressure on civil society.

Despite all these negative developments, civil society continued to be vocal and to participate actively in civic life, including by providing support to the people affected by the February 2023 earthquakes. Systematic and inclusive mechanisms for the effective consultation of independent civil society organisations on new legislation and policies need to be put in place.

A free, empowered and diverse civil society is a key component of any democratic system. Civil society organisations in Türkiye continued to make crucial contributions in areas, such as education, women's rights, rights for LGBTIQ persons, rights of persons belonging to minorities, rights of persons with disabilities, freedom of religion and belief, the environment, anti-discrimination and support for refugees.

In the immediate aftermath of the February 2023 earthquakes, civil society faced pressure from the authorities when delivering aid on the ground and was prevented from reporting on the situation in the affected regions.

Human rights organisations and human rights defenders faced judicial and administrative pressure, partly due to Türkiye's broad definition of terrorism. In some cases, however, the judiciary issued positive decisions, acquitting and releasing a number of human rights defenders from prison. As regards the infringement procedure launched by the Committee of Ministers of the Council of Europe in February 2022, the ECtHR ruled in July 2022 that Türkiye had failed to fulfil its obligations under Article 46 (1) of the Convention. Türkiye's refusal to implement the ECtHR's ruling in the Kavala case contravenes its obligations as a long-standing member of the Council of Europe. The seven co-defendants of Osman Kavala in the Gezi case, who were each sentenced in April 2022 to 18 years of imprisonment, remained in prison. In the Büyükada case, the Court of Cassation annulled the terrorism-related convictions of all the defendants in October 2022, ruling that they had been made with 'inadequate investigation'. The case was referred back to the local court, which acquitted the four human rights defenders in June 2023.

Some media outlets close to the government continued to portray human rights defenders as terrorists and criminals, notably for accepting funds from international donors, including the EU. The defamatory rhetoric used by high-level public officials to comment on court proceedings of human rights defenders is a matter of serious concern and casts doubt on the integrity of judicial proceedings and on the right to a fair trial.

Women's organisations faced pressure in the form of defamation, detentions, investigations and arrests. Women activists also faced detentions and police violence while exercising their right to freedom of assembly. The closure case against the Tarlabası Community Centre in Istanbul continued. The court cases against the executives of the Rosa Women's Association based in Diyarbakır continued. Concerning the closure case against 'We Will Stop Femicides Platform' on the grounds of 'conducting activities contrary to law and morality', in September 2023, the first instance court decided to reject it.

Stigmatisation, hate speech and discriminatory discourse targeting LGBTIQ civil society organisations and persons remained very strong. Anti-LGBTIQ discourse was instrumentalised by the governing coalition during the electoral campaign. Anti-LGBTIQ rallies took place in a number of cities during the autumn of 2022, whereas pride marches were banned and heavily repressed by the police.

The legal framework regulating the work of civil society organisations lacks clarity and carries the risk of arbitrariness during implementation. It remained compulsory for all associations to register their members in the Ministry of Interior's information system. This legal obligation is not in line with the OSCE/Council of Europe guidelines on freedom of association.

The Law on preventing financing of proliferation of weapons of mass destruction continued to be used by the authorities to disproportionately target independent rights-based organisations, despite the Venice Commission's and the UN Special Rapporteurs' recommendations that the government should reconsider certain aspects of the legislation. The Law should not be used to hinder civil society's freedom of association and assembly, including their fundraising activities.

The Law on collection of aid continued to impose burdensome requirements for permits that discourage fundraising activities by civil society organisations and de facto limit civil society activities. The distribution of public funds to civil society organisations remained untransparent. Heavy taxation hampered the functioning and development of foundations and associations. The status of 'public benefit' for associations and 'tax exemption' for foundations are vaguely defined and are arbitrarily granted by the President. Foreign donors providing financial support to civil society in Türkiye were often slandered and beneficiary NGOs ran the risk of having their activities criminalised because they had received foreign funds.

In August 2022, the Ministry of Interior's Directorate General for Relations with Civil Society published the draft civil society strategy document and action plan (2023-2027) for consultation. Despite public consultations, strategy development lacked transparency and clarity.

Open and transparent participatory and consultation mechanisms are needed for cooperation between the authorities and civil society, for policymaking and for amending the legal framework. Overall, the legal, financial and administrative environment needs to be more conducive to developing civil society in Türkiye.

Civilian oversight of the security forces

In the reporting period, the executive branch continued to hold extensive authority over the security forces. The civilian component of the Supreme Military Council (YAŞ), which is responsible for setting the military agenda and making such decisions as appointments, promotions and dismissals of high-ranking military personnel, did not change. The scope of the military judicial system was curbed. Civilian higher courts continued to review appeals against the decisions of military courts. However, civilian oversight of the security forces remained incomplete due to the lack of effective accountability mechanisms. Parliamentary oversight of the security institutions needs to be strengthened. The legal framework for overseeing military expenditure was not improved.

The culture of impunity continued to prevail within the security sector, where security personnel benefited from de facto judicial and administrative protection in cases involving alleged human rights violations and the disproportionate use of force. Military personnel and high-ranking command officials still have special legal privileges when prosecuted. Moreover, the investigation of alleged offences committed by security personnel requires prior authorisation by either military or civilian superiors.

Situation in the east and south-east

The situation in the south-east remained worrying and was exacerbated by the earthquakes in February 2023, which also affected part of the region. The Turkish government continued its domestic and cross-border security and military operations in Iraq and Syria, including after the earthquakes. The security situation remained precarious in border areas with terrorist attacks led by the Kurdistan Workers' Party (PKK), which remains on the EU list of persons, groups and entities involved in acts of terrorism. The government retains a legitimate right to fight terrorism, however, related activities should be in line with the rule of law, fundamental rights and freedoms. There was no progress towards the resumption of a credible political peace process to achieve a sustainable solution to the Kurdish issue. The Kurdistan Communities Union (KCK) declared a unilateral truce in Türkiye after the earthquakes in February and extended it until the Turkish presidential and parliamentary elections in May. The truce was terminated in June 2023.

In the aftermath of the November 2022 attack in Istanbul, which left 6 dead and 81 wounded, Turkish officials rapidly arrested a Syrian national, as the alleged main perpetrator of the attack, and attributed the attack to the PKK-linked People's Protection Units (YPG), even though the PKK denied its involvement. Türkiye launched a series of airstrikes in northern Syria and Iraq against the PKK and affiliated groups.

In March 2023, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report on its visit to the high-security prison on the island of Imralı, where the PKK's leader Öcalan and three other inmates are being held. The report stated that detention conditions had significantly improved for Mr Öcalan and remained satisfactory for the three other inmates. However, the CPT expressed serious concern that the prisoners' contact with the outside world had been further limited. During the reporting period, Mr Öcalan was not allowed to receive visits from his family or his lawyers.

In Diyarbakir's Sur municipality, after the state took possession of land from its owners for public use, several court cases were launched by owners challenging the assessed value of their expropriated property. The principle of participation by the local residents was ignored in the planning of the area's reconstruction. Serious violations of human rights by security forces (including alleged instances of torture, ill-treatment, arbitrary arrests and procedural rights violations) continued to be reported. There have also been reports of severe acts of violence and other abuses committed by the security forces in the aftermath of the earthquakes and during the state of emergency.

Eastern and south-eastern provincial governors often imposed blanket bans on meetings, demonstrations and events in their provinces. The longest of these has been in force in Van since 2016. The broad interpretation of terrorism, judicial and administrative pressure imposed on journalists, political opponents, bar associations and human rights defenders working on the Kurdish issue raised repeated concerns. Many associations, Kurdish-language media outlets and cultural rights institutions remained closed.

The 15 Kurdish journalists and one media worker, who were detained in Diyarbakır in June 2022, were released in July 2023 under judicial control condition and the next trial session is due in November. Over 100 people (including several journalists, lawyers, members of political parties, artists and members of civil society) were detained in April 2023 in a coordinated operation across 21 Turkish provinces on the grounds of alleged 'membership in a terrorist organisation'. Some lawyers and journalists were released, but a court case was launched against 11 Kurdish journalists. The 2021 Constitutional Court judgment annulling a provision of the emergency decree regarding the closure in 2016 of media outlets on the grounds of 'posing a threat to national security' and annulling a provision that allowed the

seizure of properties of closed media outlets was not implemented. In January 2023, the Diyarbakir Regional Court of Appeals upheld the prison sentence against journalist Abdurrahman Gök for photographing the killing by the police of university student Kemal Kurkut during the 2017 Newroz celebrations in Diyarbakır. The local court had sentenced Gök in June 2022 to more than one year in prison on the grounds of propagandising for a terrorist organisation while acquitting him of ‘being a member of an illegal organisation’.

Hate crimes and hate speech against Kurds continued. The court case in relation to the hate killing of HDP staff member Deniz Poyraz in İzmir was concluded in December 2022 and the court sentenced the perpetrator to aggravated life imprisonment (i.e. the most severe penalty under Turkish law) on the charge of ‘intentional killing’ as well as other minor offences. Several attacks against HDP buildings and election offices have been reported, including during the electoral campaign period.

In January 2023, an investigation was launched against the presidents of 12 bar associations over their joint statement against Turkish military operations in northern Syria and Iraq and calling for peace, on the grounds of ‘insulting the Turkish Nation, the State of the Republic of Türkiye and its institutions’.

The March 2023 Kurdish Newroz celebrations took place amid a heavy police presence. The Diyarbakir Bar association reported that law enforcement forces used excessive and disproportionate force during the celebrations. The police detained 350 people, most of whom were shortly released.

The Kobane trial of 108 members and executives of the HDP continued. During the April 2023 session the prosecutor of the case issued his final opinion and demanded aggravated life sentences for 36 HDP executives (including the party’s former co-chair Selahattin Demirtaş) and the re-arrest of 12 released defendants. The trial was adjourned to July 2023 and is still ongoing. There were numerous new detentions and arrests of HDP members and mayors, municipal council members and municipal executives on terrorism-related charges in the east and south-east of Türkiye. Requests by the prosecution to the parliament to remove the immunity of almost all HDP lawmakers are pending. The closure case against the HDP continued in the Constitutional Court (see above under ‘the parliament’).

Former HDP co-chair Selahattin Demirtaş remained in prison despite two final ECtHR judgments ruling in favour of his immediate release. In March 2023, the Committee of Ministers of the Council of Europe urged Türkiye to release Mr Demirtaş, in line with the ECtHR judgments. The Constitutional Court’s ruling of June 2020 on the violation of Mr Demirtaş’ right to liberty and security was not implemented. Former HDP MP and co-chair Aysel Tuğluk, who was reportedly seriously ill, was released from prison in October 2022.

In October 2022, the ECtHR, in its ruling on the case of 13 imprisoned former HDP MPs, found that several articles of the ECHR had been violated and stated that the arrests were politically motivated. In July 2022, the Constitutional Court ruled that the Turkish State had violated the rights of former HDP co-chair Figen Yüksekdağ to freedom of thought and expression by stripping her of her parliamentary immunity in 2016, and ordered the State to pay Yüksekdağ TRY 30 000 for non-pecuniary losses.

In June 2023, out of the 65 municipalities won by the HDP in the 2019 local elections, 48 remained ruled by State-appointed trustees and another 6 by AK party mayors. Since the first trustee appointment in June 2019, 83 co-mayors have been detained, 39 mayors arrested and 6 HDP co-mayors remain in prison. The March 2022 Recommendations on Türkiye of the

Congress of Local and Regional Authorities of the Council of Europe need to be implemented.

Court cases continued regarding government-funded construction projects on cultural, historical and religious heritage sites, which were damaged in the 2015 and 2016 operations. There were renewed tensions around several new mining projects, including in the Tunceli Mountains, which is part of a national park and a sacred site for Alevis.

There was no comprehensive and consistent approach in place for missing persons, the exhumation of mass graves or the independent investigation of all alleged cases of extrajudicial killing by security and law enforcement officers. Most of the investigations of cases of enforced disappearance from the 1990s have passed the 20-year statute of limitations. Out of more than 1 400 cases of missing persons since then, only 16 court cases have been launched and 14 of these ended in the acquittal of the alleged perpetrators. Concerns remained about the continued justification of extraterritorial abductions and forced returns under the pretext of combating terrorism and protecting national security. The village guard system, a paramilitary force supporting the Turkish security forces, was maintained. Some village guards were linked to widespread human rights violations and excessive use of force, particularly against the Kurdish population. The village guard system is hindering the return of displaced villagers and continues to impede progress towards a political resolution of the Kurdish issue.

Refugees and internally displaced persons

Türkiye continues to host one of the largest refugee populations in the world. In August 2023, according to official data, Türkiye was hosting 3 298 817 Syrian refugees with temporary protection status, and some 91 711 Syrians with residence status. Around 1.7 million of these were being hosted in the 11 provinces affected by the earthquakes.

According to official sources, 223 881 Syrians had been granted Turkish citizenship in December 2022. 561 758 Syrian refugees had voluntarily returned to Syria from Türkiye according to government data. In May 2023, according to the Presidency for Migration Management, in addition to the Syrian refugees, Türkiye hosted 300 720 asylum-seekers from other countries. In December 2022, 1 345 488 foreign nationals holding residence permits were present in Türkiye, including humanitarian residence permit holders. The return of irregular migrants from the Greek islands, which Türkiye unilaterally suspended on public health grounds in March 2020, has not resumed. The EU has repeatedly called on Türkiye to resume return operations in line with the commitments made under the EU-Turkey Statement. Resettlement of Syrian refugees from Türkiye to EU Member States continued in the reporting period totalling 39 648 by September 2023. Recurrent allegations of human rights violations in the field of migration, particularly in removal centres, remain a concern. Over the last year, media and civil society continued to report on policies and practices in breach of human rights standards and Turkish legislation. Türkiye needs to further align its practice in removal centres with European standards, in particular with regard to protection of human rights (including access to legal counselling and interpreters) and protection of vulnerable groups (in particular, children staying with their families) (see Chapter 24).

Public discontent with the presence of Syrian refugees increased, and became an important electoral topic and a matter of constant debate. A large majority of refugees and asylum seekers do not have effective access to the labour market, in particular to formal employment, due to low employability (lower levels of education and skills), language barriers and limited access to information and services.

Türkiye made sustained significant efforts to support refugees and ensure wider access to healthcare and schooling, although restrictions to registration hampered access to these services. By February 2023, over 846 000 refugee children had been enrolled in formal education in Türkiye, which was about 104 000 more than the previous academic year. Over 720 000 of these were of Syrian origin. However, more than 400 000 school-aged refugee children were still out of school and did not have any access to education opportunities. Refugees (mainly Syrians under temporary protection) continued to benefit from free-of-charge healthcare services provided in 190 migrant health centres funded by the EU through its Facility for Refugees in Turkey and in Turkish hospitals. The EU supported the employment of almost 4 000 healthcare workers to ensure that refugees and people under subsidiary protection have access to healthcare services. Over 7 million primary health care consultations were conducted in EU-supported primary level healthcare facilities in 2022. The capacity of mental health and psychosocial support services, reproductive health services, mobile health services and health literacy for the refugees have also improved. Furthermore, the health infrastructure was also improved by the completion of the construction of two new state hospitals in Dörtöyl Hatay and Kilis, which were fully financed by the EU and inaugurated during the reporting period.

There was no progress on the situation of **internally displaced persons** resulting from the violence in the south-east in the 1990s and in more recent years.

After the February 2023 earthquakes, which affected an estimated 15 million people in 11 provinces, there were massive population relocations, both within the provinces and away from them. An estimated 2.9 million people have moved away from the affected provinces.

Public administration reform

Türkiye is **in between some and moderate level of preparation** in the field of public administration reform. It made **no progress** over the reporting period. The country still lacks the political will to reform the public administration and public financial management. The restructuring of the executive branch and overhaul of the public administration in line with the presidential system introduced in 2017 resulted in very high levels of centralisation of the policymaking system. The level of accountability of the administration remains insufficient. Its human resources management system remains outdated and needs to be reformed. The politicisation of all branches of the administration has continued. The share of women in managerial posts in the civil service is still low. The public administration does not use evidence-based methods or participatory mechanisms in policymaking.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- prepare and adopt an interinstitutional public administration reform document in line with EU principles and values, and with the necessary political ownership and support;
- introduce merit-based recruitments, appointments and promotions, notably to the senior positions;
- review the policymaking process to achieve inclusive and evidence-based methods of preparing policy planning documents and legislative proposals.

Strategic framework for public administration reform

Türkiye still lacks both a comprehensive **strategy for public administration reform** and the political will to reform. In 2022, the administration produced numerous policy planning and sectoral policy documents on multiple aspects of public administration. In the absence of a comprehensive strategy, these documents lack a sound budget forecast and a coherent

approach. An administrative unit with the legal mandate to design, coordinate and monitor public administration reform and public policy documents has yet to be established. The unit would need to coordinate with the Ministry of Finance and Treasury to ensure strategic planning is consistent with fiscal planning and to efficiently tackle the issue of managerial accountability.

Policy development and coordination

Türkiye continued the strong trend to centralise policymaking under the presidential system, further preventing an inclusive, participatory and **evidence-based policymaking** process. Policy coordination, policy planning and inter-agency cooperation among government institutions needs to be improved. In the absence of well-functioning administrative controls and parliamentary scrutiny, policy planning, monitoring and reporting of government performance remains inadequate. The administration does not carry out regulatory impact assessments or **public consultations** systematically.

Public financial management

Türkiye still lacks an overarching **public financial management reform programme**. Parliamentary engagement and oversight over the budget remain weak. Numerous exceptions introduced in the public procurement Law limit the transparency of tenders and public expenditure. (*see also Chapter 5 – Public procurement*). Türkiye does not have in place an independent oversight body to ensuring fiscal discipline. Given the lack of adequate ex post monitoring and reporting, major public investment programmes lack transparency.

On external audit, the Turkish Court of Accounts (TCA) continued to carry out a range of ex post controls. The TCA's audit reports continued to provide substantive information for parliamentary oversight and public scrutiny. However, shortcomings remain in the legal framework of the Law on the Court of Accounts and in the associated process of parliamentary scrutiny. There needs to be greater parliamentary and judicial follow-up to the TCA's audit reports.

There is limited parliamentary oversight of the budget, which resulted in a low degree of **budget transparency**. The Turkish State Wealth Fund (TWF) lacks accountability and transparency. The 2022 audit report was not published on the TWF website, which contains limited information overall (*see Chapter 32 - Financial control*).

Following the February earthquakes, the parliament adopted a law creating a Disaster Reconstruction Fund, governing the allocation of resources to restore infrastructure in areas affected by various natural disasters such as earthquakes, floods, fires and landslides in regions classified as 'disaster zones'. However, the law lacked details on the decision-making process, and on the transparency rules for managing the Fund, apart from an obligation to report financial data to the public on a quarterly basis.

Public service and human resources management

The 1965 legal framework governing human resources management in the civil service is outdated. The civil service legal framework fails to ensure the political neutrality of the civil service. There is growing concern about the lack of **merit-based recruitment** and appointments in the civil service. The appointment procedure for senior civil service posts lacks competitive objective criteria, leaving appointments open to nepotism and political interference. There is a set of uniform criteria for demotion, dismissals and disciplinary measures, but there is a general lack of transparency in implementing the criteria. The civil service remuneration system is not standardised across the institutions. The ethics committees were ineffective against allegations of corruption and wrongdoings.

Accountability of the administration

Under the presidential system, accountability is centralised and held by the President. Given that internal control and audit do not function effectively, the level of accountability of agencies is weak and insufficient to protect **citizens' right to good administration**.

Citizens' right to access public information is regulated by the Law on the right to information, which does not require proactive disclosure and provides broad exemptions. A simplified online access system received millions of requests to access information. The Board of Review of Access to Information is responsible for assessing appeals filed against a refusal to provide access to public information. The backlog of cases continues to hamper citizens' rights to administrative justice and their right to seek compensation.

Strong concerns remain on the quality of the work of the Inquiry Commission on the State of Emergency Measures, even though it has completed the examination of all cases. Strong concerns remain as to whether cases were examined individually, whether the rights of defence were upheld and whether the assessment procedure was in line with international standards.

Service delivery to citizens and businesses

A thorough process is needed to **simplify administrative procedures**. However, in the continuous absence of a law on general administrative procedures, which is necessary to give citizens and businesses greater legal certainty, simplifying administrative procedures remains problematic.

The government continued to develop user-focused administration at central and local government level and expanded access to e-government services. Several public services are accessible through e-government tools. A monitoring system needs to be set up to reduce the barriers to access services for persons with disabilities.

2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS

2.2.1. Chapter 23: Judiciary and fundamental rights

The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is respect for fundamental rights in law and in practice.

Türkiye remains at an **early stage** of applying the EU *acquis* and European standards in the area of rule of law and fundamental rights. There was **backsliding** during the reporting period.

Major issues identified in previous reports, such as the systemic lack of independence of the judiciary and the urgent need to improve the human rights situation, remain unaddressed. The 2019 judicial reform strategy (JRS) and the 2021 human rights action plan (HRAP) tackle some of the areas where reforms are needed but did not include concrete steps to remedy the most acute problems.

Functioning of the judiciary

Türkiye remains at an **early stage** in this area. Serious **backsliding** continued and despite the several judicial reform packages in recent years, the structural deficiencies in the judicial system remained unaddressed. The continued refusal to implement certain rulings of the

ECtHR remains a matter of serious concern. Undue pressure by the authorities on judges and prosecutors continued to have a negative effect on the independence and quality of the judiciary. Implementation of the 2019 JRS and the 2021 HRAP continued, but the activities foreseen in these documents fell short of addressing the structural problems and the issues identified in the previous reports of the European Commission. The lack of objective, merit-based, uniform and pre-established criteria for recruiting and promoting judges and prosecutors remains a source of concern. Several politically motivated cases against opposition politicians were initiated during the reporting period.

The Commission's recommendations from last year were not addressed. Türkiye needs to adopt and implement measures to significantly improve the overall functioning of the country's judicial system.

In the coming year, Türkiye should in particular:

- create a political and legal environment in line with European standards that allows the judiciary to carry out its duties independently and impartially; strengthen judicial responsibilities, with the executive and legislature fully respecting the separation of powers; and ensure that lower courts respect judgments by the Constitutional Court, whose decisions should abide by ECtHR jurisprudence;
- amend the structure and process of selecting the members of the Council of Judges and Prosecutors (HSK) so that the role and influence of the executive is limited; and introduce safeguards against any interference by the HSK or high-level officials in judicial proceedings;
- provide effective guarantees against transfers of judges without their consent;
- in accordance with the guarantee of judicial independence under the Constitution, limit any suspension of judges from office to cases where there are well-founded suspicions of serious misbehaviour; and take measures to remedy the damage caused by dismissals that have taken place in breach of procedural rights;
- revise the system of disciplinary proceedings so that it is based on objective criteria and without any undue influence from the executive;
- in relation to the administrative and judicial measures taken against individuals, ensure that any allegation of wrongdoing or crime is subject to due process and based on concrete evidence, and follows fully transparent procedures under the authority of an independent judiciary;
- ensure that all judicial proceedings respect fundamental rights (including procedural rights), in particular the presumption of innocence, individual criminal responsibility, legal certainty, the right to defence, the right to a fair trial, equality of arms and the right to an effective appeal.

Strategic documents

Implementation of the 2021 HRAP and the 2019-2023 JRS continued. A new (seventh) judicial reform package was adopted in April 2023. The government's implementation report for the JRS stated that, as of May 2023, 70% of the activities had been completed. However, the actions included in the HRAP do not address Türkiye's fundamental human rights shortcomings. The 7th judicial reform package failed to address many structural issues of concern related to the judicial system indicated in the previous annual reports of the European Commission. However, it did provide some positive steps regarding the increased sentences

for smuggling and the possibility of postponing the execution of a sentence for convicted women due to a child's sickness.

Management bodies

Concerns remain around the structure of the Council of Judges and Prosecutors (HSK), its lack of independence from the executive and the appointment process for its members. In accordance with the Constitution, the President appoints 4 out of 13 members and the parliament elects 7 by qualified majority. The remaining 2 seats are allocated *ex officio* to the Minister of Justice and the Deputy Minister. None of the members are elected by their peers. Due to its lack of independence, the HSK has been suspended from participating in the European Network of Councils for the Judiciary since December 2016.

The budget allocated to the HSK increased to TRY 312 551 000 in 2023 (TRY 193 657 975 in 2022).

Independence and impartiality

Although the principle of separation of powers and judicial independence is enshrined in the Constitution and other legislative provisions, there are strong concerns regarding political influence on the judiciary. The HRAP included some actions to improve the independence of the judiciary, but these actions have not been implemented.

High-level officials and representatives of the executive (including the President) continued to comment publicly on ongoing judicial cases, thus undermining judicial independence. They also publicly criticised the ECtHR and Constitutional Court case law. Lower courts at times ignored or significantly delayed implementation of decisions reached by the Constitutional Court. The non-implementation of the administrative courts' decisions by the administration also remains an issue of concern.

Individual applications to the Constitutional Court had limited effect, especially with regard to politically motivated trials.

Accountability

The obligation for judges and prosecutors to declare their assets every 5 years is still applicable. No information is available on the sanctions imposed if this procedure was not followed. A credible and functioning verification system needs to be developed, including appropriate follow-up for late or incorrect declarations of assets.

Professionalism and competence

The selection and recruitment of judges and prosecutors is conducted in a non-transparent manner. The Ministry of Justice supervised the selection boards for new judges and prosecutors, while the HSK had no role in the selection boards. The annual appraisal of judges and prosecutors was done by the HSK. There was limited progress in setting objective, merit-based, standardised and pre-established criteria for recruiting and promoting judges and prosecutors.

Quality of justice

As of September 2023, Türkiye had 16 225 full-time judges (19.13 per 100 000 inhabitants) and 7 601 full-time prosecutors (8.96 per 100 000 inhabitants). Out of 23 826 judges and prosecutors, 8 871 are women. The final budget for the entire justice system increased to TRY 51.2 billion in 2022 (while TRY 34.37 billion was initially approved) compared with almost TRY 24 billion in 2021.

Pre-service training for candidate judges and prosecutors and in-service training continued to be delivered by the Justice Academy. The Academy has scientific, administrative and financial autonomy by law, but there are still concerns related to its independence because its management is left to its president, who is appointed by the President of the Republic. The Academy's lack of independence affects its capacity to provide training programmes that meet the requirements of openness, competence and impartiality. The European Judicial Training Network (EJTN) therefore maintained the suspension of the Academy's observer status that was originally decided in 2017.

The quality of judicial decisions and indictments remains insufficient due to the lack of legal reasoning and sufficient factual evidence to lead to convictions that often relate to alleged offences supporting terrorism. The defence lawyers' access to case files for a specific catalogue of crimes is sometimes restricted until the indictment is issued. In some politically sensitive cases, the indictments took months to be finalised.

Pre-trial detention continues to be frequently imposed, despite the fact that this is a measure of last resort by European standards. Defendants were increasingly held in prisons or detention centres far from the location of the alleged crime, appearing at their hearing via an audiovisual system rather than in person. Frequent transfers of judges and prosecutors continued to impair the quality of justice, as did the appointment of newly recruited and less experienced judges and prosecutors to criminal courts.

Trial-monitoring organisations and lawyers reported that in politically sensitive cases judges frequently barred journalists and observers and sometimes even the defendants' lawyers from the courtroom. In terrorism-related cases, the practice of providing evidence extracted coercively from secret witnesses who cannot be cross-examined or from a single witness without supporting evidence remained a major concern. Frequent use of the confidentiality of decisions in political cases should be revised because it is often used to limit lawyers' access to their clients' files, thus violating the right of defence.

In October 2022, the Council of State ruled in favour of the reinstatement of 178 judges and prosecutors dismissed under the 2016 state of emergency decrees on the basis of alleged ties to the Gülen movement, arguing that the acts attributed to them were insufficient to prove their links to the movement. The Council of State also ordered the State to pay compensation and damages to the judges and prosecutors. As of March 2023, 3 683 of the dismissals had been finalised and 3 cases were ongoing. 845 dismissed/suspended judges and prosecutors had been reinstated. As of March 2023, 343 judges and prosecutors who had filed a complaint with the Council of State on the issue of their removal had been reinstated. This decision followed an ECtHR ruling that the government had violated the ECHR by detaining 167 judges and prosecutors after the attempted coup in 2016.

Efficiency

The backlog of cases remained a problem. Large parts of the judiciary continued to be under severe pressure to handle cases quickly. Delays in criminal cases, which are often postponed for months, and delays in cases where the defendants were arrested pending trial violate the defendants' rights.

Regarding the backlog of cases in the high courts, at the end of 2022, 293 207 criminal and 64 126 administrative cases for the Court of Cassation were postponed to 2023, compared with 296 907 and 76 455 respectively in 2021. 120 773 cases for the Council of State were transferred from 2022 compared with 128 961 in 2021. As regards the regional courts of appeals, in 2022, a total of 809 989 cases were transferred from 2021; the courts received 1 258 366 new cases and settled 1 146 065 cases. Individual applications to the Constitutional

Court continued to increase. In 2022, 109 779 applications were lodged and 73 036 were concluded.

Fight against corruption

Türkiye is at an **early stage** in the fight against corruption. There was **no progress** in the reporting period. Türkiye has not addressed outstanding deficiencies in key areas of the fight against corruption in recent years. It has not taken preventive action and has not set up anti-corruption bodies in line with the United Nations Convention against Corruption, to which Türkiye is party. The legal framework and institutional architecture need to be improved to limit undue political influence on the prosecution and adjudication of corruption cases. The accountability and transparency of public institutions need to be improved. The absence of an anti-corruption strategy and action plan indicated a lack of political will to fight decisively against corruption. The Council of Europe's Group of States against Corruption (GRECO) recommendations remained unimplemented. Overall, corruption remains a major issue. In the coming year, Türkiye should in particular:

- implement its international obligations in relation to the fight against corruption, in particular the United Nations Convention against Corruption and the relevant Council of Europe Conventions;
- ensure effective follow-up of the recommendations issued by GRECO, including through adopting the necessary legislation;
- elaborate an anti-corruption strategy that reflects a clear political will and vision to effectively address corruption, underpinned by a credible and realistic action plan.

Track record

The track record of investigations, prosecutions and convictions in corruption cases remained poor, particularly in relation to high-level corruption cases involving politicians and public officials. Sentences are lenient and do not have a deterrent effect. Cooperation between audit and inspection units with prosecution offices needs to be improved. Political party and election campaign financing, local administrations, land administration and management, and the construction and transportation industries (especially when implementing projects via public-private partnerships) remained particularly prone to corruption. The increasing use and wide scope of exemptions in procurement procedures undermined the integrity of public procurement. Outstanding GRECO recommendations on political party financing have not been addressed.

Institutional framework

Prevention measures

Türkiye continued to lack a permanent, functionally independent anti-corruption prevention body. The level of coordination between various preventive bodies remains inadequate. The State Supervisory Council, which is responsible for coordinating preventive anti-corruption measures, is not independent. Financial control of political parties remained ineffective. There have been no regular awareness-raising campaigns on anti-corruption.

Law enforcement

There are no specialised law enforcement authorities, prosecution services and courts specifically dedicated to the fight against corruption. The executive retained undue political influence over the judicial police. Financial investigations are not systematically started in

corruption and organised crime cases. The legal framework of anti-corruption remains weak, including for the private sector.

Legal framework

Türkiye is party to all international anti-corruption conventions, including the United Nations Convention Against Corruption. However, Türkiye needs to fully implement such provisions. The legislative amendments envisaged in previous anti-corruption strategies (i.e. the Law on general administrative procedure, the Law on public procurement, the Code of Ethics for Members of Parliament and the Law on whistle-blower protection) have not been adopted.

In November 2022, the OECD Working Group on Bribery also underlined Türkiye's continued inaction with respect to long-standing recommendations on the liability of legal persons in particular in relation to foreign bribery, as well as issues concerning whistle-blower protection and prosecutorial independence, and the lack of enforcement of its foreign bribery laws.

Türkiye failed to comply with the GRECO recommendations on judicial independence, and on transparency of the legislative process and political party financing. Legal loopholes remain in the Criminal Code's corruption-related provisions, which do not meet the standards put in place by the Criminal Law Convention on Corruption. Public procurement legislation is not in line with the EU's *acquis*. The legal privileges of public officials continued to provide legal protection for public officials and hamper anti-corruption criminal and administrative investigations. The legal framework on conflicts of interest as well as public officials' asset declarations remained inadequate. Türkiye has no legislation governing lobbying.

Strategic framework

Previous anti-corruption strategies and action plans failed to meet most of their key objectives. Outstanding anti-corruption measures for these action plans have not been followed up. There is no ongoing anti-corruption strategy and action plan, and no efforts were made to develop new ones with the involvement of relevant institutions and civil society.

Fundamental rights

Human rights continued to deteriorate and no progress was made on last year's recommendations. The Turkish legal framework includes general guarantees of respect for human and fundamental rights, but the legislation and its implementation need to be brought into line with the European Convention on Human Rights (ECHR) and the European Court of Human Rights (ECtHR) case law. No legislative amendments were adopted to eliminate the remaining elements of the 2016 state of emergency laws. The Council of Europe's Parliamentary Assembly continued to monitor Türkiye's respect for human rights, democracy and the rule of law. Türkiye's continued refusal to implement certain ECtHR rulings further increased concerns regarding the judiciary's adherence to international and European standards. The 2021 HRAP continued to be implemented but did not address critical issues or improve the overall human rights situation. Trials and convictions of journalists, writers, lawyers, academics, human rights defenders and other critical voices for alleged support for terrorism have continued.

In addition to addressing the shortcomings set out in this section, which have still not been addressed, Türkiye should in particular in the coming year:

→ align its criminal and anti-terror legislation, and its implementation of European standards, the ECHR, ECtHR case law and the Venice Commission recommendations;

- ensure that any allegations of offences are subject to due process, based on concrete evidence and fully transparent procedures carried out under the authority of an independent and impartial judiciary; and fully respect the right to a fair trial and relevant procedural rights, in particular the presumption of innocence, the principle of legal certainty, the right to defence, equality of arms and the right to an effective remedy;
- improve the legislative framework and its implementation, in order to effectively tackle all forms of violence against women, including domestic violence, psychological and physical abuse, sexual harassment, rape, so-called ‘honour’ crimes, stalking and forced marriage;
- improve the legislative framework and its implementation to effectively tackle all forms of racism and discrimination, including against LGBTIQ persons and ensure the protection of minorities.
- implement the ECtHR judgments as a matter of priority, including in the case of *Kavala v Türkiye*.

Türkiye is a party to most **international human rights instruments**, but serious human rights violations continued. The Council of State ruled in January 2023 that the President’s decision to withdraw from the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) was lawful. Türkiye has not yet signed the International Convention for the Protection of all Persons from Enforced Disappearance and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Parliamentary Assembly of the Council of Europe continued its full monitoring procedure.

In June 2023, there were 23 851 applications pending before the ECtHR. The ECtHR delivered judgments on 637 applications and found breaches of the European Convention on Human Rights (ECHR) in 66 out of 69 cases (against 70 violations in 2022) that mainly concerned the right to respect for private and family life, the right to a fair trial, the right to liberty and security and freedom of assembly and association. During the reporting period, there were 13 232 new applications allocated to a decision body of the ECtHR. There are currently 184 cases against Türkiye under enhanced supervision by the Committee of Ministers.

There were no developments with regard to the implementation of the ECtHR’s July 2022 Grand Chamber judgment on the *Kavala* case as part of the ongoing infringement procedure launched by the Committee of Ministers of the Council of Europe against Türkiye (see the ‘Judiciary’ section).

Regarding promotion and enforcement of human rights, the March 2021 **human rights action plan** (HRAP) continued to be implemented. The annual monitoring report, which was due in March 2023, has not been published and an evidence-based assessment of the implementation of the HRAP is missing. The HRAP does not include measures to address the main shortcomings in the human rights situation in Türkiye that were identified in previous years’ reports by the European Commission.

The Human Rights and Equality Institution of Türkiye (HREI) and the Ombudsman are the main human rights institutions. The Ombudsman processes complaints against the actions of the public administration while the HREI only accepts cases that fall outside the Ombudsman’s remit. The HREI lacks *ex officio* powers to initiate investigations and to intervene in cases with legal remedies. The number of cases treated by the two institutions increased, but concerns remain regarding the operational, structural and financial independence of both institutions and the appointment of their members. The effectiveness of

both institutions remained limited. The HREI was accredited to the Global Alliance for National Human Rights Institutions with a B status in October 2022.

In 2022, the HREI received 2 020 applications (1 185 in 2021), visited 63 institutions (including prisons) and adopted 69 reports prepared within the scope of visits. The HREI makes prison visits in its role as the National Preventive Mechanism (NPM), but does not have set and independent criteria for announced visits. In some visits, it only interacted with the administration and did not speak to the detainees. It has not visited all the prisons with the highest number of allegations of human rights violations, or did so with a significant delay. The recommendations mainly deal with minor issues and do not make concrete statements on serious human rights abuses. The HREI needs to improve its reputation regarding effectively tackling human rights issues and engaging in constructive dialogue with civil society. The HREI remained largely ineffective due to legislative and structural restrictions, including by not accepting applications filed by civil society organisations and by being overly cautious in tackling cases of torture and ill treatment. 132 of the 3 638 applications filed with the parliament's Human Rights Inquiry Committee in 2022 were not processed.

The term of office of the State of Emergency Commission expired in January 2023. The Commission found 17 960 of the 109 332 filed applications to be admissible but rejected 86% of them.

The space for civil society organisations and human rights defenders continued to be very limited due to continuous pressure through judicial and administrative investigations, threats, surveillance, arbitrary detentions and ill-treatment of human rights defenders. The chairperson of the Turkish Medical Association was arrested after calling for an investigation into allegations that the Turkish armed forces had used chemical weapons in Northern Iraq. She was later released and the case is ongoing. Similar cases, coupled with smear campaigns by some media outlets close to the government and aggressive language by high-level officials, had a chilling effect on civil society. Intimidation of, and court cases against, lawyers who provide legal assistance to members of the civil society and human rights defenders continued.

The three court cases lodged against the Human Rights Association's chairperson ended in acquittal, but appeals were made against two of them and are pending before courts of appeal. The court case continued regarding the 2015 killing of Tahir Elçi, a lawyer and the chairperson of the Diyarbakir Bar Association. Several female human rights defenders and activists were detained and faced fines for participating in demonstrations for women's rights. The GÖÇİZ-DER court case in which 23 human rights defenders are being tried for 'using EU and UN funds to conduct research and develop projects on social migration movements in line with the aims and objectives of the PKK' continued. There were concerns regarding the recurrent and disproportionate use of anti-terrorism legislation against NGOs and human rights defenders.

The retrial of the Büyükada case resulted in the acquittal of four human rights defenders, including Amnesty International Türkiye's honorary chair, who had been originally sentenced to over 6 years in prison on charges of 'membership in a terrorist organisation'.

Concerning the **right to life**, urgent measures need to be taken by the authorities to align legislation with ECtHR case-law in order to ensure that credible and effective investigations are held into reported killings by the security services. The legislation adopted in June 2016, which grants judicial privileges to the security services and increases the risk of impunity, has remained in force. In many cases, the authorities did not grant permission to prosecute civil servants, thus seriously limiting accountability and fostering a climate of impunity for the

security forces. No credible investigations were launched into some of the death cases reported in the media. No adequate investigations have been carried out regarding the alleged cases of abductions and enforced disappearances by the security services that have been reported since the 2016 attempted coup. Alleged killings by the security forces in the south-east, especially during the events in 2015, have not been investigated and prosecuted effectively. Military or police officers have been implicated in most of these cases (as also underlined by the ECtHR judgments and the reports of the UN Working Group on ‘Enforced or Involuntary Disappearances on Turkey’) and investigations have never been properly carried out. The statute of limitations remains a major concern as regards the impunity of the offenders. Most of the crimes dating from the 1990s in the south-east have ended in impunity through acquittal or due to the statute of limitations (for example, the murder of the writer Musa Anter in Diyarbakır in 1992).

According to various reports, **torture and ill-treatment** continued to occur in detention centres, prisons, informal places of detention and transportation vehicles, and on the street during demonstrations. Disproportionate use of force by security forces continued. Although tasked with the role of the National Preventive Mechanism (NPM), the HREI does not meet the key requirements under the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and did not effectively process cases referred to it. The authorities have not authorised the publication of the 2016, 2018, 2021 and 2022 reports by the Council of Europe’s Committee for the Prevention of Torture (CPT). There have been reports documenting several cases of violence, torture and other abuses committed by the police and gendarmerie in the regions affected by the February 2023 earthquakes as well as threats against lawyers who documented a torture case. In some limited cases, administrative actions were taken against the accused officers.

The UN Subcommittee on Prevention of Torture (SPT) visited Türkiye in September 2022 to assess how the authorities and Türkiye’s national preventive mechanism had implemented the SPT’s previous recommendations. Effective investigations into allegations of torture and ill treatment remained limited.

While the number of **prisons** continued to increase, overcrowding remains a major problem. As of April 2023, the prison population exceeded 350 000 (with a capacity of 290 000) and continued to be the largest in Europe. Incidents broke out in Hatay’s T-Type Closed Prison after the authorities denied the inmates’ requests to see their families affected by the earthquakes. Pilot projects are being implemented in several prisons to improve inmates’ contact with their families, notably via secure video teleconference systems. However, allegations of human rights violations (including arbitrary restrictions on the rights of detainees, denial of access to medical care, mistreatment, limitation of open visits and solitary confinement) continued to be reported. Education, rehabilitation and resocialisation programmes remained limited. The new S-type security prisons are assessed as increasing inmates’ isolation. Communal activities remained limited and arbitrary. Transfer to remote prisons continued, sometimes without early warning. Such transfers had a negative effect on family visits, especially for poor families and juvenile inmates.

There were allegations of discrimination by prison authorities, especially against LGBTIQ persons. There was no improvement regarding investigations into allegations of suicides, strip-searches and discriminatory behaviour by prison guards. Concerns related to the independence of the Forensic Medicine Institute persisted. Access to medical care for sick inmates continued to be uneven and at times delayed or denied, causing deaths in prison or soon after release. Following complaints about food quality and living conditions, the daily allowance for prison food was increased from TRY 20 to TRY 50 in March 2023.

The HREI, as the national preventive mechanism, is also tasked with monitoring the prison administration and observation boards, but this work has remained ineffective. The work of the boards is not transparent and not supervised by independent bodies.

On the **protection of personal data**, the 2016 Personal Data Protection Law is still not aligned with the EU *acquis*, notably with the General Data Protection Regulation (GDPR) and the Law Enforcement Directive (LED) that constitutes a potential obstacle in several policy areas, including with regard to enhanced operational cooperation with Eurojust and Europol. The scientific commission that was established in 2021 to advance *acquis* harmonisation continued its work, but progress has been slower than anticipated. The legislation needs to be improved, notably with regard to the exceptions for processing of personal data by judicial and law enforcement authorities and the independence of the Personal Data Protection Authority. The 2018 Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (Council of Europe, CETS No 223) has yet to be signed.

On **freedom of thought, conscience and religion**, freedom of worship continued to be generally respected. The lack of legal personality for the non-Muslim and Alevi communities remained a serious concern, notably in relation to the lack of legal status for the patriarchates, the chief rabbinate, synagogues, churches and Cem houses (Alevi places of worship). The Venice Commission's recommendations on the legal status of non-Muslim religious communities and the right of the Greek Orthodox Ecumenical Patriarchate in Istanbul to use the title 'Ecumenical' have yet to be implemented and have continued to be challenged.

Following the publication in June 2022 of the long-awaited Community Foundations Election Regulation, the vast majority of minority foundations completed their elections, albeit under strict control and restricted by the state electoral process, and new boards of directors have taken office. However, rules for the election of the board members in the foundations controlling community hospitals have yet to be issued. Five articles of the Election Regulation were improved in September 2022. Decisions in cases related to the property of religious communities still need to be implemented. The lack of legal provisions on conscientious objection to army service remained an issue for Jehovah's Witnesses and other citizens because refusal to serve in the military results in conviction for desertion. Several ECtHR judgments and a decision by the United Nations that found violations of the rights of Jehovah's Witnesses remained unimplemented. School textbooks need to be revised in order to remove all discriminatory elements and hate rhetoric against all religious and faith groups.

Further damage to Hagia Sophia was reported, indicating a lack of proper care of this historical monument. No steps were taken to address the UNESCO World Heritage Committee's grave concern about the potential impact of the monument's status change into a mosque on the outstanding universal value of Hagia Sophia. No steps were taken to re-open the Halki (Heybeliada) Greek Orthodox Seminary, which has been closed since 1971.

Attacks continued against Cem houses and Alevi religious leaders during the reporting period. The court case concerning the July 2022 attacks in Ankara was concluded at the first instance court in July 2023, with the main perpetrator sentenced to 3 years in prison, for damaging places of worship and for deliberate injury. A presidential decree establishing the Alexi-Bektash Culture and Cemevi Presidency was adopted in November 2022. The Decree defines the duties and powers of this new state body attached to the Presidency of the Republic. However, it does not recognise Cem Houses as places of worship. Alevi organisations held demonstrations in several cities, demanding legal rights and official recognition of Cem houses.

In March 2023, Türkiye submitted an action plan to the Council of Europe regarding the implementation of four ECtHR judgments filed by the Alevi community on compulsory religion and ethics classes and the status of Cem houses. In June 2023, the Committee of Ministers reviewed the cases. On the positive side, this review led to developments allowing the partial elimination of the imbalance in religious public services provided to the Alevi community by the State. However, no measures were taken by the authorities to address the shortcomings identified by the Court as regards the compulsory religious culture and ethics classes.

Hate speech and hate crimes against Christians, Protestants, Jews and Alevis continued (see the section on minorities below). No official data exists, but the general trend is that those most targeted and subjected to hate speech and crimes are Syrians (often refugees), Greeks, Armenians, Jews and Alevis. The Jewish community and the Chief Rabbi hold annual holocaust remembrance ceremonies in İstanbul, which are occasionally attended by authorities at local level. Protestants continued to face problems in gaining official recognition for their places of worship. Hate speech and insults against atheists and deists continued. The court case on the killing/disappearance of the Chaldean Catholic couple in Şırnak in 2020 continued.

The Diyanet (Religious Affairs Presidency) Academy that was established with the amended March 2022 law started vocational training for imams and Diyanet staff. Reports of maltreatment and sexual abuse within some Sunni sects continued. The increased work, powers and influence of the Diyanet continued in all spheres of public life.

Acts of vandalism and destruction of minority worship places and cemeteries were reported during the period and need to be investigated and prosecuted effectively. In July 2022, the Jewish cemetery in Istanbul was vandalised and 81 gravestones were damaged. In January 2023, a fire broke out at the Surp Pırgiç Armenian Church lodgings and resulted in the death of two elderly residents. The authorities condemned the incidents and investigations were launched. Regarding the fight against antisemitism, Türkiye is an observer country to the International Holocaust Remembrance Alliance and it has been taking actions to support and preserve Jewish cultural heritage.

Two non-Muslim persons were elected as members of parliament in May 2023, one Armenian and one Syriac. As the Venice Commission underlined in 2010, Türkiye should continue the reform process and introduce legislation to eliminate all obstacles preventing non-Muslim religious communities from exercising all their rights and acquiring legal personality, in accordance with European standards.

There are reports concerning the ill-treatment and detention of members of the Ahmadi Religion, currently kept in the detention centre of Edirne, for attempting to seek asylum at the border with Bulgaria. A request for interim measure with the European Court of Human Rights for their release was rejected on the grounds that national measures need to be exhausted first.

Freedom of expression

Türkiye continues to be at an early stage in this area and the serious backsliding observed in recent years continued. The implementation of the criminal laws relating to national security and anti-terrorism continued to contravene the ECHR and to diverge from ECtHR case law. Cases and convictions of journalists, human rights defenders, lawyers, writers, opposition politicians, students, artists and social media users continued. The dissemination of

opposition voices and freedom of expression were impaired by the increasing pressure and restrictive measures. Regarding the May 2023 elections, the ODIHR identified an environment with restrictions on freedom of expression, both private and public media did not ensure editorial independence and impartiality in their coverage of the campaign, thus reducing voters' ability to make an informed choice.

The recommendations from the European Commission's last five annual reports were not addressed. In the coming year, Türkiye should in particular:

- release journalists, human rights defenders, lawyers, writers and academics being held in pre-trial detention and ensure that the criminal cases against them are concluded in accordance with the criteria set by the ECHR and the ECtHR;
- ensure a safe and pluralist environment that enables the media to carry out their work independently and without fear of reprisals and dismissals. This includes ending the practice of both state and non-state agents of intimidating, interfering with, and putting pressure on the media;
- revise criminal legislation, in particular the anti-terror law, the Criminal Code, the data protection law, the internet law, the new media law in relation to the definition of 'fake news', and the Radio and Television Supreme Council (RTÜK) law, to ensure that they comply with European standards and are implemented in a proportionate manner, which does not curtail freedom of expression;
- ensure that criminal law provisions on defamation and other similar offences are not used as a means of putting pressure on critical voices.

Intimidation of journalists

Activities of journalists, writers, lawyers, academics, human rights defenders, opposition politicians and critical voices continued to be restricted through arrests, detentions, prosecutions and convictions. These practices continued to hinder the exercise of their freedoms and led to self-censorship. A few journalists covering the search and rescue efforts in the area of the earthquakes were reportedly blocked by the police on the basis of the three-month State of Emergency declared in the region. Some were taken into custody on the grounds that they had taken pictures without permission. Earthquake victims who spoke to journalists were also threatened.

Türkiye is ranked 165th out of 180 in the Reporters without Borders (RSF) 2023 annual World Press Freedom Index (down from 149th in 2022). As of June 2023, 59 journalists and media employees were in prison, either awaiting trial or serving a sentence. In 2022, at least 40 (41 in 2021) journalists were taken into custody and 28 (35 in 2021) journalists were sentenced to a total of 50.5 years in prison (92.5 in 2021). A large number of cases continued to be launched against writers and journalists. Threats and physical attacks on journalists and media organisations due to their work continued during the reporting period. At least 55 opposition journalists in Türkiye were physically assaulted by politically motivated groups. Prosecutions were initiated against over 700 people, with some 180 people being detained and more than 40 people arrested, for their social media posts on the February 2023 earthquakes.

Legislative environment

The current laws on anti-terrorism, the internet, intelligence services and the Criminal Code impede freedom of expression and run counter to European standards. Selective and arbitrary application of legislation continued to raise concerns as it infringes the basic principles of the

rule of law and right to a fair trial. Despite legislative changes introducing the need for a strong evidence base in ‘catalogue crimes’, cases relating to freedom of expression remained in the category of crimes that automatically requires ‘arrest pending trial’.

No legislative changes to the Criminal Code and the anti-terrorism law to comply with ECtHR case law took place in relation to the Council of Europe Committee of Ministers 2021 resolution on a long-standing series of freedom of expression cases against Türkiye.

The case fi to enable the concentration of resources on rescue efforts, led with the Council of State by the Union of Turkish Bar Associations against the circular issued by the President in January 2022 addressed to all print, audio and visual media, including social media and digital platforms, is ongoing. The circular’s aims include to ‘protect youth, children and family institutions from bad habits and ignorance and to protect national and moral values from alienation and degeneration’.

A new Media Law was adopted by the parliament in October 2022. It raises concerns due to its vague and ambiguous language with regard to what constitutes ‘false or misleading information’, as it allows arbitrary use of the law to stifle criticism of the government. The Law leaves the final decision as to what is ‘fake news’ to the judiciary, which does not have the tools to examine complex situations and does not provide guarantees of independence from the executive power. Equally worrying is the provision of the Law that stipulates imprisonment for the crime of disinformation. The Law also increases the punitive powers of the Press Advertisement Agency (BIK) and increases the sanctions to be imposed on internet service providers that breach provisions related to information requests from the authorities. On the positive side, the Law allows internet news sites to benefit from public advertisements and allows journalists working for internet sites to receive press cards and enjoy certain social security benefits.

The new Media Law may have serious negative consequences for freedom of expression as it may foster self-censorship and stifle public debate. Several hundred cases were launched against social media users on the basis of the Law in relation to the government’s post-earthquake response. The opposition Republican People’s Party (CHP) leader was the first high-profile public figure to be charged with ‘disinformation’ for his criticism of the government response to the earthquakes. He was also charged with ‘insulting the Turkish nation, the State of the Republic of Türkiye, and the institutions and organs of the State’. An individual application was lodged with the Constitutional Court on behalf of the first journalist convicted on charges of ‘openly disseminating information misleading the public’ in December 2022.

The Venice Commission issued an urgent opinion in October 2022 on the draft amendments to the Turkish Penal Code introducing a provision on ‘false or misleading information’. This opinion criticised the new Media Law for its lack of proportionality and the risk of increased media self-censorship and violation of the right of anonymity over the internet.

Implementation/institutions

Selective and arbitrary application of the legislation continued to raise concerns. The quality of the indictments and accusations remains low as they fail to make a direct and credible link between the alleged offence and the act. The alleged offences are often acts which constitute constitutional guarantees, such as attending press conferences or trade union activities.

Despite the 2022 final ECtHR ruling on the Vedat Şorli case, which pronounced that the article of the Turkish Penal Code providing a maximum sentence of 4 years for insulting the President is not in line with ECHR principles. This article continued to be used extensively to

prosecute persons who criticised the President.

Following the Constitutional Court judgment of July 2019 (finding that the conviction of the ‘Academics for Peace’, who had been dismissed from their positions after signing a declaration criticising the government over human rights violations in the 2015-2016 operation in the south-east, violated their freedom of expression), some courts have since ruled in their favour and opened the way for their reinstatement. As a result, a number of academics were reinstated in their university positions.

The 15 Kurdish journalists and one media worker, who were detained in Diyarbakır in June 2022, were released in July 2023 under judicial control condition. The next trial session is due in November.

11 journalists were detained in April 2023 and subsequently charged with ‘membership of a terrorist organisation’.

In January 2023, the Turkish Medical Association (TMA) Chair was sentenced to 2 years, 8 months and 15 days in prison for ‘terror propaganda’ because she had called for an investigation into the alleged use of chemical weapons by the Turkish armed forces. She was released from pre-trial detention and the case is being appealed.

The Press Advertising Agency (BIK), which is responsible for placing public advertisements in the media, replaced its General Board Decision on the Code of Press Ethics of 1994. The new Decision now includes vague wording on possible violations that may contribute to further media self-censorship. It also includes ambiguous and generic provisions such as ‘sharing information and visuals on terror organisations’ that are open to interpretation and can contribute to media censorship. The Constitutional Court ruled in August 2022 that the broad-ranging authority granted to the BIK concerning the imposition of sanctions (such as public advertisement bans and fines) and the way it was used violated the right to freedom of expression. BIK then issued a decision stating that it would not examine applications on Code of Press Ethics until the parliament amended the law. At the same time, the BIK continued to allocate public advertising in a discriminatory way that favoured pro-government media. The discriminatory application of its powers risks pushing independent media into self-censorship. Measures therefore need to be taken to ensure that the State advertising budget is fairly distributed in an impartial, accountable and transparent way.

Public Service Broadcasters

The public service broadcaster Turkish Radio and Television Corporation (TRT) is affiliated with the Presidential Communication Authority, and the Radio and Television Supreme Council (RTÜK) is affiliated with the Ministry of Culture and Tourism. No changes were made to TRT’s editorial policy, which reflects the government’s official lines. RTÜK has continued to impose fines on independent television and radio channels for their broadcasting content, on the vague grounds that the content is ‘contrary to the national and moral values of society, general morality and the principle of family protection’. Media outlets critical of the government were frequently fined by RTÜK on various grounds, ranging from displaying the imprisoned former HDP co-chair Demirtaş’ new book to ‘failing to be objective’ when reporting on the government’s response to the earthquakes. The Industry and Technology Ministry did not extend the operating license of Deutsche Welle’s (DW) Turkish office, which closed at the end of March 2023. This decision meant that DW was not able to insure its employees who can therefore only continue practising journalism as freelancers. In August 2023, upon the request of the RTÜK, a criminal judge of peace decided to block access to the Voice of America Turkish service, for providing broadcasting services over the internet without obtaining a broadcast license. The concerns relating to RTÜK’s independence and

neutrality persisted as members continue to be elected by the parliament without any consultation of civil society or professional media organisations. Currently, six members are nominees of the ruling coalition, two from the CHP party and one from the HDP party.

Economic factors

The ownership of the Turkish media outlets, which is heavily concentrated in a few large companies close to the government, undermined the independence of editorial policies as it lacked transparency. In addition, the distribution channels of printed media, which are used to allocate public advertising revenues and deliver newspapers to retail outlets, are owned by a single company close to the government. The Broadcasting Law, which does not ensure fair competition because it does not prevent monopolisation, was not amended.

Internet

The current legislation and its implementation do not guarantee an open and free internet in Türkiye. There were frequent website and social media bans for those who expressed views critical of the government. Authors of such websites faced harassment and at times prosecution. There are no official statistics on banned websites or the blockage of content, in accordance with the rulings of the criminal judges of peace. In August 2023, upon the request of the RTÜK, a criminal judge of peace decided to block access to the Voice of America Turkish service, for providing broadcasting services over the internet without obtaining a broadcast license.

By March 2023, RTÜK had issued 25 penalties based on its authority to inspect online broadcasts. In February 2023, the Information and Communication Technologies Authority (BTK) blocked access to one of Türkiye's most popular social networks, the online discussion forum Ekşi Sözlük, due to its coverage of the post-earthquake response. The authorities also reduced Twitter's bandwidth on the second day of the earthquakes. Access was reinstated the next day after severe criticism that this had put search and rescue efforts at risk. Legal action was taken against 609 persons, 150 people were detained and 29 were arrested for 'provoking the public into hatred and hostility' on social media platforms in connection with the recent earthquakes.

Professional organisations and working conditions

Journalism in Türkiye remains a precarious and risky profession, with low wages, a high risk of judicial harassment and no job security. Trade union rights are limited and labour legislation is not properly applied. According to the Journalists Union of Türkiye, only 11% of journalists are unionised. The new Media Law made the issuing of press cards and accreditations highly arbitrary, due to the composition of the Press Card Commission, in which only 1 of the 19 members comes from the journalists' union and the others have been appointed by the executive branch of the government. Investigative journalism on politically sensitive issues continued to be subject to editorial pressure, self-censorship and judicial harassment (see also Chapter 10 on digital transformation and media).

The existing legislation includes vague provisions that can be used to restrict freedom of artistic expression. A number of artistic events and performances were banned by the authorities, and artists critical of government policies were subject to intimidation and insulting remarks by pro-government figures and RTÜK officials.

There was no progress in the area of **freedom of assembly and association** where legislation and its implementation are not in line with the Turkish Constitution, European standards or

the international conventions that Türkiye is party to. Bans on peaceful gatherings were widely imposed and public events were often dispersed with a disproportionate use of force by the police. Demonstrators frequently faced investigations, court cases and administrative fines on charges of terrorism or of violating the Law on demonstrations and marches. Attacks on opposition gatherings and premises were often not investigated or prosecuted. Türkiye needs to urgently apply the ECtHR case law and to revise relevant national laws.

Protests and demonstrations for human rights, environmental rights, and political and socio-economic rights were banned and dispersed by the police on several occasions (including demonstrations by dismissed civil servants, on the occasion of the International Women's Day and by mothers of disappeared persons). Participants in public events were often detained (including with the use of force) and later released. The legislation on meetings and demonstrations allowed authorities to prohibit meetings and demonstrations on the basis of vague, discretionary and arbitrary criteria. All activities related to the "Armenian Genocide Commemoration Day" were banned in April 2023. All activities and gatherings to mark anti-homophobia and Pride Month in May and June 2023 were also banned. Some activists that participated in the June march were detained and later released.

In a positive development, the Constitutional Court ruled in September 2022 that the blanket ban on demonstrations issued by Ankara's governor between 2016 and 2018 constituted a violation of the Constitution. The Constitutional Court ruled in February 2023 that the Beyoğlu District's governor's ban on the gathering of the Saturday Mothers violated their rights. Following the Court's decision, the Saturday Mothers tried to meet in their original venue, but they were repeatedly detained and released on the same day. The court case against 46 human rights defenders and the relatives of Saturday Mothers continued.

Dozens of women and a journalist were detained for gathering to mark the International Day for the Elimination of Violence against Women in November 2022. There were reports of torture and ill-treatment by the police in Cizre. The 'November 25 Platform' lodged a criminal complaint about the police brutality on that day in İstanbul.

Regarding freedom of association, many human rights defenders were detained or arrested and NGOs, especially in the south-east, were subjected to police raids. The legal provision requiring information on the identity of members of associations by the authorities remained in place. Regarding political associations, the 8th Administrative Court of Ankara found unlawful the stance of the Ministry of Interior, which prevented the establishment of the Green Party by not providing a 'received' certificate for the application and decided to stay the execution of the process. The Court of Appeal has since removed the stay of execution decision regarding the Ministry of Interior's act, the Green Party is again prevented from being established and the case is still pending. The file for the establishment of the Humanity and Freedom Party is pending before the Constitutional Court.

The Law on the prevention of financing of the proliferation of weapons of mass destruction has continued to be implemented in a manner not compatible with international human rights standards and this is threatening freedom of association in Türkiye. The Council of Europe Venice Commission's July 2021 opinion on the law was not taken into account. Türkiye used the Financial Action Task Force (FATF) recommendations to categorise NGOs as medium to high risk for terrorism financing abuse in an arbitrary way, and to subject rights-based NGOs to frequent and burdensome audits. Many associations and foundations, especially recipients of international funds, have been subjected to repeated audits. The case against the Ministry of Interior's October 2021 circular, requiring NGOs to be audited based on a risk analysis, is ongoing. The recommendations made in the 2021 Venice Commission opinion should be implemented, including with regard to fundraising activities by NGOs.

Issues of **labour and trade union rights** are further covered in Chapter 19 on social policy and employment.

On **property rights**, the Inquiry Commission on the State of Emergency Measures, whose term ended in January 2023, did not provide an effective domestic remedy for confiscations. There are ongoing court cases against the decisions of the Inquiry Commission. The case of the Istanbul Metropolitan Municipality against the Directorate-General for Foundations (DGF) on the ownership of the Taksim Gezi Park is ongoing.

In March, the EctHR found Türkiye in violation of property rights in the case of the Chief Rabbinate of Türkiye – İzmir Jewish Synagogue Foundation and ordered a retrial of the case. In December 2022, the Constitutional Court found the transfer of the Armenian Sanasaryan Inn to the State unlawful. There will be a retrial of the case, which was launched by the Armenian Patriarchate. In January 2023, the Constitutional Court ruled that there had been a violation of the right to property regarding the Greek Bebek Aya Haralambos Church, Bebek Aya Yani Cemetery Dova Church and the Cemetery Foundation. In April 2023, the Mor Batlo Syriac Orthodox Church and the cemetery in Mardin/Turabdin were transferred to the Housing Development Administration (TOKI). Court cases regarding the 2016 expropriations in Diyarbakir Sur District are ongoing.

In the south-east, the restoration of cultural and religious heritage and urban housing construction continued. Several important cultural and religious heritage sites were damaged by the February 2023 earthquakes in the region, especially in Hatay/Antakya. Regarding the implementation of the Law on foundations for minority communities, many appeals on rejected claims for the restitution of property were ongoing either before a local court or at the EctHR. Litigation brought forward by state institutions or municipalities against returned immovable property resulted in lengthy legal proceedings and uncertain property rights. The case of the Mor Gabriel Monastery Syriac Orthodox Church Foundation's land borders continued before the Constitutional Court. Other cases in relation to the ownership of the land of the Mor Gabriel Monastery continued. Other non-Muslim community foundations also have properties that have not yet been returned. Council of Europe Resolution 1625 of 2008 regarding property rights on the islands of Gökçeada (Imbros) and Bozcaada (Tenedos) still needs to be fully implemented. There is an urgent need to revise the relevant legislation on the issue of property rights for non-Muslim minorities and other legislation covering all issues of property rights to ensure a more comprehensive framework.

Legislation on **non-discrimination** is not in line with European standards and not duly enforced in practice. There were serious concerns regarding the implementation of the April 2021 Law on security investigations and archive checks for people who are to be appointed to public posts for the first time, as this takes into consideration not only final convictions but also other factors (e.g. ongoing investigations, pending cases and even intelligence against a person). The law decree issued under the State of Emergency to allow arbitrary dismissals expired in July 2022. However, dismissals with no objective criteria of civil servants continued on the basis of the Law on civil servants. Reports on profiling and discrimination against civil servants in employment on vague legal grounds continued. Cases of discrimination and hate crimes based on ethnic, religious grounds, sexual orientation and gender identity continued to be reported. Diyarbakir football team was subjected to racist attacks in two different provinces during matches. The HREI, which is in charge of applying non-discrimination legislation, finalised the examination of 166 applications in 2022 but received 355 new applications during the year falling under the scope of the task of 'combating discrimination'. The finalised decisions are sent to the relevant public authorities, but there is no systematic follow-up of corrective actions that were taken. School textbooks

still need to be revised, especially regarding some content on minorities, secularism, religion and gender equality. The HREI and the Ombudsman did not accept applications on sexual orientation and identity. Türkiye should urgently adopt a law on combating discrimination in line with the EU *acquis* as well as the ECHR, covering discrimination on the grounds of sexual orientation. Protocol 12 of the ECHR, which provides for the general prohibition of discrimination, remained unratified and the recommendations of the Council of Europe Commission against racism and intolerance (ECRI) were not implemented. Legislation against hate crime, including hate speech, is still not in line with international standards and does not cover hate offences on the basis of sexual orientation, ethnicity, age or gender identity. No progress was made with the ratification of the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

In the area of **gender equality**, the backsliding on the rights of women and girls remained. Türkiye ranked 129th out of 146 countries, as measured by the World Economic Forum's Global Gender Gap Report 2023 (compared to 124th place in the 2022 Report).

Widespread promotion of stereotyped gender roles and definitions continued, including in school textbooks and in the media. Statements by the authorities targeting independent women's organisations and women activists threatened the freedom of operation of women's rights associations. State authorities increasingly came under the influence of Sunni religious sects that promote illegal practices, such as early marriage. Efforts should be increased to prevent school drop-out due to early marriage (e.g. establishing early warning systems in schools, ensuring that domestic violence is properly investigated and prosecuted, and establishing a sufficient number of shelters for vulnerable individuals).

The Council of State concluded in its final ruling that the decision to withdraw from the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (also known as the Istanbul Convention) was in compliance with Turkish law. The Istanbul Convention is an important international standard, so this constitutes serious backsliding in Türkiye's progress. According to reports, 334 women were killed in 2022 (339 in 2021) and 245 more women died in suspicious circumstances. There is no comprehensive data collection system in this area. Despite the continued implementation of the Fourth National Action Plan for Combating Violence against Women (2021-2025), there are no effective policies (including deterrent sentences), implementation of legislation is weak and the quality of available support services is low. The February 2023 earthquakes worsened the already difficult situation of women and children in the region, due to the collapse of women's shelters, crowded temporary accommodation and a lack of proper preventive policies. In the earthquake areas, priority has been given to certain basic needs, but the provision of hygiene products for women, separate and protected toilets, and reproductive health facilities was neglected.

The protection of the **rights of the child** remained weak, including in the juvenile justice system and in relation to the consequences of the earthquakes. Urgent action is needed to ensure protection of children in the areas affected by the February 2023 earthquakes in order to avoid exploitation and abuse.

Several human rights violations were reported in the regions affected by the earthquakes, including against children and persons with disabilities. The Religious Affairs Presidency issued a ruling (fatwa) soon after the earthquakes, stating that there is no religious obstacle to a marriage between a person and their adopted child. This is cause for very serious concern. A coherent and effective monitoring mechanism by public institutions for children in earthquake regions, including for unaccompanied and missing children, is urgently needed.

In January 2023, a Parliamentary Commission for Investigation of Child Abuse was established at the National Grand Assembly. A national action plan needs to be put in place to combat and prevent child, early and forced marriages and to raise awareness of the harmful impacts of child marriage. Consistent efforts are needed to eradicate child labour, especially among refugees.

Türkiye is effectively pursuing a de-institutionalisation strategy. However, 60% of the children living in the childcare system are in institutional care. Adequate funding should be directed towards reinforcing community-based care and ensuring proper de-institutionalisation. Particular concern is caused by the construction of new institutions following the earthquakes and the wars in Syria and Ukraine.

Children can benefit from free legal aid for criminal disputes, but no such scheme is in place for civil cases and/or other complaint mechanisms. Concerns remained about juveniles facing arrest and detention on charges of membership of terrorist organisations. Non-custodial measures for children need to be improved. The capacity of NGOs and bar associations to intervene, monitor and lodge strategic litigation is limited, both in law and practice. There is an insufficient number and geographical coverage of specialised child courts, child assize courts and qualified staff including judges, prosecutors, lawyers and experts. Almost half of the children on trial are still being tried before non-specialised courts. There are currently 81 juvenile courts and 12 juvenile high criminal courts, in accordance with the law that requires that there is a juvenile court in every province. However, this is not enough for the needs of big cities. Child-specific services (such as child-friendly interview rooms and child monitoring centres) were reportedly interrupted in various cities. A comprehensive training programme for all professionals working with children in contact with the law, with a certification mechanism and incentives, needs to be developed.

Concerning the **rights of persons with disabilities**, a national action plan to implement the ‘2030 Barrier-Free Vision Document’ was adopted by the government in February 2023, covering actions until 2025. The action plan pursues a rights-based approach and largely reflects the EU strategy in this field. The Monitoring and Evaluation Board on Rights of Persons with Disabilities became operational in November 2022 and convenes twice a year under the coordination of the Ministry of Family and Social Services, of which it is structurally part. Türkiye has ratified the UN Convention for the Protection of the Rights of Persons with Disabilities and its Optional Protocol, but shortcomings persist in its transposition and implementation. There is insufficient data collection in the field of accessibility of services and public infrastructure. The consequences of the February 2023 earthquakes will need to be reflected in the national action plan, including to ensure that public institutions include persons with disabilities in their preparedness, evacuation and post-disaster recovery plans. This will require a number of actions, including a thorough assessment of the number of people who became disabled as a consequence of the earthquakes, along with proper rehabilitation and psychological support measures.

Türkiye continued to pursue a de-institutionalisation policy for persons with disabilities, coupled with a home-based care support programme. However, independent-living mechanisms and opportunities remained very limited. The human resources capacity of services for people with chronic mental disorders and intellectual disabilities was enhanced in 2022. Quality standards developed for community mental health centres are now in active use. However, Türkiye has no mental health legislation and no independent monitoring mechanism for mental health institutions. In school education, the proportion of students with disabilities attending inclusive classrooms reached 75%. The remaining 25% (more than 60 000 children) continued to attend special schools.

The lack of protection for the fundamental rights of **lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons** continued to raise serious concerns. The lack of legal protection against hate speech and hate crimes based on sexual orientation or gender identity was further exacerbated by negative stereotyping in the media and discriminatory rhetoric from high-level officials, including the highest political level. Anti-LGBTIQ rallies were organised in various parts of the country during the reporting period and were allowed by the authorities. LGBTIQ associations were regularly targeted by pro-government media for being funded by foreign countries. Discrimination, intimidation and violence against the LGBTIQ community and especially transgender persons increased, in part due to the lack of effective criminal sanctions. Several court cases related to LGBTIQ persons who were murdered or seriously assaulted continued. Access to gender reassignment surgery and to health and social services remained cumbersome and problematic for trans persons. LGBTIQ prisoners suffered discrimination and solitary confinement. LGBTIQ activities, marches and pride parades were banned in several provinces and police intervened to disperse participants.

The appeal case against the Middle East Technical University (METU) students who took part in a pride gathering on the university campus in May 2019 continued. A new court case was launched against METU students for their participation in the pride march of 2022. The court case against the former executives of the Ankara Bar Association for criticising the Diyanet's president's homophobic speech continued. A court case against the Izmir Bar Association's former president and ten board members started in April 2023 on charges of insulting religious values, due to the statement they issued on their official website against the discriminatory Friday sermon of the president of religious affairs against private life, different life preferences and LGBTIQ individuals. The Human Rights and Equality Institution (HREI) continued to not process applications by LGBTIQ persons on the grounds that it does not consider discrimination against LGBTIQ to be within its remit, because the law establishing the HREI does not consider 'sexual orientation and gender identity-based discrimination' to be a criterion for discrimination.

On **procedural rights**, legislation and its implementation are not in line with the EU *acquis* or European standards, since basic minimum procedural rights' standards are missing. The 2023 earthquakes seriously hindered access to justice in the affected areas, especially for disadvantaged groups, women and children. In addition to the loss of life, many lawyers' offices and some bar associations' premises were destroyed by the earthquakes. The Union of Bar Associations provided support to lawyers in the affected regions but, overall, problems of access to justice remained extensive. Several complaints were launched by bar associations concerning human rights violations, property rights and other issues.

ECtHR judgments condemning Türkiye for violating the right to a fair trial and the presumption of innocence due to its failure to respect procedural rules continued to be handed down. The 2018 law issued under the state of emergency that restricted fundamental freedoms (including in the Code on Criminal Procedures and Anti-Terror Law) remained in force.

Access to legal assistance for convicted children remained limited. Lawyers (especially those providing legal assistance to human rights defenders and civil and political activists) continued to face difficulties in performing their duties. In some cases, lawyers were subjected to ill-treatment by law enforcement personnel.

Protection of victims' rights is regulated under the penal legislation. The presidential decree on Supporting the Victims of Crime has been in force since June 2020. Accordingly, there is a specialised Department of Victims' Rights under the Ministry of Justice. The 'Judicial Support and Victim Services Directorates' established in 167 courthouses provide

information, orientation and psycho-social support services to the victims of crime during judicial proceedings. Currently, there are 166 forensic interview rooms in 159 courthouses in 81 provinces, where victims can give their statements outside the courtroom with the support of experts and without having to face the alleged perpetrator. Compensation and redress for victims remained limited. Steps need to be taken to align national legislation with the EU Victims' Rights Directive and the directive relating to compensation for crime victims.

Hate speech and hate crime remained a serious issue for persons belonging to ethnic and national **minorities**. No steps were taken to revise school textbooks to remove discriminatory and derogatory references. Minorities continued to face difficulties, such as the lack of legal status for religious institutions, protection for languages, schooling support, clergy training, the economic non-viability of media in minority languages and complications in enjoying property rights for foundations. The lack of legal personality for minority communities' churches, synagogues, patriarchates, monasteries and chief rabbinate continued to create difficulties in exercising their freedom of association and religion, and impacted their property rights. Minority schools received no public funds. Regular and substantive subsidies to the newspapers run by members of the Armenian, Greek, Jewish and Syriac communities were granted by the Press Advertising Authority, in order to ensure their viability, given their limited circulation. In the court case against public officials involved in the killing of Armenian journalist Hrant Dink in 2007, the Court of Cassation in June 2023 upheld some of the convictions given by the local court and some acquittals. In April 2023, as a result of an on-going investigation, a new case was launched against some of the perpetrators of Dink's murder on charges of 'being a member of an armed organisation', 'deliberate killing' and 'attempting to remove the constitutional order'. The first hearing was held in June 2023.

The 'Armenian Genocide Commemoration Day' was banned by the Istanbul governorate and other provinces. During the reporting period, a member of the Armenian community was appointed as a sub-province governor (kaymakam) for the first time. The restoration studies continued on the Büyükada (Prinkipo Island) Greek Orphanage, a cultural heritage monument. Mechanisms should be in place to support the participation of minorities in decision-making and to ensure that they are adequately represented in the public administration and in politics (see also Chapter 23 on cultural rights).

Concerning the **Roma**, Dom and Abdal communities, Türkiye adopted in January 2023 a new Roma strategy and a related action plan covering the period until 2030. The aim is to align with the EU Roma Strategic Framework, however, a horizontal objective of fighting antigypsyism and discrimination and quantitative national targets connected to indicators and baselines that would allow measuring progress towards the EU level headline targets remains to be defined. The implementation of the strategy needs to be monitored inclusively, including with the broad participation of civil society. Ten municipalities across Türkiye voluntarily took part in an EU programme to promote participation in local governance using social mediators. Specific policy measures are needed for the inter-sectional vulnerabilities of Roma women. No official data on the situation and living conditions of Roma exists in Türkiye.

The February 2023 earthquakes increased the difficulties of the Roma population in the affected areas in terms of living conditions, livelihood, basic needs and health, especially for women and children. Dramatic increases in housing prices particularly hit Roma families, who often live in poor conditions and have limited property ownership. Lack of emergency savings and high dependence on informal jobs made Roma in earthquake-affected regions more vulnerable. The Roma were among the vulnerable groups who had more difficulties in accessing relief aid. A holistic approach is needed to address drug use disorder among the

Roma, taking particular account of social and economic factors. Roma children being more integrated into the education system would contribute to eliminate child labour and early marriage. Targeted support measures for Roma entrepreneurs and self-employed need to be introduced. The problem of incorrect diagnosis of Roma children with mental disabilities or learning difficulties should be effectively tackled. No EU-Türkiye Joint Roma Seminar was held. Concrete measures should be taken to prevent the increase of antigypsyism and to combat prejudice and discrimination against Roma. The capacity of the National Roma Contact Point to programme and mainstream funds targeting all aspects of Roma inclusion remained limited. No members of parliament in the new parliamentary term have an overt Roma identity.

On **cultural rights**, there were no legislative developments to allow public services to be provided in languages other than Turkish. Legal restrictions on mother-tongue education in primary and secondary schools remained in place. Optional courses in Kurdish and Circassian are provided in public state schools, but the requirement of a minimum of 10 students for these courses continued to be an impediment. The small number or complete lack of teachers for these courses remained another limiting factor. University programmes are available in Kurdish, Arabic, Syriac, Zaza and Circassian. Only a few political parties explicitly included mother-tongue education in their election platforms. The state-appointed trustee mayors in the south-east continued changing the original names of streets. The increased powers of the governors and arbitrary censorship continued to have a negative impact on arts and culture and a number of art and culture groups in Kurdish language were dismissed by the trustees. A dozen concerts, festivals and cultural events were banned by governorates and municipalities on the grounds of ‘security and public order’. Kurdish cultural and language institutions, media outlets and numerous art spaces remained mostly closed, as they have been since the 2016 coup attempt, which contributed to a further shrinking of their cultural rights (see also Chapter 26 – Education and culture).

2.2.2. Chapter 24: justice, freedom and security

The EU has common rules for border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails the lifting of border controls within the EU. The Member States also cooperate with Türkiye in the fight against organised crime and terrorism, and on judicial, police and customs matters, all with the support of the EU justice and home affairs agencies.

Türkiye is **moderately prepared** in the area of justice, freedom and security. **Some progress** was made in relation to the further strengthening of the surveillance and protection capacity of the land border with Iran. Türkiye has still not implemented the provisions pertaining to third-country nationals in the EU-Turkey readmission agreement, which entered into force in October 2017. Türkiye continued to make significant efforts to host and meet the needs of 3.6 million refugees. Türkiye still needs to align its legislation on data protection with European standards.

Most of last year’s recommendations still need to be addressed and remain valid. In the coming year, Türkiye should in particular:

→ fully implement the EU-Turkey Statement of March 2016 (notably the returns from the Greek islands and the prevention of irregular routes to all Member States) and implement all the provisions of the EU-Turkey readmission agreement towards all EU Member States;

- align legislation on personal data protection with European standards, which could have a positive effect for the possible conclusion of an international agreement between the EU and Türkiye on the exchange of personal data between Europol and Türkiye;
- revise legislation and practices on terrorism in line with the European Convention on Human Rights, European Court of Human Rights case law and the EU *acquis* and practices. The proportionality principle should be observed in practice;
- adopt and implement a strategy and action plan on border management with the aim of enhancing coordination between border services at national and international levels.

Fight against organised crime

Türkiye has **some level of preparation** to implement the EU *acquis* in this area. **Some progress** was made at operational level through participation in an increasing number of joint operations with EU Member States and neighbouring countries. A new strategy and new action plan against organised crime were adopted. However, Türkiye needs to improve the effectiveness of law enforcement in fighting certain forms of crime, such as money laundering and financial crimes. Coordination remains crucial for all stakeholders involved in fighting organised crime.

In the coming year, Türkiye should in particular:

- improve the legal framework and practices on counterterrorism in line with the EU *acquis*; and continue addressing the remaining recommendations in order to be delisted from the Financial Action Task Force's (FATF) 'grey list';
- conclude an international agreement with the European Union on cooperation with Eurojust;
- enhance efforts in the fight against the smuggling of migrants, including final convictions and asset confiscation;
- revise Law No 7262 in line with the recommendations of the Venice Commission;
- increase its operational willingness to cooperate and exchange information with EU law enforcement partners.

Institutional set-up and legal alignment

There are a number of **specialised departments** dealing with various forms of organised crime, under two main law enforcement agencies; namely the gendarmerie and the police under the Ministry of Interior (MoI). The Coast Guard Command also plays an important role in preventing migrant smuggling and trafficking in human beings. The Financial Crimes Investigation Board (MASAK) is the Turkish financial intelligence unit attached to the Ministry of Treasury and Finance. Cybercrime is addressed by a specialised department for combating cybercrime affiliated to the Turkish national police (the TNP) as well as the public order division of the gendarmerie at central level and the 31 provincial gendarmerie branches.

The TNP comprised a total of 339 563 officers (equivalent to 399.48 officers per 100 000 inhabitants). By comparison, the EU average is 335.3 officers per 100 000 inhabitants (Eurostat, 2019-2021). The total number of gendarmerie staff (excluding conscripts) was 196 285 (equivalent to 230.34 gendarmerie personnel per 100 000 inhabitants). The Coast Guard Command comprised of 8 343 personnel (equivalent to 9.81 personnel per 100 000 inhabitants). Between April 2022 and April 2023, 1 054 personnel were dismissed from the

gendarmerie. These figures include the personnel dismissed due to their affiliation to the Gülen movement and the Parallel State Structure (PDY).

The **legal framework** for the fight against organised crime and police cooperation is partially aligned with the EU *acquis*.

Türkiye adopted a new national strategy (2022-2027) and an action plan (2022-2024) against organised crime in December 2022. The Ministry of Interior's Department of Smuggling Intelligence, Operations and Data Collection is responsible for coordinating the implementation.

The legal framework pertaining to trafficking in human beings is largely in accordance with international conventions and the EU *acquis*. A new action plan on trafficking in human beings requested by the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) has not been adopted. Türkiye needs to fully align its definition of trafficking in human beings with the Council of Europe Convention on Action against Trafficking in Human Beings.

The completion of an international agreement between the EU and Türkiye on the exchange of personal data between Europol and the Turkish authorities with responsibility for fighting serious crime and terrorism is still pending considering also that the Turkish data protection legislation is still not aligned with the EU's *acquis*.

Türkiye is party to the Council of Europe's 'Budapest' Convention on cybercrime, but it has yet to sign its Second Additional Protocol on enhanced cooperation and disclosure of electronic evidence, which was opened for signature in May 2022.

Türkiye's Information and Communication Technologies Authority has been a member of INHOPE (International Association of Internet Hotlines) since 2011 and cooperates with other hotlines to fight against **child sexual abuse**. Article 21 (entitled 'Protection of Children') of the By-law on the provision of radio, television and on-demand media services via the internet environment requires media service providers that have been granted an online broadcasting license and online media platform operators that have been granted an authorisation certificate for the online transmission of media services to take measures to ensure parental control. It also makes these institutions responsible for taking the necessary technical measures to protect children and young audiences. In this context, examples such as PIN systems, and child profile and protective symbol systems are used by media service providers operating in Türkiye to protect children in online audiovisual media services. In January 2023, the Turkish parliament set up a research commission with the objective of preventing child abuse. The establishment of this commission was prompted by a specific case involving the forced marriage of a six-year-old girl (*see the section on fundamental rights of the child*).

MASAK is a member of the Egmont Group of Financial Intelligence Units, which facilitates cooperation and intelligence sharing between national financial intelligence units to investigate and prevent money laundering and terrorist financing.

Türkiye is party to the UN Convention against Transnational Organised Crime and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and on the Financing of Terrorism (CETS No 198).

Türkiye has a witness protection system to protect witnesses from intimidation and threats. However, the scope of the Law on witness protection needs to be expanded to include all types of serious crimes and procedural rules need improvement.

Implementation and enforcement capacity

In the reporting period, operational capacity continued to be strengthened through new recruitment and training programmes.

In total, 6 145 operations were carried out by the gendarmerie and the Turkish national police (the TNP) to tackle organised crime, cybercrime, smuggling of migrants and trafficking in human beings.

Concerning firearms trafficking, 2 388 small and light weapons (SALW) were seized by the gendarmerie and 4 138 by the TNP during the reporting period. In 2022, 877 cases of firearms trafficking (Article 12 of the Turkish Criminal Code) were brought before criminal courts, resulting in the conviction of 584 persons.

Since July 2004, cooperation between Europol and Türkiye has been based on the Strategic Agreement on Cooperation. This does not include the possibility of sharing personal data, but it does facilitate cooperation in a range of areas. A Turkish liaison officer has been seconded to Europol since 2016. Türkiye is connected to and configured for the full use of the Secure Information Exchange Network Application (SIENA) with third parties and EU Member States. The EU (through Europol) and Türkiye have a joint interest in stepping up law enforcement cooperation to effectively address common challenges.

16 EU Member States have 30 liaison officers in Türkiye and Türkiye has 10 liaison officers in 7 EU Member States. A cooperation agreement with the European Union Agency for Law Enforcement Training (CEPOL) has been in place since 2010. Its revision has been pending since the end of 2022. Exchange and training programmes were carried out involving the gendarmerie and the TNP. As well as participating in the courses held by EU Member States, TNP also organises joint workshops with CEPOL.

The track record on combating money laundering and terrorist financing showed a gradual improvement. Turkish judicial statistics showed a consistent upward trend. There were 19 files, 49 separate offences and 47 convictions in 2020, while there were 26 files, 61 separate offences and 61 convictions in 2021. In 2022, 39 criminal files and 118 offences resulted in 116 convictions.

The domestic terrorist asset freeze mechanism continued to be implemented through the joint decisions issued by the Ministry of Treasury and Finance and the Ministry of Interior. In 2021, the assets of 1 145 real persons and 16 corporate identities were frozen through three interministerial decisions. In 2022, 4 interministerial decisions resulted in the assets of 64 real persons and 14 corporate identities being frozen.

The country's geographic location makes it an important player in the fight against organised crime groups, in particular drug trafficking, migrant smuggling, arms trafficking, intellectual property crime and money laundering. Türkiye is used as a financial hub between south-east Asian countries, the Gulf region and Europe for facilitating illicit money flows in exchange for irregular migrants and illicit commodities. As far as participation in the European Multi-disciplinary Platform against Criminal Threats (EMPACT) is concerned, Türkiye was in 2022 a participant in one operational action (in the operational action plan on intellectual property crime, counterfeit goods and currencies). In 2023, Türkiye is participating in 16 operational actions. Regarding cross-border cooperation, Türkiye has not participated in any EU joint investigation teams (JITs) to date.

Türkiye continues to be an important transit and destination country for **trafficking in human beings**. By the end of 2022, the number of victims identified by the Turkish authorities stood at 345 (compared to 2021 when 403 victims were identified). Sexual and

labour exploitation constitute the highest number among the purposes of trafficking. Most victims are of Syrian origin. In 2022, 115 cases of trafficking in human beings (Article 80 of the Turkish Criminal Code) were brought before Türkiye's criminal courts. 23 cases ended with convictions. 65 people accused of trafficking were convicted by the criminal courts of first instance.

There are two shelters in Ankara and Kirikkale provinces run by the Presidency for Migration Management (PMM). Their total capacity to host victims of trafficking in human beings is 42 persons. There is an urgent need to increase the capacity to host and provide services to victims of human trafficking. Additional shelters are planned for the provinces of Aydın and Kutahya. Türkiye should bolster its collaboration with civil society organisations to enhance its capacity in identifying victims and delivering essential victim support services. Specialised services should be strengthened for all victims of trafficking.

The many Syrian and other refugees, including children, are vulnerable to being exploited through forced labour. Reports of early marriages increased in the wake of the pandemic as a negative economic coping mechanism.

There are insufficient training programmes for law enforcement agencies, prosecutors and judges that focus on a victim-centred approach. Partnership with civil society should be sought in order to encourage the identification of victims of trafficking and to provide them with shelter and services. The reasons why the crime of trafficking in human beings is not prosecuted should be identified and measures should be taken to ensure that victims are allowed to appear in court via video link when the circumstances of the case and the vulnerability of the persons concerned require this.

Gun violence in Türkiye has surged in recent years, while the overwhelming majority of firearms owned by individuals are unregistered due to lax enforcement of the Law on unregistered weapons.

In 2022, 47 079 suspects were detected in 8 252 cases of cybercrime (Articles 243/1, 244, 103 and 226 of the Turkish Criminal Code), resulting in the conviction of 123 persons. In the reporting period, there was no national strategy and action plan in place against cybercrime.

The National Cyber Security Strategy and Action Plan 2020-2023 covers public administration systems, information systems belonging to critical infrastructures operated by the public and private sectors, small and medium-sized industry, and all the components of cyber space at the national level (including all private and legal persons).

Cooperation in the field of drugs

Institutional set-up and legal alignment

The High Council for the Fight against Drugs consists of 12 ministers and is responsible for coordination and monitoring at national level. The national strategy and the action plan aimed at combating illegal drugs, which have been in effect for the period of 2018-2023, are coming to an end. The secretariat for coordinating their implementation is within the Ministry of Health's Directorate-General for Public Health. All ministers involved in the implementation of the strategy and action plan are also members of the High Council. A research committee conducts research into drug addiction and a scientific committee provides recommendations for studies, training and awareness-raising activities on drug abuse. An Action Plan on the Fight Against Methamphetamine 2022-2024 has been in force since August 2022 under the coordination of the Ministry of Interior. The Ministries of Justice, Family and Social Services, Interior, Defence, Health and Trade take part in the implementation.

Türkiye is a member of the European Information Network on Drugs and Drug Addiction (Reitox).

The Turkish Monitoring Centre for Drugs and Drug Addiction (TUBİM) continues to act as the national focal point of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and is the national drug observatory. Türkiye has had a participation agreement in place with the EMCDDA since 2007 and is a member of the Management Board of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). It has a monitoring role at national and international level and drafts the annual Turkish drug report. It collects data, makes risk assessments and provides recommendations with regard to the National Early Warning System on new psychoactive substances. A total of 1 006 new psychoactive substances have been included in the national legislation and 35 of these were put on the list in 2022. The instant data-flow system, which uses encryption and anonymisation of personal data for monitoring and reporting, is operational. The responsible body for controlling drug precursors is the Turkish Medicine and Medical Devices Agency of the Ministry of Health, which grants licences and permits for manufacture, possession, selling, purchase, transportation, consumption, distribution, importation, exportation and legal use including for pharmaceutical and industrial purposes.

Within the framework of the 7th Judicial Reform Package adopted in April 2023, some penalties have been increased under the Turkish Penal Code with regard to manufacturing and trading certain types of drug substances, which have a higher potential to cause addiction and serious health problems. The minimum imprisonment penalty was increased from 10 to 15 years. Some amendments were made in relation to treatment, rehabilitation and probation. Random tests may be conducted under probation, and compulsory treatment and rehabilitation can be exercised on the convict or prisoner.

Implementation and enforcement capacity

Türkiye remains a transit route for drugs between Asia and Europe, but information exchange and collaboration with EU law enforcement partners are to be enhanced, particularly for heroin. In 2022, Turkish law enforcement services conducted operations that resulted in the seizure of, inter alia, 71 967 kg of cannabis including skunk (2021: 64 125 kg), 2 276 kg of cocaine (2021: 2 841 kg), 7 957 kg of heroin (2021: 22 202 kg), 16 210 kg of methamphetamine (2021: 5 528 kg), 5 050 325 ecstasy tablets (2021: 7 618 013) and 23 945 026 captagon tablets (2021: 13 790 648).

In 2022, a total of 69 430 cases in relation to Article 188/3 of the Turkish Criminal Code involving 90 919 suspects were launched by the prosecution for illicit drug related offences. 28 181 suspects were convicted.

In the field of prevention, the Ministry of Health (MoH) operates 237 counselling centres in 81 provinces. In 2022, 30 new centres became operational. The anti-drug counselling hotline received 78 152 calls in 2022. There are 135 treatment centres for drug dependence in 81 provinces. 59 of the centres focus on inpatient treatment and 20 of those are specifically dedicated to treating children. The other 76 centres are outpatient centres and 20 of those are specifically dedicated to children. The waiting time for applicants to be admitted to the treatment centres is currently 1-3 days. Bed capacity is 1 372. Despite improvements, the rehabilitation and treatment capacity remains insufficient.

Fight against terrorism

Institutional set-up and legal alignment

Türkiye's continuing efforts to tackle terrorism reduced terrorist activity and improved the security situation. The country continued to face threats from various terrorist groups. The EU has condemned all acts of terrorist violence perpetrated in Türkiye. Türkiye has prioritised the fight against the PKK and the dismantling of the Gülen movement. The PKK remains on the EU's list of persons, groups and entities involved in acts of terrorism. Türkiye has a legitimate right to fight terrorism. However, bringing the Turkish anti-terrorism legislation in line with EU standards still remains an essential outstanding reform.

The legal framework regulating the fight against money laundering and terrorist financing should be aligned with the recommendations provided by the FATF and those outlined by the Venice Commission on the Law on preventing financing of proliferation of weapons of mass destruction.

Türkiye has been on the list of jurisdictions under increased monitoring (the 'grey list') of the Financial Action Task Force (FATF) since October 2021. Türkiye's EU candidate status and commitment to address shortcomings identified by the FATF and to align with the EU's *acquis* have prevented it from being added to the EU's high-risk third countries list. Türkiye's response to the concerns of the EU and the FATF continues to be closely monitored in the framework of the Association Agreement. Türkiye must diligently adhere to the outstanding FATF Action Plan items to secure its removal from the grey list. With regard to the outcomes of the FATF's Mutual Evaluation Report on Türkiye and the recommended actions by the FATF, Türkiye promulgated an overarching national AML/CFT strategy document in July 2021. The strategy document was revised in 2022 to comply with the outstanding recommended actions. Türkiye also updated its National Risk Assessment at the end of 2022. The country is also supported by the EU's Global Facility on Anti-Money Laundering and Countering the Financing of Terrorism project.

In 2022, Türkiye adopted regulations regarding politically exposed persons and guidance to the private sector on detecting terrorist financing. It also increased its financial intelligence agency's proactive dissemination of financial intelligence. In July 2023, the FATF concluded that Türkiye has taken positive steps towards improving its AML/CFT regime. Türkiye is now compliant with 14 recommendations, largely compliant with 25 recommendations, with only one recommendation (Recommendation 15 on new technologies) remaining as partially compliant.

The Law on the prevention of financing of proliferation of weapons of mass destruction has not been revised in line with the Venice Commission's recommendations. The Ministry of Interior and the Financial Crimes Investigation Board (MASAK) developed a risk-based methodology for the audit of the non-profit organisations (NPOs). As a result of the risk-based methodology, the Ministry of Interior's audits prioritised the humanitarian aid NPOs. More than 600 NPOs have been audited repeatedly in accordance with the provisions of law since 2021. None of the audited NPOs and their executives have been prosecuted as a result of these audits. Civil society remained concerned about potential disproportionate implementation of the law to further restrict the legitimate activities of NGOs and to put additional pressure on critical voices.

Türkiye is an active member of the Global Coalition against Daesh.

Implementation and enforcement capacity

Türkiye faces threats from various terrorist groups. Türkiye actively engaged in the regular biannual review of the EU terrorism list under Common Position 2001/931/CFSP ('CP 931'). The PKK, IBDA-C, DHKP/C and TAK remain on the EU's terrorism list. However, terrorism prosecutions often disproportionately targeted legitimate activities of political

opposition. Counterterrorism efforts need to be pursued in accordance with the rule of law and fundamental rights and freedoms.

In the reporting period, MASAK continued to strengthen its institutional capacity as well as its cooperation with law enforcement agencies and judicial authorities. MASAK has consistently built a sound track-record. The number of suspicious transaction reports submitted decreased from 504 995 in 2021 to 425 322 in 2022. Systematic inter-agency cooperation between the law enforcement agencies, prosecution and MASAK has improved. As a result of its anti-money laundering / countering the financing of terrorism (AML/CFT) analysis and inspections, MASAK forwarded criminal complaints to the prosecution for 496 persons.

Türkiye reaffirmed its commitment to freeze the assets of persons/entities designated by the United Nations Security Council Sanctions Committee. The government also continued to use the domestic assets freezing instrument as a deterrent.

Judicial cooperation in civil and criminal matters

Judicial cooperation in civil and commercial matters is regulated by the Law on international civil law and procedural law, circulars and international conventions. Türkiye is a party to most international conventions. However, it has not acceded to relevant international conventions in the area of civil justice, many of which were drawn up by the Hague Conference on Private International Law, including in particular the 1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children, the 2007 Convention on the International Recovery of Child Support and Other Forms of Family Maintenance and the 2005 Convention of Hague on Choice of Court Agreements. Türkiye has not yet ratified the European Convention on the Compensation of Victims. In 2022, within the scope of the Convention on Civil Procedure, 15 judicial legal assistance requests were made by EU Member States and 196 by Türkiye. Within the scope of the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, 77 judicial legal assistance requests were made by EU Member States and 1 937 by Türkiye.

The main legislation governing judicial cooperation in criminal matters has been in place since 2016 and Türkiye has acceded to most of the international conventions. 33 mutual legal assistance requests following the introduction of videoconferencing have been processed and 2 of these have been finalised. Under the new ‘consensual extradition’ procedure, extradition of an offender now takes 1-2 months on average, whereas the previous extradition procedure lasted around a year. As for the transfer of sentenced persons, introduction of the procedure of ‘exact execution’ paved the way for the removal of the obligation on local courts to comply with domestic legislation. In 2022, a total of seven convicts were transferred to Türkiye from EU Member States under the new procedure, while one convict was transferred from Türkiye to an EU Member State. The independence and accountability of the justice system has to be substantially strengthened for a smooth application of the principle of mutual recognition of judgments and court decisions in criminal matters.

In 2022, EU Member States accepted 18 extradition requests from Türkiye, while 29 were rejected, 19 requests became redundant and 151 are still pending. Of the 15 extradition requests from EU Member States, 3 were rejected and 12 are still pending. EU Member States did not agree to any transfer of convicts to Türkiye, but Türkiye agreed to 2 transfers to EU Member States. Five contact points have been designated by Türkiye to coordinate and follow up judicial cooperation on criminal matters with Eurojust. In 2022, Türkiye was involved in 13 Eurojust cases on terrorism, terrorism financing, cybercrime (fraud), migrant

smuggling, attempted murder, money laundering, forgery and drug smuggling (compared with 15 cases in 2021). However, negotiations for an International Agreement with the EU on cooperation with Eurojust have not started yet.

Cooperation arrangements should also be established with the European Public Prosecutor's Office (EPPO), which started operating in June 2021. In 2022, there were four EPPO cases involving Türkiye. Until August 2023, Türkiye had not formally communicated whether it would cooperate with the EPPO on the basis of the declarations made by Member States to the European Convention on Mutual Assistance in Criminal Matters, recognising the EPPO as a national competent authority for the purpose of the Convention.

Legal and irregular migration

Institutional set-up and legal alignment

The Presidency for Migration Management (PMM) is in charge of coordinating migration policy; ensuring coordination between relevant agencies and organisations; carrying out functions and actions related to foreigners' entry into, stay in and exit from Türkiye as well as their removal, international and temporary protection; and the protection of victims of trafficking in human beings. The PMM currently has 13 267 personnel.

Following the December 2019 amendment of the Law on foreigners and international protection, which introduced alternatives to detention, the implementing regulation on alternative obligations to administrative detention was adopted on 14 September 2022. The regulation breaks down the procedures applicable for the implementation of each alternative to detention. In addition to alternatives to detention based on residence and notification duty that were already implemented (before the regulation entered into force), methods such as return counselling and family-based return have been rolled out. Alternatives to detention that require an electronic infrastructure (such as voice recognition software and electronic bracelets) have yet to be put into practice. Irregular migration bureaus are set up to monitor the implementation of alternatives to detention in all the Provincial Directorates of Migration Management (PDMMs). Monitoring working groups were established in the İstanbul, Ankara, İzmir and Antalya PDMMs.

Implementation and enforcement capacity

The EU-Turkey Statement remained the main framework for cooperation between the EU and Türkiye.

The PMM suffered loss of personnel and infrastructure due to the devastating February 2023 earthquakes, which affected 11 provinces of Türkiye. The buildings of the PDMMs in Malatya, Osmaniye, Hatay, Adıyaman and Gaziantep were damaged, while a large number of personnel from other provinces have been appointed to the affected areas to provide services to foreigners. In the reporting period, PMM continued to employ a limited number of psychologists, social workers, interpreters and lawyers, some of whom are financed by the EU.

According to the International Organization for Migration (IOM), 378 migrants lost their lives in the Eastern Mediterranean in 2022 (111 in 2021). Between January and September 2023, 22 421 irregular migrants arrived in the EU from Türkiye (including Greece, Italy and Bulgaria) compared to 22 821 arrivals during the same period in 2022. The sea route to Italy saw a substantial decrease (down by 55%), while arrivals in Greece increased considerably by 123%. However, the number of arrivals in Cyprus via the Green Line went down by 42% between January and September 2023, in comparison with the same period in 2022.

The average number of daily irregular arrivals in Greece from Türkiye was 42 in 2022 (up from 20 in 2021). In 2023, by September, the average number of daily irregular arrivals in Greece from Türkiye increased to 78. Turkish irregular migrants occupied the top spot among those who arrived in Greece, followed by Syrians and Afghans. In 2022, the number of irregular arrivals in Cyprus reached 17 365 (11 600 in 2021), most of whom crossed the Green Line after arriving from Türkiye via the non-government-controlled area of Cyprus. In 2023, by September, 6 969 irregular arrivals were recorded in the government-controlled area of Cyprus.

As regards the irregular sea route from Türkiye to Italy in 2023, 4 913 irregular arrivals were recorded until September, compared to 10 805 in the same period in 2022. The total number of irregular migrants who arrived in the EU from Türkiye in 2022 stood at 33 514 (including 15 582 in Greece, 15 805 in Italy, 1 884 in Bulgaria and 173 in Romania), a substantial increase compared to 21 295 irregular arrivals in 2021 (7 410 in Greece, 12 916 in Italy, 936 in Bulgaria and none in Romania). At the same time, in 2022, the number of irregular arrivals in Cyprus via the Green Line also increased substantially to 17 365, from 10 918 in 2021.

280 206 irregular migrants were apprehended in Türkiye in 2022 (162 996 in 2021). As in past years, irregular migrants from Afghanistan, Syria and Pakistan were the most frequently apprehended nationalities. The Turkish Coast Guard (TCG) rescued 49 518 irregular migrants at sea in 2022 (23 676 in 2021).

In 2023, by August, the Turkish authorities had apprehended 102 746 irregular migrants, around 24 405 of whom were intercepted by the TCG. Nationals of Afghanistan, Syria and Palestine topped the list of nationalities. According to the government, law enforcement forces apprehended 9 149 smugglers in 2022 (an increase on the 7 942 apprehensions in 2021). As regards 2023, as of August, 3 259 migrant smugglers had been apprehended. 1 720 people and organised crime groups were convicted for migrant smuggling in 2022.

No progress was made as regards the full implementation of the EU-Turkey Readmission Agreement. Türkiye maintained its position that it would not implement the provisions concerning third-country nationals until the visa requirement for its citizens travelling to the Schengen Area is lifted.

Türkiye has unilaterally suspended the return of irregular migrants from the Greek islands on public health grounds since March 2020. The European Commission and Greece have repeatedly called on Türkiye to resume return operations in line with the commitments made under the EU-Turkey Statement. The resumption of returns to Türkiye remains key to effectively fighting irregular migration and migrant smuggling networks in the region. Between 2016 and 2020, 2 140 persons (including 412 Syrian nationals) were readmitted to Türkiye from Greece under the ‘One-for-One’ scheme. The bilateral Readmission Protocol between Greece and Türkiye remained suspended. Türkiye did not readmit third-country nationals from Bulgaria under either the bilateral border agreement or the EU-Turkey Readmission Agreement.

As regards resettlement from Türkiye to the EU under the ‘One-for-One’ scheme, 5 046 Syrian refugees were resettled in eight EU Member States in 2022. Moreover, the Resettlement Support Facility run by the European Union Agency for Asylum in Istanbul facilitated the processing of 2 585 resettlement candidates. The total number of Syrian refugees resettled from Türkiye to the EU Member States under the ‘One-for-One’ scheme reached 39 648 as of September 2023. At the same time, 561 758 Syrian refugees were voluntarily repatriated from Türkiye to Syria between 2016 and 2023 according to government data. Out of the total number, 58 758 Syrians were repatriated in 2022.

Türkiye returned effectively 124 441 irregular migrants to their home countries in 2022, an increase of more than 160% on the 2021 figure of 46 653. The total number of irregular migrants returned since 2018 reached 372 790. The total number of Afghan nationals returned from Türkiye in 2022 was 66 534, while 12 385 Pakistani nationals and 40 898 other countries' nationals had been returned to their countries as of 22 December 2022. None of these returns were carried out within the scope of the readmission agreements that are in force between Türkiye and third countries. Türkiye did not sign any new readmission agreements in the reporting period.

Türkiye continued voluntary returns of irregular migrants financed through national as well as EU funds. 737 irregular migrants were returned through the national voluntary return scheme while 2 259 were returned with the assistance of IOM and EU financing in 2022.

According to the government, 280 206 irregular migrants were prevented from entering Turkish territory in the eastern and southern provinces in 2022 by Turkish security forces.

Some of the 30 removal centres were heavily damaged by the February 2023 earthquakes and the capacity to host irregular migrants dropped from 18 000 to 15 710. The removal centre in Hatay was evacuated due to heavy damage and is no longer operational, whereas hosting of migrants in other removal centres was suspended pending reparations. The number of temporary accommodation centres managed by the PMM increased from 7 to 9, leading to an increase in capacity from around 66 000 to 77 000. Temporary accommodation centres also started hosting earthquake victims of Turkish origin along with Syrians.

Civil society, bar associations and various media reported incidents of alleged human rights violations as well as pervasive challenges relating to access to rights and services in removal centres, particularly with regard to access to information and legal aid. In 2022, more than 280 000 irregular migrants were apprehended, most of whom were subject to return procedures in removal centres. A limited number of irregular migrants (939) benefited from free legal aid in 2022 (1 059 in 2021). In addition to the free legal aid scheme, 37 876 migrants were able to have access to and meet their lawyers in removal centres.

Overall, irregular migration continued to be a polarising topic in society and was heavily used by political parties in their electoral campaigns.

1 345 488 foreigners were legal residents in Türkiye on 1 December 2022 (1 275 741 in 2021). Nationals of Iraq, Russia, and Turkmenistan were the most common holders of residence permits. The number of Russian nationals with residence permits increased from approximately 66 000 in 2021 to around 155 000 in 2023. Approximately 560 000 Ukrainians have arrived in Türkiye since the beginning of Russia's war of aggression against Ukraine in February 2022. Many had already left for a third country or voluntarily returned to Ukraine by September 2022. Around 46 000 Ukrainians were residing in Türkiye in April 2023.

The legislation on the acquisition of nationality by foreign investors remained unchanged during the reporting period. Moreover, according to Articles 35 and 36 of the Land Registry Law, natural persons who are the nationals of countries designated by the President of the Republic can acquire real estate in Türkiye. As of October 2022, the list contained 185 countries. The list is not publicly available because it is not published on the website of the General Directorate of Land Registry. Such schemes pose risks in relation to security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime. As a candidate country, Türkiye should refrain from any measure that could jeopardise the attainment of the EU's objectives when using its prerogatives to award nationality.

Asylum

Institutional set-up and legal alignment

The Presidency for Migration Management (PMM) is the main institution responsible for all asylum-related procedures. The status determination processes are carried out by the Provincial Directorates of Migration Management (PDMMs) as well as by the International Protection Bureaus (decision centres) in Ankara and Istanbul (established in 2018 and 2019 respectively), with a view of reducing case backlog. A new International Protection Bureau was established in Samsun in 2022. In addition to those bureaus, mobile teams were established in 2019. Decisions on refugee status determination are subject to administrative and judicial appeal procedures.

Legislation in this area is partially aligned with the EU *acquis*. The Law on foreigners and international protection maintains the reservation (geographical limitation) expressed in the New York Protocol to the 1951 Geneva Convention as a result of which the vast majority of persons seeking international protection in Türkiye cannot apply for fully-fledged refugee status but only for ‘conditional refugee’ status and subsidiary protection. Conditional refugee status limits the stay in the country ‘until the moment a recognised conditional refugee is resettled to a third country’. By law, Syrian refugees are granted a specific refugee status under the Temporary Protection Regulation. However, in February 2022, the Ministry of Interior announced that newly arriving Syrians who have not been registered will not automatically receive temporary protection status in 16 provinces. According to the announcement, residence permit applications by foreigners would not be accepted in any neighbourhood in which 25% or more of the population consisted of foreigners (this was reduced to 20% in June 2022).

Implementation and enforcement capacity

Türkiye continued to host one of the largest refugee populations in the world, with (as of 31 August 2023) 3 298 817 Syrians under temporary protection and slightly over 300 000 non-Syrians (including those who hold or who have applied for international protection status). The number of asylum seekers slightly increased over the reporting period. 33 246 international protection applications were received in 2022 (29 256 in 2021). 19 400 applications were made by Afghans, 7 131 by Ukrainians and 4 083 by Iraqis. This was a different pattern from 2021 due to the Russia’s war of aggression against Ukraine. In 2022, Türkiye granted international protection (refugee status, conditional refugee status or subsidiary protection) to 12 857 applicants, a slight decrease compared with 13 227 in 2021. The authorities rejected 12 030 applications (11 908 in 2021). In 2022, the cumulative total of pending international protection applications stood at 272 336. Despite a slight decrease on last year, this remains a significant backlog that has not been reduced over the years. There is no publicly accessible data on international protection with a breakdown by category of decisions and of pending cases at the end of the year.

As of June 2022, Türkiye officially closed registration of temporary protection applications in 16 provinces in an attempt to avoid an increase in the number of foreigners where they already exceed 20% of the total population. When asylum seekers are denied registration in a ‘closed’ province, they are most often not officially referred to another province with supporting documentation. Outside the officially ‘closed’ provinces, NGOs and lawyers repeatedly referred to the de facto closure of international protection registration in other provinces, except for highly vulnerable cases. Such barriers to registration hinder access to all other essential services and put asylum seekers in an irregular situation if they are apprehended.

Almost half of all Syrians in Türkiye are registered in four provinces – Istanbul, Gaziantep, Hatay and Şanlıurfa. The rest reside in various other provinces across Türkiye. 67 548 Syrians are hosted in seven temporary accommodation centres (50 736 in 2021). 230 998 Syrians had been granted Turkish citizenship as of April 2023.

The destructive earthquakes of 6 February 2023 affected a total of 11 provinces (Kahramanmaraş, Hatay, Gaziantep, Malatya, Kilis, Osmaniye, Diyarbakır, Adana, Adıyaman, Şanlıurfa) where most of the migrant and refugee population (in particular 1 738 035 Syrians under Temporary Protection) had been living. According to a statement by the Interior Minister, 6 969 foreigners (mostly Syrians) lost their lives because of the earthquakes. The earthquakes have led to great human mobility, including refugees and migrants, inside the country.

In ordinary circumstances, Türkiye imposes travel restrictions on refugees, prohibiting them from travelling out of the provinces in which they are registered with local authorities unless they have a permit. On 7 February 2023, the authorities lifted these restrictions for about 1.7 million refugees under temporary and international protection in the earthquake region for 90 days (with the exception that they could not travel to İstanbul). A second circular reduced this to 60 days and granted those travelling from the worst-affected five provinces (Hatay, Malatya, Kahramanmaraş, Adıyaman, and Gaziantep) unconditional access to other provinces, but made travel from the other five (Kilis, Diyarbakır, Şanlıurfa, Adana, and Osmaniye) dependent on the applicant's home being seriously damaged and the existence of medical needs that could only be met in other provinces. This circular is still in place and is extended on a regular basis excluding İstanbul. Another administrative order gave Syrians under temporary protection, registered and residing in the 11 earthquake-affected provinces, the opportunity to return to Syria temporarily. Syrians returning temporarily can stay in Syria for up to 6 months. Temporary returns to Syria started in February 2023 and by June the total number of temporary returns was 70 086 individuals. By September 62 936 individuals had returned to Türkiye. The deadline for re-entry to Türkiye was 15 September 2023, after which the temporary protection status of Syrians who had not returned to Türkiye was cancelled.

The earthquakes and their consequences resulted in increasing discomfort for a large portion of the public. In the lead-up to the general elections in May 2023, opposition politicians made speeches that further fuelled anti-refugee sentiment and called for Syrians to return to Syria.

Throughout 2022, the PMM continued the verification of data of Syrians under temporary protection, updating and completing the information gathered during their original registration. 2 071 051 Syrians' data was verified in 2022.

Additionally, in the context of the 20% rule, the PMM introduced an address-verification exercise for Syrians. As a result of this exercise, the temporary protection status of Syrians who were found to be residing in locations other than their officially registered addresses has reportedly been deactivated. The PMM invited these individuals to approach their provincial offices to declare their current residential addresses so that they could reactivate their protection status. In practice, deactivation of the status means discontinued access to services such as education and healthcare.

A key mechanism for identifying vulnerable asylum seekers is protection desks in PDMMs which interview and make referrals based on their specific needs assessment. There are protection desks in 50 provinces. In 2022, protection desks identified and processed referrals for 153 054 asylum seekers. In 2022, 181 unaccompanied children were referred to the Ministry of Family and Social Services (MoFSS) by various agencies. Unaccompanied children continue to face protection risks, particularly during initial identification and age

assessment processes, which are undertaken by different agencies (including law enforcement services). Children are referred to hospitals for bone x-rays, which give a broad two-year age range. In the absence of holistic age-assessment processes, individuals whose results indicate that they are aged 16-18 might be registered as adults. A multi-disciplinary approach to age assessment procedures, which take psychosocial aspects into consideration, is necessary in order to increase compliance with European standards.

Applicants for international protection, conditional refugee status holders and people under temporary protection, i.e. Syrians, can apply for work permits. However, a large majority of refugees and asylum seekers do not have effective access to the labour market, in particular to formal employment, due to low employability (lower levels of education and skills), language barriers and limited access to information and services. Around 400 000 refugee children in Türkiye (especially in the 15-18 age group) do not regularly attend school. According to the Ministry of National Education, 822 524 refugee students were enrolled at schools in 29 provinces in January 2023.

The EU has mobilised close to EUR 10 billion in support for refugees in Türkiye since 2011. The full operational budget of EUR 6 billion of the EU Facility for Refugees in Turkey was committed, with over EUR 5.1 billion disbursed by June 2023. The Facility mobilises both humanitarian and development assistance for refugees and host communities in Türkiye to meet basic needs, increase access to education and healthcare (including for vulnerable groups, children and women) and strengthen border protection at the eastern borders with Iran and Iraq.

A first top-up of EUR 535 million was allocated in 2020 and an additional EUR 3 billion was mobilised by the EU in June 2021 to continue support for refugees and host communities in Türkiye in 2021-2023. This funding is committed to continuing the provision of basic needs, inclusive quality education for refugees, their socio-economic empowerment in Türkiye as well as border management. Part of it (EUR 350 million) is being mobilised to support refugees and host communities in the regions affected by the February 2023 earthquake.

The PMM and the European Union Agency for Asylum (EUAA) continued their cooperation with the implementation of the 2022-2023 Cooperation Roadmap, which offers capacity-building support and peer-to-peer exchanges on best practices in the fields of asylum, reception, resettlement and organisational change.

NGOs and lawyers report concerns about the quality of decisions on asylum, their reasoned notification and challenges with the awareness of and access to legal aid for appeals.

Visa policy

Türkiye made no progress in meeting the six unfulfilled benchmarks of the visa liberalisation roadmap (on the anti-terror law, personal data protection legislation, implementation of the EU-Turkey Readmission Agreement, conclusion of an international agreement with the EU on Europol, implementation of the Group of States against Corruption (GRECO) recommendations on anti-corruption and judicial cooperation with all EU Member States).

Türkiye needs to further harmonise its visa policy with the EU's visa policy. This would include further aligning Turkish visa requirements with the EU lists of visa-free and visa-required countries; full phasing-out of the issuing of visas at borders (currently the citizens of 33 countries are eligible to obtain a visa on arrival, compared with 24 in 2021) and of electronic visas; and ensuring that the issuing of visas at its diplomatic missions is carried out in line with the conditions and procedures set out in the EU Visa Code. Türkiye continues to apply a discriminatory visa regime against nationals of Cyprus, but it has abolished the short-

stay visa requirements for the other 26 Member States.

Türkiye has introduced the biometric collection of fingerprinting for sticker visas issued by its diplomatic missions in a number of countries (primarily in Africa) with a view to increasing the authorities' capacity to tackle irregular migration. The authorities have relaxed the rules governing the entry and residence of Ukrainian nationals in Türkiye as a result of Russia's war of aggression against Ukraine.

Schengen and external borders

Institutional set-up and legal alignment

No new legislation for the sector was adopted during the reporting period. The coordination of the work of the State bodies dealing with border management matters is the responsibility of the Directorate-General for Provincial Administration in the Ministry of the Interior (MoI). The Border Management Implementation Board did not meet in the reporting period, while preparations for its 6th meeting since its establishment in 2016 have been underway for some time. Its supervising body, the Integrated Border Management Coordination Board, has not yet met. In addition, relevant interinstitutional meetings were held at technical level on specific topics.

The Ministry of the Interior created a new department in autumn 2021 for the coordination of the future work of the National Coordination and Joint Risk Analysis Centre (NACORAC). Several border management services within the Turkish administration assigned staff to NACORAC, which is located in Ankara. Given its responsibilities at Türkiye's green border, personnel from the Land Forces Command (in the Ministry of National Defence) should be assigned. The centre was formally established in 2016 and an inauguration ceremony was held in November 2022 to formalise the handover of EU-financed equipment, but it is not yet fully operational. Staff detachments from all other relevant institutions have been completed, but the staff assignment process from the Land Forces Command is still ongoing. NACORAC has started collecting data from central and local institutions, albeit at a basic level. The risk analysis process has also been initiated to a limited extent, while negotiations with all relevant institutions for enhanced data-sharing are ongoing.

Following the establishment in February 2021 of the Institute of Heads of Civil Border Administration, transfer of certain border management responsibilities from governors in 11 border regions (mostly in eastern Türkiye) to the Directorate-General for Provincial Administration has continued. Two heads were appointed at land borders during the reporting period, bringing the total number of heads appointed by the Directorate-General for Provincial Administration for border gates to eight (six at airports, including Istanbul, Ankara, Izmir and Antalya; and two at land borders). This reform seeks to streamline the coordination of border management at central level.

In terms of new coordination mechanisms at local level, 'Security Commissions' have been established (under the chairmanship of the Civil Border Administration with the participation of the representatives of the Ministry of Transport and Infrastructure, the Ministry of Trade, the Ministry of Health, the Turkish National Police and the gendarmerie) and will meet every month at civil airports, ports and border gates to develop, implement and evaluate measures with regard to security, training and inspection services.

Similar to last year's recommendations, in order to bring the country's border management system in line with the EU *acquis*, Türkiye should further improve inter-service and international cooperation, accelerate the adoption of an integrated border management (IBM) strategy and update its IBM national implementation action plan from 2006. It also needs to

take steps to enact new legislation to set up a non-military border management body in charge of all aspects of border management, including border surveillance at the green border, which is currently under the responsibility of the Turkish land forces.

Implementation and enforcement capacity

Türkiye continued to invest significant effort and financial resources in modernising border security at the land border, especially in the south and south-east of the country. After the construction of a modular security wall and a panel/barbed-wire fence, patrol roads, lighting, sensors and thermal cameras along the Syrian border, the installation of modern electro-optical communication and surveillance masts continued at the Iranian border. Communication and surveillance masts were also being erected on the western land border. The EU provides substantial support to Türkiye to modernise its border surveillance infrastructure, including at its eastern borders with Iran and Iraq.

Relations with the European Border and Coast Guard Agency (Frontex) are based on the Memorandum of Understanding of 2012 and a three-year cooperation plan covering the period 2020-2022. The authorities continued to provide monthly reports on irregular migration flows at the country's western land and sea borders. Türkiye did not engage in joint operations in the reporting period but did participate in training sessions and conferences.

Cooperation with neighbouring Greece and Bulgaria within the framework of a trilateral Police and Customs Co-operation Centre at the Bulgarian-Turkish border crossing point at Kapitan Andreevo/Kapıkule continued through data-sharing, and regular ad hoc meetings between the countries' respective authorities within the scope of existing agreements.

Türkiye continued contributing to Interpol's databases, albeit only on the basis of manual inquiries in case of need (using the 'POLNET' website of the TNP's Interpol & Europol Department). Interpol's 'Stolen and Lost Travel Documents' (SLTD) database is not integrated with Türkiye's local database and there is no access to other international police databases. Local database connections are used by authorised officers of the Turkish National Police in all 81 provinces. Certain staff members in the following services have access to the databases: the Presidency of Migration Management (PMM), the Disaster and Emergency Presidency (AFAD), the Nuclear Regulatory Authority, the Turkish Atomic Energy Authority, the Ministry of Trade (DG Customs Enforcement), the Turkish Coast Guard Command and the General Gendarmerie Command.

Türkiye has committed itself to removing all anti-personnel landmines by 31 December 2025 in order to fulfil its obligations under the Ottawa Convention (or Anti-personnel Mine Ban Treaty). This deadline has been extended several times since 2014. So far, only a relatively small stretch of the total of 2 949 km of land border has been cleared entirely. Türkiye needs to substantially increase its national investment in removing mines not only along its borders with Syria, Iraq, Iran, and Armenia, but also inside Türkiye in order to fulfil its obligations under the Ottawa Convention. The EU is currently providing significant financial support for demining.

2.3. ECONOMIC CRITERIA

<i>Table 5.1:</i>	2014-19	2020	2021	2022
Türkiye - Key economic figures	average			
GDP per capita (% of EU-27 in PPS) ¹⁾	65	61	63	69
Real GDP growth	4.3	1.8	11.4	5.6
Economic activity rate of the population aged 15+ (%) , total	52.1	49.3	51.4	53.1
<i>female</i>	32.8	30.9	32.8	35.1
<i>male</i>	72.0	68.2	70.3	71.4
Unemployment rate of the population aged 15+ (%) , total	11.1	13.2	12.0	10.4
<i>female</i>	13.8	15.0	14.7	13.4
<i>male</i>	9.9	12.3	10.7	8.9
Employment of the population aged 15+ (annual growth %)	2.3	-4.8	7.9	6.7
Nominal wages (annual growth %)	16.5	18.0	19.3	73.2
Consumer price index (annual growth %)	11.2	12.3	19.6	72.3
Exchange rate against EUR	4.2	8.0	10.4	17.4
Current account balance (% of GDP)	-2.7	-4.5	-0.9	-5.4
Net foreign direct investment, FDI (% of GDP)	1.1	0.6	0.8	0.9
General government balance (% of GDP)	-2.0	-2.9	-2.3	-1.1
General government debt (% of GDP)	29.0	39.7	41.8	31.7

Notes:

1) Eurostat

Source: national sources

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

2.3.1. The existence of a functioning market economy

The Turkish economy is **well advanced** but made **no progress** over the reporting period. Serious concerns persist over the continued proper functioning of Türkiye's market economy. There has been prolonged backsliding on important elements, such as the conduct of monetary policy and the institutional and regulatory environment over most of the reporting period. Since the May parliamentary and presidential elections, the authorities have taken some steps to revert to more stability-oriented macroeconomic policies.

Although economic growth remained robust in 2022, Türkiye moved further away from market-oriented policies, which weakened its economic fundamentals and increased vulnerabilities and risks. Inflation decreased somewhat but remained very high as monetary policy prioritised exceptionally low interest rates, which remain deeply negative in real terms and are sustained by a web of regulatory and prudential measures. After the presidential and parliamentary elections in spring 2023, monetary policy has started to tighten, also signalling a gradual simplification of the macroprudential framework. The current account deficit increased to 5.4% of GDP in 2022, driven by a negative terms-of-trade shock and large imports of non-monetary gold. The relatively good budget performance in recent years masks an underlying trend of growing fiscal risks. The authorities' commitment to fiscal discipline wavered, as the fiscal stance turned pro-cyclical in 2023, with earthquake-related expenditure pressure adding to pre-electoral budgetary largesse. However, the fiscal stance was tightened

after the elections and a revised budget, including sizeable tax increases, was adopted in July.

The institutional and regulatory environment lacks predictability and transparency, and complicates the post-electoral economic policy normalisation. Market exit remains costly and slow. However, Türkiye made progress in digitalising government services to businesses. Although the size of the informal economy has fallen in recent years, it still accounts for a significant share of economic activity. State intervention in price-setting mechanisms persists. The provision of State aid lacks proper implementation rules, enforcement and transparency. The banking sector remained broadly stable but is facing financial stability challenges due to the numerous overly complex and far-reaching macroprudential and regulatory measures. The labour market strengthened further, although structural challenges remain significant, in particular for youth and female employment. Regional labour market disparities declined and reached one of the lowest levels in years. The recent net minimum wage increases were pro-cyclical.

The Commission's recommendations from 2022 were not fully implemented and remain valid. In order to improve the functioning of the market economy, Türkiye should in particular:

- restore the independence of the central bank and tighten monetary policy in order to reduce inflation sustainably towards the target;
- develop a credible medium-term fiscal consolidation plan that underpins a gradual return to primary surpluses, while accommodating transparent reconstruction spending and addressing fiscal risks, including from contingent liabilities;
- further improve the business environment, including by reducing State interference in price-setting mechanisms, simplifying the macroprudential and regulatory framework, and enhancing the transparency and control of State aid.

Economic governance

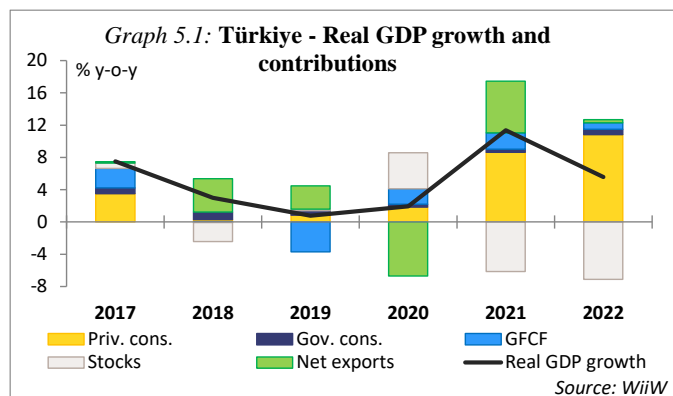
Türkiye moved further away from market-oriented policies, weakening economic fundamentals and increasing risks, but has taken some steps to reverse this course since the May elections. Monetary policy prioritised maintaining deeply negative real interest rates, despite soaring inflation and tightening global financial conditions. This necessitated the adoption of far-reaching macroprudential and regulatory measures that have disrupted the functioning of the financial markets and increased vulnerabilities. However, the central bank has started to tighten monetary policy after the presidential and parliamentary elections in spring 2023, also signalling a gradual simplification of the macroprudential framework. Fiscal policy turned strongly expansionary in the first half of 2023, with earthquake-related expenditure pressure adding to pre-electoral budgetary largesse. Ad hoc policy measures have increasingly become the norm, undermining, in conjunction with high macroeconomic instability, the credibility of medium-term planning. A budget rebalancing and large tax hikes in July have sought to limit the bulging budget deficit. Subsidies and transfers to curb the effects of Russia's war of aggression against Ukraine increased significantly in 2022 but are planned to decline in 2023. Türkiye has not joined the EU restrictive measures against Russia and continued to benefit from its extensive and growing trade relations with it, particularly in energy, tourism and agriculture. The implementation of the policy guidance set out in the conclusions from the Economic and Financial Dialogue of May 2022 has been limited.

Macroeconomic stability

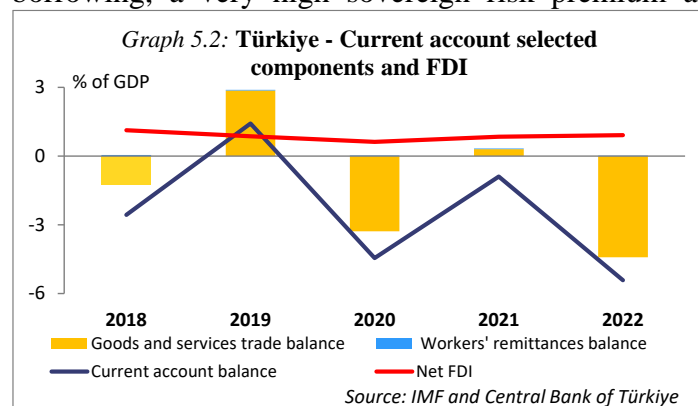
Türkiye's economic growth remained upbeat but unbalanced.

Real GDP grew by 5.5% in 2022, which was above the five-year average (2018-2022) of 4.5%, although, after a strong first half of the year, it decelerated in the second half. It expanded further in the first half of 2023 and growth even strengthened a bit, despite the devastating February earthquakes. Domestic demand, in particular very

strong household consumption fuelled by pre-election expenditure, remained the main driver of this. Net exports' contribution to growth turned negative in the second half of 2022, following a loss in export momentum and a pick-up in imports, which worsened further in early 2023. Inventories continued to wind down and very weak construction investment pulled down total investment growth last year. A notable expansion of technology-intensive and export-oriented sectors lifted industrial production to record high levels in 2022. The 6 February earthquakes caused a tragic loss of life and significant destruction of capital assets. High frequency indicators captured the first negative economic effects of the earthquakes already in February, with steep monthly falls in industrial production and retail sales, and declining economic confidence. However, economic activity rebounded quickly in the following months and consumer confidence increased sharply to levels not seen in 5 years, before steeply falling back in the aftermath of the elections. Due to Türkiye's relatively strong performance during the COVID-19 crisis, income convergence with the EU resumed, with per capita GDP in purchasing power standards rising to 69% of the EU average in 2022 from 59% in 2019, and above its 2015 high of 68%.



External imbalances increased and remained a major vulnerability. The current account deficit swelled to 5.4% of GDP in 2022 and increased further in the first half of 2023 to more than double its average in 2018-2022, as the negative terms-of-trade shock and large imports of non-monetary gold (a traditional safe asset in times of policy uncertainty in Türkiye) drove the trade deficit back into double digits for the first time in a decade. However, excluding gold and energy trade, the current account recorded a 5% surplus. The high external deficits remain a key macroeconomic vulnerability, aggravated by the strong reliance on short-term borrowing, a very high sovereign risk premium and the low level of foreign exchange



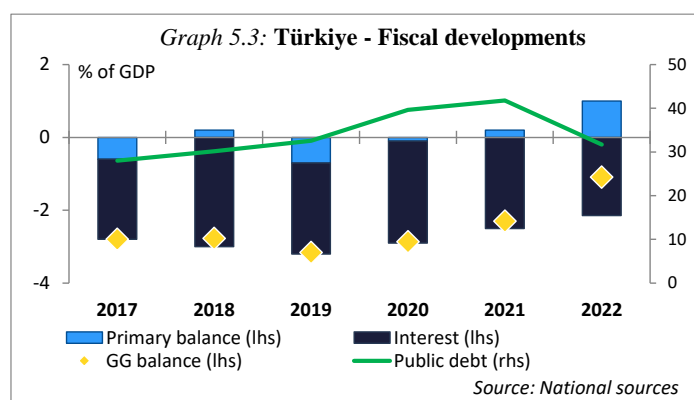
reserves (with a large share in non-core foreign currencies). The central bank's net foreign assets even turned negative in April as it used its reserves to defend the exchange rate before the elections. Reflecting deteriorating market perception of domestic economic policy, the five-year credit default swap has been high and very volatile. After peaking in the summer of 2022 above 900 bps (basis points), it declined to between

500 bps and 600 bps by the end of the year before spiking again following the presidential and parliamentary elections in the spring of 2023. External debt remained moderately high at

around 50% of GDP in early 2023, decreasing from the peak of 60% of GDP that it reached during the COVID-19 crisis. However, the debt stock remains sensitive to the lira's exchange rate fluctuations and its structure worsened as economic agents increased their reliance on short-term funding as a response to rising refinancing costs. Banks' increased exposure to foreign currency swaps with the central bank raises economy-wide foreign currency liquidity concerns. The external debt roll-over ratios have been stable at close to 100% for the banking sector but have rapidly come down under 100% in early 2023 (albeit from high levels) in the non-banking sector. The non-financial sector's foreign exchange deficit remained broadly unchanged at less than 10% of GDP and its short-term position remained positive – important factors attenuating external vulnerability.

Inflation remained high as, before the elections, monetary policy prioritised the maintenance of exceptionally low interest rates sustained by an expanding web of regulatory and macroprudential measures. Inflation peaked at 85.5% in October 2022. It declined steeply in the following months on the back of sizeable base effects before rebounding again since June, exceeding the 5% target by a very large margin. Before the elections, inflation targeting and the free-floating exchange rate were effectively no longer the guiding framework of monetary policy. The monetary policy transmission mechanism was broken, with limited responsiveness by key market interest rates to the central bank policy rate. Despite very high inflation and tightening global financial conditions, the central bank lowered its key policy rate in the autumn of 2021 and cut it further in several steps by a cumulative 1 050 bps to 8.5% in February 2023 (the last 50 bps cut was delivered after the earthquakes). To sustain the resulting deeply negative real-interest rate and alleviate its policy contradictions, the authorities have introduced an increasingly complex web of regulatory and macroprudential measures to reduce dollarisation, support the lira, lower inflationary pressures, ration and direct credit, and cap interest rates. This set of measures achieved some short-term results but failed to address the fundamental drivers of high inflation; namely deeply negative real interest rates, the absence of an effective policy anchor and the lack of institutional independence of the central bank and key agencies. After depreciating by 40% against the US dollar in the first three quarters of 2022, the lira remained broadly stable before resuming its depreciation trend in early March 2023, which intensified (along with exchange rate volatility) after the May elections. Starting in June and under the guidance of a new central bank governor, the central bank increased the key policy rate to 25.0% in August and signalled a gradual further tightening of monetary conditions and simplification of the existing micro- and macroprudential framework.

The authorities' commitment to fiscal discipline wavered and the fiscal stance turned pro-cyclical in early 2023, necessitating the adoption of a revised budget in July. The budget continued to outperform expectations, ending 2022 with a central government budget deficit of 0.9% of GDP – significantly below the revised budget target of 3.4% and the



previous year's deficit of 2.8% of GDP. The general government deficit fell to 1.1% of GDP, which was also far below the expected 3.2% of GDP. The initial 2023 central government budget targeted a deficit of TRY 659.4 billion (3.5% of GDP) but was based on a rather optimistic macroeconomic assumption of 5% real GDP growth and 24.9% average consumer price inflation. Total revenue was planned to increase by

36.0% and expenditure by 52.0% in comparison with the 2022 budgetary outcome. The budget introduced some new measures but failed to fully exit the 'crisis mode' of ad hoc decisions. On the revenue side, the 2% accommodation tax adopted in 2021 started to be applied at the beginning of 2023. The corporate income tax rate has been lowered as planned to 20%. Government expenditure increased strongly in early 2023 due to the elections and the earthquakes. The government budget continued underwriting costly and poorly targeted measures to support the lira and cushion the impact of high energy prices, although lower-than-expected international gas prices and financial repression measures that forced domestic banks to increase their holdings of government bonds led to some savings. Some spending measures with a large budgetary impact (including public wage and pension hikes, and the removal of the age requirement for early retirement) were finalised after budget adoption and were not fully reflected in the original budget. The fiscal stance was tightened after the elections. A revised budget was adopted in July, including multiple and sizeable tax increases (VAT, corporate income tax, special consumption tax, motor vehicle tax, etc.) and additional expenditure to cover earthquake reconstruction needs and pre-election spending measures.

The relatively good budget performance in recent years masks an underlying trend of growing fiscal risks. The government debt ratio peaked at 42.3% of GDP in early 2022 but came down to 31.2% of GDP in early 2023, helped by the strong denominator effect from the very high level of inflation. Concerted 'liratisation' efforts increased the share of new domestic borrowing in lira to 90% in 2022. Nonetheless, two thirds of the total debt stock remains denominated in foreign currencies, while the average time to maturity of the debt stock remained unchanged at 5.4 years, as external debt maturity decreased for the fifth year in a row. Some measures, such as the FX-guaranteed lira deposits, had a direct and sizeable impact on the budget and are a significant source of (contingent) budget liabilities, even after they were fully transferred to the central bank in July. Successive crises and shocks triggered the adoption of numerous ad hoc measures with budgetary effects that have strained public finance management. The multiple and sizeable tax exemptions and reductions undermine tax bases and complicate planning, while successive tax amnesties have become the rule rather than the exception, despite official policy declarations. The planned new single consolidated framework for all public-private partnerships has yet to be adopted. Even though fiscal performance has been consistently robust in recent years, there are still no national fiscal rules or independent fiscal institutions to monitor fiscal performance. The medium-term budget framework is subject to frequent changes and is not sufficiently credible and binding.

The macroeconomic policy mix remained largely focused on the pursuit of growth at the expense of rising economic vulnerability. Fiscal policy turned expansionary in early 2023, despite the very high level of inflation and large external imbalances. The maintenance of deeply negative real interest rates by the central bank and the complex web of regulatory and macroprudential measures to sustain them created major vulnerabilities, led to market fragmentation and disrupted price signals. The low level of policy credibility and institutional weaknesses (including the lack of central bank independence) undermine the effectiveness of the policy mix and hinders the post-electoral economic policy normalisation.

Functioning of product markets

Business environment

The institutional and regulatory environment is characterised by weaknesses in transparency, predictability and rule-based implementation. The government's highly interventionist pre-election policy increased uncertainty and volatility on the product and financial markets. Türkiye lacks a mechanism for systematically consulting business organisations and social partners during the preparation of new legislation. Intellectual property right enforcement continues to be very weak. According to the e-Government Benchmark report of the EU for 2022, Türkiye performed above the EU average in enabling regular areas of business operation (such as administrative and tax requirements, human resources and refund of VAT) on digital platforms, except for those that require cross-border transactions. However, Türkiye's performance is lower in online services for new business, which remain relatively cumbersome. Market exit remained costly and time-consuming due to complicated insolvency procedures. Türkiye digitalised some steps in the insolvency procedure, such as liquidation, but it still takes 1 037 days on average to complete a bankruptcy process through the judicial system. Even though alternative dispute resolution mechanisms have been promoted, commercial judicial processes are slow and a large backlog of commercial court cases remains. The number of newly established businesses increased by 27.8% in 2022, while the number of liquidated companies went up by 26.0% and the number of closed ones by 42.8%. The acquisition and management of companies under the trusteeship of the Savings Deposits Insurance Fund (SDIF) are carried out in a non-transparent manner. In June 2023, the trusteeship of the Fund was managing 620 companies based in 35 provinces across Türkiye, with a total asset value of TRY 128.9 billion and 27 213 employees.

The informal sector's share in the economy declined but remains structurally high and well above the OECD and EU averages. In 2022, the share of unregistered employment fell to 26.8% from 34.8% in 2019, while in the non-agricultural sector it was down to 16.8% from 23.3%. The government announced its new action plan for the fight against the informal economy (2023-2025) in December 2022. The plan includes 44 actions to measure the size of the informal economy; raise the level of social awareness and voluntary compliance; improve cooperation and interagency data sharing; adopt legal, administrative and technical measures; and strengthen audit capacity. However, the plan lacks performance indicators to track its implementation progress.

State influence on product markets

The State increased its intervention in the price-setting mechanism of key sectors. More than a quarter of the consumer basket is composed of goods whose prices are set or heavily influenced by public authorities. A 25% upper cap on rent increases was applied until July 2023. A month before the May elections, the Energy Market Regulatory Authority cut electricity tariffs by 15%. Households and places of worship were exempted from natural gas

payment for a month and 25 cubic meters have been provided free of charge to citizens starting in June 2023 for the following 11 months. Meanwhile, the regulators have continued carrying out intensive price audits to investigate allegations of unfair pricing and stockpiling, particularly in essential products. The VAT exemption period for new equipment and machinery deliveries to the manufacturing sector for innovation, design and R&D activities was extended until the end of 2024. Following the February 2023 earthquakes, the VAT rate applicable to prefabricated buildings and containers to be delivered to the earthquake zone was reduced from 18% to 1% until 31 December 2023.

State aid transparency and control remains weak. Legislation to implement the State aid law has not been adopted. The newly established Directorate-General for State Aid has not been assigned any enforcement power regarding the State aid law. The lack of implementing legislation and an operational institutional framework mean that this law is not enforceable. Türkiye has not formally set up a comprehensive state aid inventory or adopted an action plan to align all State aid schemes with the EU *acquis*. The current structure of State aid control is neither independent nor operational (see Chapter 8). The committed investment for the 64 supported projects reached TRY 491 billion in May 2023. As is the case for the general incentive scheme, Türkiye has not published data concerning the actual support granted to these projects. Small and medium-sized enterprises (SMEs) benefit from numerous support measures and initiatives in a fragmented way. The SME Development Organisation of Türkiye (KOSGEB) and the Ministry of Industry and Technology conducted evaluations of four more support programmes in the reporting period and published them on KOSGEB's website.

Privatisation and restructuring

The scope of privatisation remained limited. Privatisation receipts increased from USD 413 million in 2021 to USD 504 million in 2022 (less than 0.1% of GDP), with 87.5% related to the sale of real assets. The Turkish Wealth Fund (TWF) holds shares in major companies in the financial (including state-owned banks, Borsa Istanbul and consolidated public insurance companies), telecommunications, petrochemicals, real estate, mining, agriculture and transport sectors. The Law on the Istanbul Financial Centre adopted in June 2022 granted the TWF the right to conduct all business and management operations in the Istanbul Financial Centre area for 20 years, with a managing company established as a joint stock company. The involvement of the TWF through this company means that these operations will be exempted from audit by the Turkish Court of Accounts (*see Chapter 32*). In addition to the numerous immunities granted to the TWF, this law provides a series of new tax exemptions, deductions and incentives. The TWF's total assets increased to TRY 3.2 trillion (44.1% of GDP) at the end of 2021, up from TRY 2.2 trillion (43.6% of GDP) in 2020.

Functioning of the financial market

Financial stability

The banking sector has remained broadly stable but is facing financial stability challenges. The commercial banks' average regulatory capital ratio declined from its peak of 20.4% in early 2022 to 18.7% in July 2023 but stayed significantly above the required minimum. The decline was more pronounced in State-owned banks, whose capitalisation fell to 14.5% in early 2023 – a two-decade low – despite several recapitalisation rounds in previous years, before rebounding to 16.3% in July. The fall in capitalisation was the result of banks' support for the authorities' economic and development agenda, including in the aftermath of the February 2023 earthquakes. Some of the macroprudential measures to

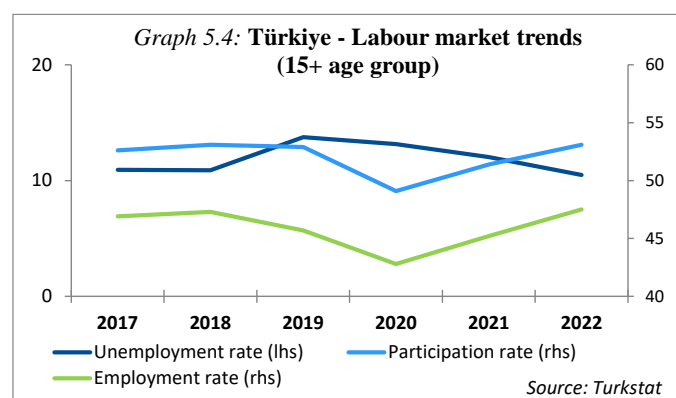
protect capital adequacy have been modified but remain in place (e.g., allowing the use of an outdated FX rate and the suspension of mark-to-market accounting rules). Credit growth, the extremely negative real interest rates and growing collateral valuation brought the non-performing loans ratio down to a new low (falling in July 2023 to 1.6% in the banking sector as a whole and to just 1.0% in the State-owned banks) while loan-loss provisioning increased further. The share of stage 2 loans under close monitoring also declined to below 10%. Bank profitability improved but remained negative in real terms. The average return on assets was 3.7% and return on equity was 49.9% for the banking sector as a whole in 2022, but were only 2.0% and 29.9% respectively in State-owned banks. FX-guaranteed deposits were around a quarter of total deposits in mid-2023, bringing the share of lira-denominated deposits to 57.4% (still below their level a decade ago), while underlying dollarisation increased.

Access to finance

The financial sector operates in an overregulated environment. Far-reaching macroprudential and regulatory measures have disrupted the functioning of the financial markets. Reducing interest rates and keeping them down necessitated additional actions to mitigate the fundamental contradictions of such a policy in a high-inflation environment. A series of incentives and restrictions have been introduced since late 2021, covering: FX-protected lira-denominated deposits; maintenance of a certain share of lira-denominated deposits; reserve and security requirements; collateral in swap and interbank money markets; tax exemptions; FX-surrender requirements for exporters; capital adequacy ratios; risk weighting; and commercial loans. These measures rationed and directed credit, and replaced price signals with quantitative targets or directly socialised risk. As part of the economic policy changes initiated after the elections, the authorities have undertaken some limited steps to gradually simplify the macroprudential framework. After declining in 2022, total lending rebounded in early 2023 (mainly driven by SME, consumer, and credit card loans) but was, at 52.1% of GDP in June, still far below its five-year moving average. Lending to non-financial companies remained largely subdued – except for SME loans, which were supported by regulatory measures. The very high level of inflation led to banking-sector assets falling sharply from 127% of GDP in 2021 to 96% in 2022, while the share of foreign-owned banks in total banking sector assets declined from 25.9 % to 24.9%.

Functioning of the labour market

The labour market strengthened but structural challenges remain significant. Job creation was very strong in 2022 but slowed down in early 2023. In the second quarter of 2023, the seasonally adjusted labour force participation and employment rates reached 53.4% and 48.2% respectively. The labour force moved into more productive activities. There were



notable job gains in industry and construction, and particularly large job creation in services, while agriculture continued shedding labour. The shift in employment out of agriculture also caused a decline in the share of workers without social security registration to around a quarter of all employment in early 2023. The seasonally adjusted unemployment rate declined to single digits for the first time in 5 years. However, time-related

underemployment and the potential labour force increased from an already high level, indicating labour market slack that is still structurally significant (as evidenced by the 23.5% labour under-utilisation). Women's participation in the labour market continued to increase, although the gap with male participation remained very high (above 35 pps). Türkiye maintained its strong focus on supporting entrepreneurial learning and women's entrepreneurship. However, job creation lagged and the gap between the male and female employment and unemployment rates widened further. In the second quarter of 2023, the share of young people (15-24 years) not in employment, education or training (NEET) stood at 20.8%, falling across most educational levels. Regional labour market disparities declined and reached one of the lowest levels in years, with the unemployment rate across different regions ranging from 6.2% to 19.2% in 2022. Following two large increases in 2022, the net minimum wage was raised again by 54.6% in early 2023 and by 34.0% in July – pro-cyclical rises that fostered inflation and further disrupted the functioning of the labour market.

2.3.2. The capacity to cope with competitive pressure and market forces within the Union

Türkiye has a **good level of preparation** and made **limited progress** in achieving the capacity to cope with competitive pressure and market forces within the EU. Despite improved vocational training, the mismatch between the education system and labour market needs remains a concern. Expenditure on research and development has continued to increase, albeit at a very slow pace, and is still below the government's target. Investment was relatively subdued in 2022. There was progress in the diversification of energy supplies and the share of energy generated from renewable sources increased significantly. However, the local content requirement in the renewable energy generation sector is a discriminatory practice and a cause for concern. Trade openness increased further, but integration with the EU continued falling, although remaining high. Deviations from Türkiye's obligations under the EU-Turkey Customs Union continue to hinder bilateral trade.

The Commission's recommendations from 2022 were not fully implemented and remain valid. In order to improve competitiveness and support long-term growth, Türkiye should in particular:

- continue increasing enrolment in education (especially pre-education), support the school-to-work transition and the activation of young people who are not in education, employment or training (NEET) and incentivise female labour market participation;
- take further steps to diversify energy supplies and increase the share of renewables in the energy mix;
- improve SMEs' access to long-term finance.

Education and innovation

Efforts to improve human capital continued, but skills mismatch remains a key concern. Total expenditure on education was 4.8% of GDP in 2021, representing a real year-on-year decrease of 27.1%. Government spending was 3.4% of GDP in 2021, decreasing further by 0.6 pps from 2020. In the 2021-2022 school year, net enrolment rates decreased for primary education (the first 4 years) but increased for lower secondary education (the second 4 years), upper secondary (the final 4 years) and (marginally) for tertiary education. There has been a significant progress in pre-school attendance (see Chapter 26). However, Türkiye continues to score poorly in educational attainment in the Gender Gap Index calculated by the

World Economic Forum, ranking 129th of 146 countries in 2023. The share of students in vocational and technical secondary education has reversed its previous downward trend and increased by 0.6 pps to 28.0% in 2022. The share of pupils in religious education fell below 10% in upper secondary education for the first time in 8 years. It also decreased, albeit marginally to 13.4%, in lower secondary education. Türkiye has the largest skills gap for workers with tertiary education among the OECD countries. There is a persistent mismatch between the skills acquired in the education system and the requirements of the labour market, including those relevant for the digital transformation and green transition.

Investment in R&D increased further, albeit at a slow pace and lagging the EU's performance. R&D expenditure increased gradually from 0.8% of GDP in 2013 to 1.4% in 2021, but the gap with the EU average of 2.3% remains large. The government has intensified its support for business research and innovation, including through tax incentives. The private sector continues to be the main driver of R&D, with a 61.3% share of R&D expenditure. There is still significant room to enhance cooperation between research institutions and economic operators. In the Global Innovation Index 2022, Türkiye's overall score has improved so that it now ranks 37th out of 132 countries, thus entering the top 40 for the first time ever. However, according to the EU innovation scoreboard, Türkiye's innovation score declined from 49.2% in 2021 to 47.7% in 2022 and the performance gap with the EU has widened further. The number of domestic patent applications increased by 6.8% in 2022 by comparison with 2021, but Türkiye's total international patent applications declined significantly by 25.0% in the same period.

Physical capital and quality of infrastructure

Investment activity was relatively subdued in 2022. In 2022, total investment accounted for 29.2% of GDP, up by 1.0 pps from its 2021 level. Construction's share of total investment fell to a historic low level in 2022, but rebounded in the first half of 2023, with the government's social housing project and its reconstruction efforts in the aftermath of the February earthquakes. Machinery and equipment's share of investment followed the opposite pattern, falling from its 2022 peak to 44.6% in the second quarter of 2023. Total net foreign direct investment (FDI) were 0.9% of GDP in 2022, close to its 5-year average. Geopolitical uncertainties, the build-up of macroeconomic imbalances and an unpredictable business and regulatory environment remain the main obstacles to attracting foreign investment.

Diversification of energy supplies has improved and the use of renewables substantially increased. Türkiye has high ambitions to become a regional energy hub and is investing heavily in the exploration of new gas fields in the Mediterranean and the Black Sea, as well as in building new LNG terminals. However, dependence on oil and gas imports (particularly natural gas imports from Russia) remains high and energy demand is steadily growing despite energy efficiency measures. The establishment of a national emissions trading system (ETS) aligned with the EU ETS and with a sufficient level of ambition (notably in the overall cap on allowances) remains a necessary precondition for the economy's cost-effective decarbonisation. Türkiye raised the share of renewable energy in the country's installed power capacity to 54% in 2022. Private investment continued driving growth in renewable installations and the preferential feed-in-tariff was extended until 2030. In addition, the National Energy Plan (2023-2035) released in January 2023 aims at further increasing the shares of renewable energy sources and of nuclear energy in installed capacity and in primary energy consumption by 2035. The plan was prepared in line with Türkiye's 2053 Net Zero Emission Target, which implies a further increase of up to 50% of renewable energy sources in primary energy consumption, as well as a sharp decrease in the share of fossil resources from 83.3% in 2020 to 20.8% by 2053.

Competition and pricing mechanism issues persist in the energy sector. There was limited progress in liberalising energy markets, as the unbundling of the State-owned gas company BOTAŞ was once again suspended. As a result, BOTAŞ remained vertically integrated (comprising gas trade, pipeline and LNG infrastructure) and retained its dominant market position – thus hindering transparent, cost-reflective and non-discriminatory pricing. The local content requirement practices in the renewable energy generation sector are discriminatory and a cause for concern because they impair EU companies’ competitiveness in the Turkish energy market. Türkiye continues to be an important gas-transit country, ensuring the smooth operation of the Trans-Anatolian Pipeline (TANAP) which, as part of the Southern Gas Corridor (SGC), transmits natural gas from Azerbaijan to Europe by connecting to the Trans Adriatic Pipeline (TAP) (*see Chapter 15*).

The COVID-19 pandemic accelerated the economy’s digital transformation. The telecommunication sector is subject to specific taxation and various fees that were increased as part of the budget consolidation efforts in July. Although the ICT sector’s share in GDP remains low at 2.3% in 2022, the number of broadband internet subscribers reached 90.6 million in 2022, up from 88.2 million in 2021. The total number of mobile broadband users was 71.7 million at the end of 2022, representing a population penetration rate of 84% that remains significantly below the OECD average of 124.5%. Türkiye nevertheless has the lowest average download speed of fixed broadband connection in the OECD. The share of citizens using e-government rose from 58.9% in 2021 to 68.7% in 2022. Türkiye ranks 16 out of 35 countries with an overall score of 72% in e-Government maturity, which is above the EU average (68%). Digitalisation efforts in business continued, with the share of enterprises involved in e-sales increasing to 19.3% in 2021, up by 6.8 pps from 2020 level (*see Chapter 10*).

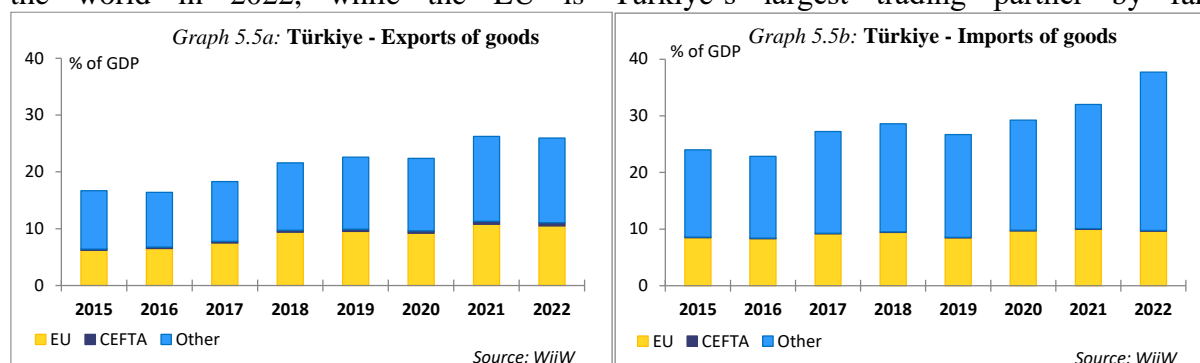
Sectoral and enterprise structure

The economy is dominated by the service sector, but its share declined. Service sector employment remained largely unchanged in the last 5 years, accounting for 56.6% of total employment in 2022. Service activities surged in 2022, led particularly by accommodation and food, transportation, and financial and insurance services. However, their share in GDP declined to a multi-year low of 56.6%, largely due to the expansion of industry. Industry accounted for 21.7% of employment in 2022, up by 0.3 pps from its 2021 level. It increased its share of GDP from the low 20s pre-COVID-19 to above 26% of GDP in 2021 and 2022. The construction sector slowed down, with its share in GDP decreasing slightly from 5.1% in 2021 to 4.9% in 2022. Similarly, the sector’s share in total employment declined to 6.0%, down by 0.1 pps from its 2021 level. By contrast, the agriculture sector’s share in GDP increased from 5.5% in 2021 to 6.5% in 2022. However, its share in total employment dropped further to 15.7% in 2022 (down by 1.5 pps from its 2021 level).

Small and medium-sized enterprises are the backbone of the economy but face multiple challenges. SMEs employ around three quarters of all workers and generate more than half of the economy’s value added. Around 56% of SMEs in the manufacturing sector operate in low technology sectors. Türkiye has continued to implement various economic support schemes targeting SMEs. Targeted credit support improved SMEs access to finance and their share in total loans increased to around 28% in the first half of 2023, up from 24% in the previous 5 years. However, long-term finance remains a key problem for SMEs and they are financed mostly through short-term loans or equity. KOSGEB provides support to companies on R&D, innovation, product development, internationalisation, entrepreneurship and investment in high technology and strategic products. The Scientific and Technological Research Council of Türkiye also implements SME support schemes.

Economic integration with the EU and price competitiveness

Economic integration with the EU declined further but remains high. Türkiye is the EU's seventh largest trading partner, representing 3.3% of the EU's total trade in goods with the world in 2022, while the EU is Türkiye's largest trading partner by far.



The EU's share of Turkish exports declined to 40.5% in 2022 – on a downward trend since 2018 – while the share of Turkish imports originating in the EU decreased strongly from 31.5% in 2021 to 25.6% in 2022 – well below its long-term average and largely due to strong price effects and increased energy imports from non-EU countries (notably Russia). The EU's share of FDI inflows into Türkiye increased markedly from 40% in 2021 to 79% in 2022. The EU's share in the overall stock of FDI rebounded to 68% in 2022 but was still below its long-term average of around 70%. Trade openness continued to increase steeply in 2022, reaching 81% of GDP (up from levels around 50% before 2017) as both exports and imports reached new highs.

In 2022, Türkiye removed some of the additional duties imposed on products of non-EU origin and in free circulation within the EU-Turkey Customs Union. However, many additional duties remain in force, in breach of the rules of the EU-Turkey Customs Union. Non-tariff barriers, such as import surveillance and excessive customs checks, continue to hinder trade flows.

2.4. PUBLIC PROCUREMENT, STATISTICS, FINANCIAL CONTROL

Chapter 5: Public procurement

EU rules ensure that the public procurement of goods and services in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.

Türkiye is **moderately prepared** in the area of public procurement, with significant gaps remaining to align with the EU *acquis*. There was **backsliding** in the reporting period as Türkiye increased the use of the negotiated procedure (lacking transparency), of discriminatory domestic price advantage practices and continued to allow offsets that favour local content.

The Commission's recommendations from last year were not implemented, and therefore remain valid. In the coming year, Türkiye should in particular:

- revise its public procurement legislation to further align it with the 2014 EU directives on public procurement, including utilities, concessions and public-private partnerships, and to increase transparency;
- reduce the excessive use of the negotiated procedure that distorts competition and limits transparency;

→ repeal exemptions that are incompatible with the EU *acquis* and refrain from the use of discriminatory domestic price advantages and offset practices.

Institutional set-up and legal alignment

In terms of the **legal framework**, Türkiye's national public procurement legislation broadly reflects the principles of the Treaty on the Functioning of the European Union. However, it includes compulsory domestic price advantages and offsets, which allow authorities to demand compensatory measures if goods are not produced domestically, which is discriminatory and contradicts the EU *acquis*.

The Public Procurement Law (PPL) is partially aligned with the EU Public Procurement Directives of 2014. A growing list of exclusions that are incompatible with the *acquis* reduces the scope of public procurement rules. In addition, many sector-specific laws limit transparency. The legislation allows the mandatory procurement of goods and services from the State Supply Office for public institutions and organisations. In practice, this mandatory centralised purchasing system enables Türkiye to expand the scope of exclusions, as State Supply Office procurements under TRY 66.2 million are exempt from the PPL. The thresholds are also higher than those used in the EU for supplies and services.

The country still lacks a unified framework for coordinating, supervising and monitoring public-private partnership operations. A more consistent legal framework for concessions and public-private partnerships is needed to increase transparency and efficiency. Türkiye does not publicly disclose information on public-private partnership contracts in a transparent manner in order to avoid allegations of political influence on public tenders. Doing so would also enable a better evaluation of contingent fiscal liabilities.

Public procurement legislation and policy papers, including Türkiye's Green Deal action plan, do not include strategies for transitioning to green procurement, which would contribute significantly to sustainable consumption and production.

Türkiye's 11th Development Plan (2019-2023) and 2023 Presidential Annual Programme aim to increase domestic production by using public procurement as tool to grant subsidies. For this purpose, it makes available a compulsory domestic price advantage of up to 15% for some 'medium and high-technology industrial products' and has put in place legislation encouraging offset practices. Based on updated statistics, a high percentage of international tenders apply the domestic price advantage, rising from 37% in 2017 to 43.5% in 2022. The overall value of these tenders increased from 44% to 52.4% of the total over the same timeframe. The domestic price advantage, distorting competition against international tenderers, was applied in 63% of supply tenders, 38% of work tenders, 74% of consultancy and 18% of service tenders, corresponding to 41%, 65%, 23% and 74% of the total value of tenders respectively.

The operational independence of the **Public Procurement Board** within the Public Procurement Authority is potentially impaired since the President of the Republic is authorised to directly appoint the chair and members without specific regard to candidates' education or sector experience.

Implementation and enforcement capacity

The size of Türkiye's public **procurement market** increased slightly from 4.1% in 2021 to 4.8% of GDP in 2022.

The level of monitoring of **contract awards and implementation** is satisfactory. The Public Procurement Authority issues statistics every six months to help measure performance and

improve the public procurement system. The capacity of contracting authorities to manage public procurement processes continued to improve. Türkiye extended the mandatory use of electronic procurement to cover 47 659 tenders (up from 30 198 in 2021).

Mechanisms are in place to identify and tackle corrupt and fraudulent practices, including rules on integrity and conflict of interest. However, the use of the negotiated procedure continued to increase significantly, reaching nearly one third of all tenders (both in value and number). Contracting authorities are allowed to exercise discretion in certain unexpected circumstances that cannot be objectively measured. This limits competition and transparency regardless of any threshold when using this procedure. In 2022, it was the case in 91.34% of the tenders (in value) where the negotiated procedure was used. Such widespread use of this practice, which limits transparency and competition, strengthened allegations of political influence on public tenders. It is important to develop instruments to evaluate contract performance and benchmark the economic performance, effectiveness, and efficiency of public procurement procedures and of contract management by an individual contracting authority or entity. A risk indicator system is needed to alert on potential integrity problems in the procurement process.

Efficient remedy system

The **right to a legal remedy**, secured in the Constitution and the Public Procurement Law, creates an institutional framework and a mechanism for handling complaints. The review and remedies system ensures that complaints and penalties are dealt with and resolved in an efficient, timely and competent manner. However, the system needs to be further aligned with the EU Remedies Directive. To that end, creating a fully independent procurement review board, separate from the Public Procurement Authority and ensuring the independence of board members, remains pending as a priority.

The implementation **capacity** of the Public Procurement Board remains stable with 341 staff. The Board received 1 773 complaints in 2022 (2.08% of contracts that allow for complaints), down from 2 343 complaints in 2021 (which corresponded to 3.25% of contracts). The appointment policy and the Board's position as part of the Public Procurement Authority remained a source of concern. A fully independent Public Procurement Board would eliminate potential conflicts of interest and increase transparency.

Chapter 18: Statistics

EU rules require Member States to produce statistics based on professional independence, impartiality, reliability, transparency, and confidentiality. Common rules are in place for the methodology, production and dissemination of statistical information.

Türkiye is **moderately prepared** on statistics and made **some progress** in the reporting period, with work continuing to harmonise its statistical methodology with EU standards. The Turkish Statistical Institute (TurkStat) improved its compliance with the timeframes for publishing annual national accounts and excessive deficit procedure notifications. It took further steps to improve cooperation with other main data providers. However, Türkiye needs to increase the credibility of TurkStat and public trust in official statistics.

The Commission's 2022 recommendations were only partially met, and therefore remain valid. In the coming year, Türkiye should in particular:

- increase the credibility of TurkStat and public trust in its macroeconomic statistics by different measures, including setting transparent, professional criteria on the appointment of the president of TurkStat and any grounds for dismissal, which cannot compromise TurkStat's professional or scientific independence;

- step up efforts to fully align national accounts with the European System of Accounts 2010 (ESA 2010) and the requirements of the ESA 2010 transmission programme;
- improve statistics on agriculture, migration and asylum, and make progress towards alignment with the new requirements in short-term business statistics.

As regards **statistical infrastructure**, Türkiye's statistics legislation is based on the European Statistics Code of Practice. TurkStat is an associated institution to the Ministry of Treasury and Finance. However, there are concerns about the credibility of TurkStat and about the declining public trust in certain macroeconomic statistics. Frequent previous changes in management have significantly undermined the institution's credibility. The principles of transparency and merit-based selection processes are important for the integrity of the institution. The institution still lacks transparent appointment and dismissal procedures, including transparent, professional criteria for the appointment of the president of TurkStat.

Preparations for the fifth strategic plan (2024-2028) are ongoing. In February 2023, TurkStat published a new regulation outlining the principles and procedures for preparing and implementing official statistics programmes. Improvements have been made to the use of public institutions' administrative records and in cooperation between TurkStat and other data providers. Registers in the statistical office are updated regularly. The main classifications are aligned with the EU *acquis*.

Regarding **macroeconomic statistics**, Türkiye improved the level of compliance of its annual national accounts in terms of timeliness, but there are still data gaps, both for annual and quarterly national accounts. Gross National Income (GNI) calculations are not yet fully in line with the ESA 2010, and its GNI inventory is not fully aligned with the latest Eurostat GNI Inventory Guide. Türkiye made some progress in the excessive deficit procedure reporting, in particular in terms of data timeliness, but further efforts are required to timely prepare and transmit complete excessive deficit procedure notifications and government finance statistics. Türkiye produces good quality statistics on international trade in goods. It continued reporting quarterly balance of payments and international investment position data. It provided monthly data for the harmonised index of consumer prices. Türkiye submits all the data required for the calculation of purchasing power parities.

Türkiye continues to extend the use of administrative data to produce **business statistics**. TurkStat works on aligning its statistical business registers with the European Business Statistics Regulation requirements. Short-term business statistics are partly aligned. Research and development statistics have achieved a high level of compliance. The annual surveys on the use of information and communication technologies meet EU standards to a large extent. Rail, maritime and regional transport statistics also have a high level of compliance. In August 2022, a data transfer agreement was signed between TurkStat and the Ministry of Transport and Infrastructure for road freight transport statistics. The country has not yet transmitted data to Eurostat on foreign affiliates statistics.

On **social statistics**, Türkiye published the results of the 2021 population and housing census in December 2022. TurkStat conducted a survey on building and dwelling characteristics to provide administrative data sources on housing characteristics for the census. It carries out the survey on income and living conditions in line with EU standards and sends data to Eurostat. Social protection statistics are highly compliant with EU standards and labour market statistics are fully aligned. TurkStat has yet to provide Eurostat with Labour Force Survey data in line with the new EU *acquis*. Türkiye regularly sends data for the labour cost index, though the data is not yet fully complete. It runs the structure of earnings survey every four years, in line with EU legislation. Statistics on education and vocational training are

available. Based solely on administrative registers, Türkiye published indicators on higher education employment for the first time in August 2022. Public health statistics are available, but further progress is needed on health expenditure, non-monetary healthcare statistics and causes of death statistics. TurkStat also provides some data on the functioning of the justice system and prison statistics. Türkiye also produces statistics on immigration and emigration, but it does not yet collect statistics on asylum in line with EU requirements.

On **agricultural statistics**, Türkiye has not carried out an agricultural census since 2001. The 2016 farm structure survey results have not yet been sent to the Eurofarm system. TurkStat and the Ministry of Agriculture and Forestry have to strengthen their efforts to improve administrative registers. Statistics for most of the crops and for most of the critical animal production, milk and dairy are available and sent to Eurostat, even though sometimes with delay. Cereals and oil seed crop balances are also transmitted to Eurostat. The economic accounts for agriculture are still not fully in line with the EU *acquis*.

Energy statistics are mostly in line with EU requirements. Monthly and annual energy statistics are sent regularly. Data on energy prices are also sent to Eurostat regularly and are of good quality. Work is ongoing on energy consumption in households. TurkStat is making progress in physical energy flow accounts. On **environmental statistics**, Türkiye produces waste and water statistics, but further progress is still needed on water resources, water abstraction and waste generation statistics. Statistics related to greenhouse gas emissions, environmental taxes, material flow accounts, air emission accounts and environmental protection expenditure accounts are available.

Chapter 32: Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the euro against counterfeiting.

Türkiye has a **good level of preparation** on financial control. It made **no progress** over the reporting period. The public internal financial control policy paper was not updated. The purpose, authority and responsibility of internal audit are undermined by the lack of a legal requirement to have internal audit units in ministries.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- organise a new round of public expenditures and financial accountability (PEFA) to assess the performance of the current public finance management, help prepare a comprehensive public financial management strategy and update the public internal financial control policy paper and the related action plan;
- adopt a national anti-fraud strategy;
- review the arrangements for including municipalities and state-owned enterprises in the treasury single account.

Public internal financial control

The **strategic framework** is partially in place. There has been no progress on the update of the public internal financial control policy paper since 2012. Türkiye still lacks a comprehensive strategic framework for public administration reform and for public finance management. Public finance management-related goals are contained in different planning

documents and strategies, and there is no mechanism to coordinate implementation of reforms and to ensure regular monitoring and reporting.

The Turkish administration has a uniform management structure that combines elements of **managerial accountability** and delegation with a results-oriented performance management system. The Public Financial Management and Control Law (PFMC Law) applies to all public institutions and specifies the elements of financial control. It sets out the responsibilities of the heads of public institutions, including managerial duties and delegates authority to authorising officers, with the Ministry of Finance and Treasury assigned a coordinating role. Further efforts are needed to harmonise legislation, managerial accountability, including reporting structures, delegating decision-making responsibilities and the functioning of internal control. The use of public finance management diagnostic tools such as PEFA could help identify and fill current gaps in implementing the public financial management and control Law.

The PFMC Law regulates **internal control**, which functions largely in line with international standards. Implementation of internal control systems remains undermined by capacity and ownership issues. Work needs to continue to apply risk management. The monitoring and reporting of irregularities also merits further development. Türkiye has a treasury single account, but the fact that it includes in its scope local administrations and state-owned enterprises raises concerns.

Internal audit practice is regulated in line with international standards in the PFMC Law. The internal audit manual and a code of ethics prepared by the Central Harmonisation Unit have not been updated since 2013. Türkiye has adopted implementing legislation on working procedures and principles of internal audit and took steps to increase the number of internal auditors and provide training. However, there is still no legal requirement for ministries to have an internal audit unit, only for internal auditors. In addition, there is no formal status for heads of internal audit as unit heads. There is no entity that performs the role of an audit committee and therefore auditors report directly to their deputy ministers or to a senior manager. These reporting arrangements could compromise auditor independence. There is no systematic follow-up to the implementation of internal audit recommendations. The lack of clarity in the legislation and in practice between the internal audit and inspection organisations compromises the effectiveness of the internal audit function.

Two **Central Harmonisation Units (CHU)** are tasked with setting standards, monitoring and reporting on implementing public internal financial control. The CHU for financial management and control sets standards and the methodology providing guidance, training and overall coordination to public administrations in this field. The Internal Audit Coordination Board is the CHU for internal audit, which notably monitors the internal audit systems of the public administrations, develops internal audit standards and publishes manuals. The CHU for financial management and control has prepared a draft guide on internal control quality reviews and completed pilot projects in three public administration bodies. The Internal Audit Coordination Board consists of seven members appointed by the President for four years and is now fully attached to the Ministry of Finance and Treasury. Further action is needed to ensure its independence and boost its capacity, organisational structure and resources to fulfil its mandate.

External audit

The **constitutional and legal framework** provides for the independence of the Turkish Court of Accounts (TCA). There are concerns regarding the fiscal discipline, transparency and accountability of the Türkiye Wealth Fund (TWF), chaired by the President of the Republic

and not fully subject to direct audit by the TCA. The TWF is audited by an independent audit firm and by auditors appointed by the President. Not all companies in the TWF portfolio are audited by the TCA. The 2022 audit report was not published on the TWF website. In 2022, amendments to the Law on the establishment of the Türkiye Wealth Fund Management Company (TWPMC) introduced exemptions and exceptions. These new provisions are applicable to companies, funds and their subsidiaries of which the TWF or the TWPMC is the controlling shareholder. Operations and management of the Istanbul Financial Centre will be carried out by a TWF managing company, which is not accountable to the TCA. The Disaster Reconstruction Fund, created in 2023 to manage the funds allocated to disaster recovery work, is excluded from the general budget and the TCA audit scope. The law establishing the Fund requires it to be audited in line with international auditing standards, but it does not clearly specify the procurement principles to be used for Fund expenditure.

Turkish Court of Accounts Law is in line with International Organisation of Supreme Audit Institutions (INTOSAI) standards. It provides for an almost exhaustive audit mandate and gives the TCA full discretion in discharging its responsibilities. The TCA has both audit and judicial functions. In 2022, it had 1 837 staff, including 819 auditors, down from 1 920 staff in 2021, of which 865 were auditors. The TCA is implementing its 2019-2023 strategic plan, which includes running risk-based audits and strengthening its human resources capacity. It has updated its manuals for public enterprise audit, performance audit, audit reporting and local government company audit.

The TCA has improved the **quality of audit work**. It submits four audit reports a year to the parliament in addition to a statement of general conformity. The TCA reports are only evaluated by parliament during its budget deliberations.

Regarding the **impact of audit work**, TCA reports are published online every year, with the exception of those on state-owned economic enterprises. The audited institutions should systematically and swiftly implement the TCA recommendations. A working group between the TCA and the Ministry of Treasury and Finance is operational but more parliamentary scrutiny of TCA audit findings and recommendations is needed. There is a need to separate the discussion of budget and audit issues. Setting up a working group between the TCA and the parliament solely dedicated to discussing the performance of public institutions and their spending could be instrumental in this regard.

Protection of the EU's financial interests

Although Türkiye has reached a good level of alignment with the EU *acquis*, it still needs to fully align its legislation with the EU Directive on the fight against fraud to the EU's financial interests by means of criminal law. The State Supervisory Council was designated as the **anti-fraud coordination service** (AFCOS); AFCOS is operational and held its first meeting in June 2022. There is no national anti-fraud strategy for protecting the EU's financial interests. Türkiye reported 917 cases to the Commission via the online irregularity management system from 2006 to 2022, of which 127 cases were reported in 2022. Türkiye needs to continue on the path of its improved track record of **cooperating with the European Commission** during investigations. It should keep on building its track record on reporting of irregularities along the trends of the last years.

Protection of the euro against counterfeiting

Türkiye has reached a high level of alignment with the EU *acquis* in this area. A dedicated department in the Central Bank carries out technical analysis of counterfeit money, including euro banknotes and coins. In addition, the Turkish State Mint carries out technical analyses of counterfeit coins, including euro coins. Credit institutions that do not withdraw counterfeits

from circulation are subject to financial penalties.

3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Cyprus

Türkiye continued to refuse to recognise the Republic of Cyprus. Despite repeated calls by the Council of the EU and the European Commission, Türkiye has yet to fulfil its obligations as outlined in the Declaration of the European Community and its Member States of 21 September 2005 and in Council Conclusions, including those of December 2006 and December 2015. Türkiye did not fulfil its obligation to ensure the full and non-discriminatory implementation of the Additional Protocol to the Association Agreement and did not remove all obstacles to the free movement of goods, including restrictions on direct transport links with the Republic of Cyprus. Türkiye also refused to cooperate with the Republic of Cyprus on security-related issues, including terrorism. Türkiye continued to veto applications by the Republic of Cyprus to join several international organisations, including the Organisation for Economic Co-operation and Development (OECD).

There were no unauthorised drilling activities by Türkiye in the Eastern Mediterranean during the reporting period. Türkiye issued several navigational telexes (NAVTEX) for conducting seismic surveys and scientific research activities but none in areas that include parts of the Exclusive Economic Zone (EEZ) of Cyprus. The EU remains committed to defending its interests and those of its Member States as well as to upholding regional stability. In November 2022, following the third annual review of the framework for restrictive measures in response to Türkiye's unauthorised drilling activities in the Eastern Mediterranean, the European Council extended the regime for a further year until 12 November 2023. Currently, two individuals are subject to sanctions.

Türkiye's military exercises in the maritime zones of Cyprus continued. Violations by Turkish unmanned aerial vehicles in the Nicosia flight information region and the national airspace of the Republic of Cyprus also continued unabated. Türkiye continued to increase the militarisation of the occupied area by upgrading the military drone base in Lefkoniko and the naval base in Bogazi. The harassment of Cypriot fishing vessels by Türkiye also continued.

In the reporting period, Türkiye continued to criticise the decision of the UN Security Council (UNSC) to renew the mandate of the United Nations Peacekeeping Force in Cyprus (UNFICYP) without the consent of the Turkish Cypriot community. UNFICYP's mandated authority extends throughout the island of Cyprus and the restrictions on its freedom of movement can pose serious risks to the safety and security of United Nations personnel serving in peacekeeping operations. In August 2023, after unauthorised construction work was conducted by the Turkish Cypriot side within the UN buffer zone near Pyla/Pile, Türkiye rejected the UN Security Council's statement condemning the violation of the status quo, which subsequently led to escalating tensions. This escalation included the assault on UNFICYP peacekeepers by Turkish Cypriot personnel on 18 August 2023, an act strongly condemned by the EU. In October 2023, the UN brokered an understanding between both sides on the way forward regarding Pyla/Pile area, which was welcomed by Türkiye and the EU. Nevertheless, these developments continued to undermine the prospect of resuming negotiations and reaching a comprehensive settlement of the Cyprus problem.

Despite international condemnations, and the inadmissibility of the settlement of any parts of Varosha by people other than its inhabitants as stipulated in UNSC resolution 550 (1984),

Türkiye continued with its plan to open the entire fenced-off area of Varosha, creating a new fait accompli on the ground. The new restrictions imposed in 2022 on the activities of UNFICYP within the fenced-off area of Varosha remained in effect – challenging UNFICYP’s ability to execute its tasks in accordance with its mandate, and violating UNSC Resolution 789 (1992).

Türkiye repeatedly advocated for a two-state solution in Cyprus, contrary to relevant UN Security Council Resolutions. In November 2022, the so-called but not internationally recognised ‘Turkish Republic of Northern Cyprus’ was accepted as an observer in the Organization of Turkic States (OTS). This violates the principle of territorial integrity and the UN Charter. The EU recognises only the Republic of Cyprus as a subject of international law, in accordance with the relevant UN Security Council Resolutions and has stressed that any action to facilitate or assist in any way the international recognition of Turkish Cypriot secessionist entity severely damages efforts to create an environment conducive to resuming settlement talks under the auspices of the United Nations.

The EU remains fully committed to a comprehensive settlement of the Cyprus issue, within the UN framework, in accordance with the relevant UNSC resolutions and in line with the principles on which the EU is founded and its *acquis*. The EU has called, most recently in the European Council conclusions of June 2023, for the speedy resumption of negotiations and expressed its readiness to play an active role in supporting all stages of the UN-led process, with all the appropriate means at its disposal.

As emphasised in the Negotiating Framework and Council declarations, Türkiye is expected to actively support the negotiations on a fair, comprehensive and viable settlement of the Cyprus issue within the UN framework, in accordance with the relevant UN Security Council resolutions and in line with the principles on which the EU is founded and the EU *acquis*. It is important that Türkiye reaffirms its commitment to the UN-led settlement talks on Cyprus in line with the relevant UNSC resolutions, including their external aspects. No unilateral actions should be taken that could raise tensions on the island and prevent the resumption of talks. On Varosha, Türkiye must immediately reverse the unilateral actions announced on 20 July 2021 and all steps taken since October 2020 that run contrary to the relevant UNSC resolutions. The EU underlines the importance of the status of Varosha and calls for full respect of UNSC resolutions (particularly Resolutions 550, 789 and 1251).

Peaceful settlement of border disputes

Relations between Türkiye and Greece deteriorated until early 2023. Hostile rhetoric grew during this period, including threatening statements regarding the sovereignty of Greek islands. However, the February 2023 earthquakes prompted a marked improvement in relations. Greece rapidly provided humanitarian aid and support to Türkiye, which helped de-escalate tensions and rhetoric. This was followed by several high-level phone calls and meetings. The Turkish and Greek foreign ministers met in March 2023 on the margins of the International Donors’ Conference organised by the European Commission and the Swedish Presidency of the Council of the EU. The Turkish and Greek deputy foreign ministers met in Ankara in March 2023 to relaunch the fourth round of the Positive Agenda talks between the two countries. The Greek Defence Minister visited Türkiye in April 2023.

In July, the Greek Prime Minister met with the Turkish President on the sidelines of the NATO Summit in Vilnius. The meeting took place in a good atmosphere. The two leaders agreed to build on the positive momentum and activate multiple channels of communication in the coming period, including holding the next meeting of the High-Level Cooperation

Council between Greece and Türkiye in Thessaloniki. The two leaders tasked the Ministers of Foreign Affairs to guide the process and keep them informed on progress.

The possible extension of Greek territorial waters to 12 nautical miles in the Aegean Sea under Article 3 of the United Nations Convention on the Law of the Sea (UNCLOS) continued to weigh on Greece-Türkiye relations. The 1995 declaration of the Turkish Grand National Assembly that any unilateral action by Greece to extend its territorial waters would be considered a *casus belli*, still holds.

The Turkish violations of Greek airspace intensified in 2022 and in December 2022 Türkiye also threatened Greece with retaliation if the latter proceeded with any expansion of its territorial waters in the Aegean. As of February 2023, violations of Greek airspace diminished drastically, and no flights over Greek inhabited areas were reported.

As highlighted by the Council Conclusions in December 2022 and the European Council's Conclusions of June 2022 and stemming from obligations under the Negotiating Framework, Türkiye is expected to make an unequivocal commitment to good neighbourly relations, international agreements and the peaceful settlement of disputes having recourse, if necessary, to the International Court of Justice. Türkiye must avoid threats and actions that damage good neighbourly relations, normalise its relations with the Republic of Cyprus and respect the sovereignty of all EU Member States over their territorial sea and airspace as well as all their sovereign rights, including inter alia the right to explore and exploit natural resources in accordance with EU and international law, in particular the UNCLOS.

In October 2022, Türkiye and the Government of National Unity of Libya signed a memorandum of understanding (MoU) for the development of bilateral scientific, technical, technological, legal, administrative and commercial cooperation in the field of hydrocarbons on land and at sea based on the 2019 MoU on the delimitation of maritime jurisdiction areas between Türkiye and the National Unity Government of Libya. The MoU infringes on the sovereign rights of third states, does not comply with UNCLOS and cannot produce any legal consequences for third states. Actions that could undermine regional stability should be avoided.

Regional cooperation

Good neighbourly relations are an essential part of Türkiye's accession process. Bilateral relations with other enlargement countries were good overall but remained challenging with neighbouring EU Member States, particularly Greece and Cyprus. Tensions in the Aegean and Eastern Mediterranean were markedly reduced after the February 2023 earthquakes.

Türkiye's policy in the Western Balkans is generally aligned with the EU's strategic objectives of regional stability, Euro-Atlantic integration and economic development. Türkiye portrayed itself as an EU partner in the region, while leveraging its distinctive cultural and economic ties. Türkiye continued to ask for action against alleged members of the Gülen movement in the region, urging their extradition and the closure of all affiliated schools. This caused friction with some countries in the region.

Türkiye's relations with **Albania** have continued to strengthen with regular high-level contacts and the agreement by the two countries to bring their bilateral relations to the level of strategic partnership. Albania extradited, Faruk Fatih Ozer, the founder of the Turkish crypto-exchange Thodex. Türkiye reiterated its readiness to strengthen Albania's defence capacity.

Türkiye remained close to **Bosnia and Herzegovina** and President Erdoğan visited the country in September 2022. Türkiye maintained regular contacts with all members of Bosnia

and Herzegovina's tripartite Presidency, keeping a balanced approach and supporting the country's territorial integrity and stability. Türkiye supported the Office of the High Representative.

Türkiye's relations with **Serbia** are very good. The two Presidents maintained frequent contacts. President Erdoğan visited Serbia in September 2022. President Erdoğan emphasised Türkiye's readiness to support a solution between Serbia and Kosovo *. The two countries signed a number of agreements, including on the mutual abolition of tourist visas.

Türkiye maintained strong cultural and economic ties with **Kosovo** and continued to lobby for its international recognition. Prime Minister Kurti paid his first official visit to Türkiye in February 2023. Türkiye and Kosovo explored cooperation opportunities in the economic, commercial, security and defence fields.

Türkiye's relations with **Montenegro** were stable. The two countries publicly stated that they aimed at further developing their bilateral cooperation.

Türkiye and **North Macedonia** continued to engage actively in the economic, educational and cultural sectors. The two countries celebrated 30 years of diplomatic relations.

Türkiye is **Georgia's** second largest trading partner and its relations with Georgia are at a strategic partnership level. High-level contacts were regular. Türkiye strongly supported Georgia's territorial integrity and sovereignty. Türkiye also supported Georgia's NATO integration efforts.

Türkiye's relations with the **Republic of Moldova** remained stable and at the level of strategic cooperation. Türkiye continued to support Moldova's sovereignty and territorial integrity. Türkiye also welcomed the EU's decision to grant candidate status to Moldova.

Türkiye's relations with **Ukraine** are at the level of strategic partnership. Türkiye consistently supported Ukraine's territorial integrity. Türkiye rejected Russia's aggression against Ukraine, called for the rights of Crimean Tatars to be respected, provided humanitarian aid and military assistance to Ukraine and engaged politically and diplomatically, including in the facilitation of the export of Ukrainian grain and of the prisoners' exchange, aiming at facilitating talks between Ukraine and Russia and working on de-escalation and bringing about a cease-fire.

4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

CLUSTER 2: INTERNAL MARKET

This cluster covers: free movement of goods (Chapter 1), freedom of movement for workers (Chapter 2), right of establishment and freedom to provide services (Chapter 3), free movement of capital (Chapter 4), company law (Chapter 6), intellectual property law (Chapter 7), competition policy (Chapter 8), financial services (Chapter 9), and health and consumer protection (Chapter 28). This cluster is key to the good functioning of the EU-Turkey Customs Union and to integrating Türkiye into the EU's internal market.

Türkiye has achieved a good level of preparation for the free movement of goods. However, technical barriers to trade and requirements discriminating against EU products remained in place. Preparations in the areas of freedom of movement for workers, and the right of

* 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.

establishment and freedom to provide services are at an early stage, and substantial efforts are still required to align with the *acquis*. Türkiye is moderately prepared on free movement of capital, as limitations remain on foreign ownership and on capital movement. Türkiye needs to continue to address outstanding issues in its framework regulating the fight against money laundering and terrorist financing, while ensuring objective implementation that does not restrict the legitimate rights of NGOs.

Türkiye is well advanced in the area of company law but needs to make further progress in aligning with the EU *acquis*. Türkiye has a good level of preparation in the area of intellectual property law, notably in terms of legislative alignment, but it needs to improve implementation and enforcement. Türkiye has some level of preparation in the area of competition policy. Backsliding was observed as serious concerns persist in relation to the legislative framework, enforcement capacity and transparency in the field of State aid. Türkiye has a good level of preparation in the area of financial services, however the banking sector faced an increasingly challenging operating environment in the reporting period. Türkiye has a good level of preparation on consumer and health protection, with limited progress made, notably on strengthening its surveillance system for health (security) services. The capacity of the healthcare system was seriously affected by the February 2023 earthquakes in the affected regions.

Chapter 1: Free movement of goods

The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these from creating unjustified barriers to trade.

Türkiye has achieved a **good level of preparation** on the free movement of goods. It made **some progress** in aligning with the EU *acquis*, particularly under the 'old approach' and the 'new and global approach' to product legislation. The market access barrier on agricultural and forestry tractors was removed following alignment with the EU *acquis*. However, technical barriers to trade, unjustified checks for EU products and requirements discriminating against EU products remained, in breach of Türkiye's obligations under the Customs Union.

The Commission's recommendations from last year were only partially met, and therefore remain valid. In the coming year, Türkiye should in particular:

- eliminate the remaining non-tariff barriers to the free movement of goods that are in breach of Customs Union obligations, including the surveillance regimes for the import of certain products, export restrictions, prior registration requirements, conformity assessments and inspections, licencing surveillance and other documentation requirements for imports, and non-acceptance of EU certificates of good manufacturing practices;
- review the remaining schemes setting local content requirements or relocating production;
- increase the coverage and effectiveness of market surveillance measures and ensure timely reporting on results for public transparency.

General principles

The EU framework for the free movement of goods is largely in place in Türkiye. However, implementation issues remain, as Türkiye continues to implement a range of non-tariff barriers to the free movement of goods that are in breach of Customs Union obligations. In the reporting period it further extended the scope of the surveillance regime to cover the

import of certain products, such as photovoltaic cells. Export restrictions, prior registration requirements, risk-based import control system, conformity assessments and inspections and other documentation requirements remained in place. Türkiye still does not accept EU good manufacturing practices certificates. While Türkiye adopted several measures to adjust the localisation and prioritisation schemes for pharmaceuticals, the EU's assessment on whether Türkiye has completed the implementation of all findings in the Arbitrators' Award is still ongoing. The local content requirements in renewable energy remain in place and new local content requirements were put in place for tobacco products. These schemes create *de facto* market access barriers for EU products, which are not in line with the Customs Union. Türkiye's product safety controls on imported goods processed through its electronic TAREKS system can require the provision of additional documentation and information on products coming from the EU, contrary to the Customs Union provisions.

Non-harmonised areas

Türkiye's mutual recognition legislation in the non-harmonised areas is in line with the EU *acquis*. However, Türkiye has notified only five product legal acts in the non-harmonised areas in the reporting period. This is not sufficient, given the size of Türkiye's economy and legislative activity and close ties with the European Union's economy under the Customs Union.

Harmonised areas: quality infrastructure

Türkiye is aligned with the EU *acquis* on standards, technical regulations, conformity assessment, accreditation, metrology and market surveillance. It has also aligned with the EU *acquis* on general product safety, the European Conformity mark (CE mark), conformity assessment bodies, notified bodies and conformity assessment methods.

The national **Standards** Institute is independent, adequately resourced and financed, and able to implement European and international standards. Since 2012 it is a full member of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC). By the end of the reporting period, it had adopted 24 318 national standards aligned with European standards. The rate of harmonisation with both CEN and CENELEC standards is 99.96%. Eight Turkish economic operators are full members of the European Telecommunications Standards Institute (ETSI) and one is an observer.

Türkiye has 64 **notified bodies**, five recognised third-party organisations, and two technical approval bodies in place. The Turkish **Accreditation** Agency (TÜRKAK) is a signatory of multilateral agreements as part of the European cooperation for Accreditation (EA) and takes part in the mutual recognition of data agreement of the OECD Good Laboratory Practices Working Group (OECD-GLP). The National **Metrology** Institute (TÜBİTAK-UME) is a member of the European Association of National Metrology Institutes (EURAMET). The Ministry of Industry and Technology participates in the European Legal Metrology Organisation (WELMEC). TÜBİTAK-UME chairs a Technical Committee and participates in the Committee of the European Metrology Programme for Innovation and Research at EURAMET.

Türkiye implements **market surveillance** in compliance with the EU *acquis* and submits its annual programme to the European Commission. There is a horizontal framework for market surveillance in place in line with the applicable EU *acquis*. The relevant ministries published separate market surveillance regulations governing personal protective equipment and construction products in the reporting period. According to the market surveillance report for 2022, a total of 233 644 products were checked by market surveillance authorities in 2022

representing a 11.8% increase as compared to 2021. About 10 881 products were found uncompliant or unsafe as against 12 455 products in 2021. Access to information on market surveillance activities is important for producers and consumers. The budget allocated to market surveillance increased by 51% in 2022 as compared to 2021, in a high inflation environment. Surveillance remained limited with regard to activities in e-commerce.

Harmonised area: sectoral legislation

On the ‘**new and global approach**’ to product legislation, Türkiye adopted legislation to align with the latest *acquis* on medical devices and in vitro diagnostic medical devices. It also aligned with the *acquis* on eco-design and on energy labelling of several types of heaters, computers, servers, and several types of household goods.

On the ‘**old approach**’ to product legislation, in January 2023, the new Turkish legislation on agriculture and forestry tractors entered into force, phasing out the discriminatory treatment of EU tractors in terms of engine emission requirements, thus solving the relevant market access barrier. It also adopted legislation aiming to align with the *acquis* on certain medicinal products, good distribution practices of medicinal products for human use and on vaccines and immune serums. Türkiye adopted legislation designed to align with the latest *acquis* on good clinical practice and pharmacovigilance. Türkiye aligned to a large extent its cosmetics regulatory framework with the *acquis* by adopting a new cosmetics regulation in May 2023. A new guideline on free from claims in cosmetics was published in June 2023. Türkiye does not accept EU good manufacturing practice certificates on medicines for human use, in breach of Customs Union rules. Regarding **chemicals**, Türkiye has adopted two new regulations on the export and import of hazardous chemicals and on hazardous substances in electrical and electronic equipment, aligning with the EU *acquis*. Türkiye is almost fully aligned with the European Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), apart from on biocidal products.

On **procedural measures**, Türkiye has specific licencing and regulation systems for economic operators dealing with **drug precursors**, with a strict follow-up and monitoring system in cooperation with the police and customs. It is aligned with the EU *acquis* regarding licencing procedures for **firearms**. However, it made no progress on alignment with the *acquis* on **cultural goods**.

Chapter 2: Freedom of movement for workers

Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

Preparations in the area of freedom of movement for workers are at an **early stage** and **no progress** was made during the reporting period.

Türkiye made no progress on **access to the labour market** or on the **coordination of social security systems**. The number of bilateral social security agreements with EU Member States remained the same, with 15 agreements concluded. Türkiye should prepare its legislation and administrative practices in view of joining the European Labour Authority and the European Employment Services (**EURES**) network. There were no developments on future participation in the EURES network.

Chapter 3: Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of

universal service, gradual market opening to competition, and the establishment of an independent regulator.

Preparations in the area of right of establishment and freedom to provide services are at an **early stage**. There was **no progress** in the reporting period. Right of establishment continues to be restricted, service providers registered in the EU still face requirements on registration, licencing and authorisation. Postal services are not regulated in line with the *acquis*. Continuous and substantial efforts are needed on the mutual recognition of professional qualifications. Overall, substantial efforts are still required to achieve alignment in this area.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- align its national legislation with the Services Directive and set up a point of single contact;
- continue aligning with the EU *acquis* in the area of postal services;
- align its national legislation with the EU *acquis* on mutual recognition of professional qualifications, including the Professional Qualifications Directive and the Proportionality Test Directive.

There was no progress on the **right of establishment**, which continues to be restricted by several requirements in Türkiye.

Regarding the **freedom to provide cross-border services**, service providers registered in the EU still face requirements on registration, licencing and authorisation. The point of single contact has not yet been created.

No progress was made in the **area of postal services**. Legislation regulating postal services in accordance with the EU *acquis* has not yet been adopted. Türkiye has yet to align with the provisions of the Postal Services Directive, as a reserved area in the letter mail market is maintained for the state-owned universal service provider. The Information and Communication Technologies Authority (ICTA) monitors postal market development. National legislation still needs to be aligned with the provisions of the Regulation on cross-border parcel delivery services.

On the **mutual recognition of professional qualifications**, the Vocational Qualifications Authority continued to implement the national qualification framework. The number of occupations that require compulsory certifications has increased (204 occupations in total). The number of national occupational standards reached 901 and the number of national qualifications prepared in line with occupational standards reached 650. The Turkish Referencing Report to the European Qualifications Framework is still not updated. Some regulated professions still require reciprocal mutual recognition. Nationality and language requirements have not been removed. However, it is possible to make an online application for the recognition and equivalence of higher education qualifications. There is no specific regulation or practice governing the temporary or occasional provision of services. Continuous and significant steps are needed to align national legislation with the EU *acquis* in this area.

Chapter 4: Free movement of capital

In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.

Türkiye is **moderately prepared** on free movement of capital. Overall, there was **some progress** in this area in the reporting period. Limitations on foreign ownership persist in numerous sectors. There are still restrictions on capital movements and foreign exchange-denominated transactions. Türkiye has improved its instant payment system infrastructure. The country remains on the list of jurisdictions under increased monitoring ('grey list') by the Financial Action Task Force (FATF). Though the FATF did not call for the use of increased due diligence measures in the reporting period, Türkiye needs to take more steps to implement its action plan and tackle the strategic shortcomings in its anti-money laundering and countering the financing of terrorism (AML/CFT) regime. It is important for Türkiye to ensure an objective implementation that does not instrumentalise measures to target or restrict the legitimate rights of NGOs.

The Commission's recommendations from last year were implemented to some extent. In the coming year, Türkiye should in particular:

- minimise limitations on foreign ownership and on capital movements;
- make further progress in tackling the strategic shortcomings in its AML/CFT regime, in line with the EU *acquis* and FATF recommended actions in order to be delisted from the FATF grey list;
- address the recommendations of the Venice Commission regarding the law on the prevention of financing of the proliferation of weapons of mass destruction.

Concerning **capital movements and payments**, restrictions on foreign ownership are still in place in many sectors, including broadcasting, education, transportation, financial services, the electricity market and real estate. Türkiye's legislation on real estate acquisition by foreigners remains opaque and does not apply to all EU nationals in a non-discriminatory way. On this point, Türkiye lags behind its commitments under the EU-Turkey Association Agreement. The ability for citizens of neighbouring countries in border provinces to buy real estate is still restricted for national security reasons. Türkiye maintains its restrictions on capital movements and foreign exchange-denominated transactions. Exporters are still required to sell 40% of their foreign-earned income to the Central Bank and Türkiye brought in some additional incentives to encourage exporters to convert their foreign-earned revenues into Turkish lira. Türkiye also imposes a range of informal measures on banks and operators to limit the purchase of foreign currencies.

Türkiye has made some progress in **payment systems** adding to the good level of preparation already achieved. The Central Bank has increased the scope and coverage of the Instant and Continuous Transfer of Funds (FAST) system. Banks began to provide services via the Open Banking Gateway (GEÇİT) infrastructure. Türkiye also launched FAST Merchant Payments in 2023. The first payment transactions were made on the Digital Turkish Lira Network. Meanwhile, the Central Bank published guidelines on data sharing services in payment services in December 2022. The Central Bank also launched the Security Overlay Service to facilitate the exchange of information with a view to improving the detection of illicit transactions. All Turkish banks had stopped accepting the Russian MIR payment system by October 2022.

Türkiye has made some progress in the **fight against money laundering and terrorist financing**. Türkiye has been on the Financial Action Task Force (FATF) list of jurisdictions under increased monitoring ('grey list') since October 2021, but has not been added to the EU's list of high-risk third countries. This is due to Türkiye's candidate status, high-level political commitment to the EU to tackle the outstanding shortcomings identified by the FATF and to its endeavours to reach full alignment with the EU *acquis*.

Türkiye revised its national strategy document **on anti-money laundering and countering the financing of terrorism** in 2022 to comply with FATF recommended actions. In 2022, Türkiye adopted regulations regarding politically exposed persons to comply with the FATF Standards and the EU *acquis*. Also in 2022, Türkiye issued guidance to the private sector on detecting terrorist financing and increased its financial intelligence agency's proactive dissemination of financial intelligence. In July 2023, the FATF concluded that Türkiye has taken positive steps towards improving its AML/CFT regime. Consequently, the FATF upgraded the country's ratings on five of its recommendations, including Recommendation 8 on the audit of the non-profit organisations. Türkiye remains partially compliant on one recommendation. Nevertheless, the law on the prevention of financing of the proliferation of weapons of mass destruction has not been revised in line with the Venice Commission's recommendations.

The Turkish Financial Crimes Investigation Board (MASAK) strengthened its capacity and the level of cooperation with law enforcement agencies and judicial authorities. The number of suspicious transaction reports submitted fell from 504 995 in 2021 to 425 322 in 2022. The number of money laundering prosecutions has been rising in recent years. 70 cases resulted in conviction between 2013 and 2018. Since 2018, 225 people have been convicted in money laundering cases and in 2022 alone, 4 904 people were convicted in Türkiye.

Türkiye reaffirmed its commitment to freeze the assets of people/entities designated by the United Nations Security Council Sanctions Committee. The government also continued to use the domestic assets freeze instrument effectively.

Chapter 6: Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.

Türkiye is **well advanced** in the area of company law. **Some progress** was made during the reporting period, by adopting the financial reporting standards for small and micro companies. However, there was no progress on the other 2022 recommendation, which remains valid.

In the coming year, Türkiye should in particular:

- align national legislation with the *acquis* on encouraging long-term shareholder engagement;
- align national legislation with the *acquis* on cross-border conversions, mergers and divisions and on the use of digital tools and processes in company law.

On **company law**, Türkiye took limited legislative action over the reporting period. Alignment is needed on some outstanding issues in the context of cross-border mergers, domestic mergers and divisions, and takeovers. Alignment is also necessary with the 2019 *acquis* on the use of digital tools and on cross-border operations (mergers, divisions, conversions) with the rules on shareholders' rights, including on the encouragement of long-term shareholder engagement and on gender equality on boards of directors. As regards the disclosure of company documents in the business register, the country still lacks provisions requiring all limited liability companies to publish annual accounts and on the online filing of company documents. Türkiye also lacks a fully online process to register limited liability companies.

On **company reporting**, a Presidency decision on the procedures and principles for

determining the companies subject to independent audit was published in November 2022. This lowered the audit exemption thresholds. In January 2023, the Public Oversight, Accounting, and Auditing Standards Authority (POA) published the financial reporting standard for small and micro enterprises. Based on changes in the International Code of Ethics for Professional Accountants (including International Independence Standards), the POA also updated the standards in the Code of Ethics for Auditors, in March 2023. There is still a lack of clarity regarding the alignment of non-financial information and reports on payments to the government. Türkiye will need to align with the 2022 EU Directive on corporate sustainability reporting. As regards **transparency** requirements for listed companies, the Law on capital markets regulates the general responsibilities of issuers. Implementing rules are published by the Capital Markets Board with the aim of aligning with the EU *acquis* in this area. The Turkish Commercial Code was amended to increase transparency and provide the identity information of bearer shareholders.

Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting.

Türkiye has a **good level of preparation**, notably in terms of legislative alignment. **No progress** was made during the reporting period. Some legislative discrepancies remain, as do outstanding problems regarding implementation and enforcement, notably in relation with judicial procedures. Türkiye was the second major country of provenance by number of counterfeit articles entering the EU.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- improve enforcement measures to efficiently fight against industrial and intellectual property rights infringements, including online sales of counterfeit and pirated goods, improve the level of specialisation in courts dealing with IPR infringements and resolve difficulties in the judicial procedures to obtain search and seizure warrants for criminal law enforcement;
- improve cooperation with IPR owners for efficient implementation and effective enforcement of the Law on industrial property, in particular in cases of accelerated and simplified destruction procedures by the judiciary and the customs authorities;
- ensure the collection and processing of accurate statistical data, especially on effective judicial enforcement of intellectual and industrial property rights, with a view to facilitating the analysis of systemic IPR shortcomings.

Regarding **copyright and related rights**, Türkiye amended one specific article of the Law on copyright and extended legal protection against circumvention of technological measures to all works, performances, phonograms, productions and broadcasts, in addition to computer programmes. The Law on copyright has yet to be fully modernised to provide sufficient protection, in line with technological developments. Systemic issues continue, particularly regarding collective rights management, the lack of autonomy and the supervision of collective rights management organisations (CMOs), as well as discrimination against foreign right holders in the management of CMOs. A number of issues remained unresolved, in particular the lack of fair distribution of private copy levies, licencing difficulties,

uncertainties in online education exceptions, public performance right problems, unauthorised use of copyrighted material via online platforms and well-known e-commerce websites. Türkiye is not yet aligned with the Directive on copyright and related rights in the Digital Single Market.

Regarding **industrial property rights**, the Turkish Patent and Trademark Office continued to strengthen its administrative capacity and digitalise services. The lack of a precise definition of bad faith applications as regards trade marks has made the invalidation procedure ineffective. The procedures to revoke, oppose and invalidate trade marks remained expensive and lengthy. There are currently no legal provisions for supplementary protection certificates.

Another area of continued concern is the absence of an effective system for protecting undisclosed test and other data generated to obtain marketing approval for pharmaceutical and agrochemical products. Even though Türkiye has in place a regulatory data protection regime since 2005, the scope is limited and excludes biologics and combination products. The length is also limited reducing the effective protection period in Türkiye. Turkish law links the length of the regulatory data protection with the duration of patent protection. Hence, once a product is considered off-patent, it automatically loses its regulatory data protection.

Concerning judicial **enforcement**, criminal courts rarely order deterrent fines for commercial scale IP infringements, even though legal provisions may provide for higher penalties. Stakeholders continue to report complaints about inefficient litigation procedures, including at courts of appeal. They report difficulties and inconsistencies in deciding preliminary injunctions and monetary compensation claims, storage and destruction problems and financial burdens related to the storage of counterfeit goods, and the overuse of expert witness statements.

Despite strong evidence provided by right holders about counterfeiting, few search and seizure warrants are granted and very few counterfeit goods are seized. Public prosecutors and judges require additional evidence, which is not reasonable to substantiate the claims of the right holders. Obtaining preliminary injunctions also remains difficult and the level of deterrence of the penalties ordered by judicial authorities is reportedly low. Enforcement authorities, in particular the police and judges, need to increase the efficiency of action against IP infringements. The number of IP courts has decreased over the past years in Türkiye, which has a negative effect on the quality and consistency of the court decisions. Action to combat counterfeiting at physical marketplaces remains insufficient. The Law on e-commerce and its implementing regulation introduced new provisions relating to the notice and takedown procedure and clarified the responsibility of e-commerce intermediary and direct service providers in complaints regarding the infringement of intellectual property rights. There has been an increase in online sales of counterfeit goods at well-known e-commerce marketplaces. In this context, and with a view to stopping IPR infringements, it will be important for Türkiye to apply notice and takedown procedures.

The number of customs applications for seizures increased from 2 431 in 2021 to 2 637 in 2022. However, Türkiye needs to improve customs enforcement to combat counterfeit goods, in particular for goods in transit and exports, which makes Türkiye the second major country of provenance by number of counterfeit articles entering the EU, according to the 2022 report on the EU enforcement of IPR. The number of articles coming from Türkiye detained at the EU borders by customs authorities has increased. Counterfeiting concerns a wide range of products from food and alcoholic beverages to vehicles, vehicles accessories and spare parts. The customs enforcement legislation is not fully aligned with the *acquis*.

There are only limited awareness campaigns from public institutions on the dangers of counterfeiting and piracy to public health, consumer safety, rule of law and labour market, and on the economic benefits of IPR-intensive sectors. Stronger political commitment is needed to enforce IPR and to stop the flow of counterfeit trade from Türkiye to the EU.

Chapter 8: Competition policy

EU rules enable free competition. They include antitrust rules against restrictive agreements between companies and the abuse of a dominant position, and also include rules on concentrations between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if strict conditions are met, with a view to prevent distortion competition.

Türkiye has **some level of preparation** in the area of competition policy. **Backsliding** was noted due to serious concerns in relation to the legislative framework, enforcement capacity and transparency in the field of State aid. Institutional framework and the new administrative structure clearly deviate from the EU *acquis*. By repeatedly postponing the creation of a functional enforcement structure, Türkiye's legislative framework is, *de facto*, ineffective. The lack of a transparent State aid inventory covering all aid schemes remains a source of concern.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- ensure the independence and functionality of the State aid institutional framework in accordance with the EU *acquis*;
- implement the State aid Law by adopting implementing legislation without further delay;
- make available a transparent and up-to-date inventory of all aid schemes.

Antitrust and mergers

The **legislative framework** is broadly aligned with the EU *acquis*. The Law on the protection of competition broadly reflects Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU). Implementing legislation in this field is largely in place. The relevant legislation must still be aligned in order to ensure full compliance with the Vertical Block Exemption Regulation.

In terms of the **institutional framework**, the Turkish Competition Authority (TCA) is responsible for enforcing the Law on the protection of competition. Its decision-making body, the Competition Board, has seven members. Despite being affiliated with the Ministry of Trade, the TCA has administrative and financial autonomy.

The enforcement capacity of the Authority is adequate. In 2022, overall **implementation** was effective and the number of decisions in the areas of antitrust (78 compared with 74 in 2021), exemption/negative clearance decisions (19 compared with 22 in 2021) and merger/acquisition/joint venture/privatisation (245 compared with 309 in 2021) were comparable with those adopted in the previous year. The total amount of fines levied by the Authority for infringements of competition law (fines related to substance) remained at TRY1.7 billion, an average for the previous five years. The total number of ex-officio investigations and preliminary investigations increased from 15 in 2021, to 18 in 2022. In 2022, 80% of the 139 judgements concluded as a result of appeals against the Turkish Competition Authority decisions were upheld by Turkish courts.

State aid

Action taken in 2022 on the **legislative framework** amounted to a backslide. Türkiye's Law on the monitoring and supervision of State aid is broadly in line with Articles 107 and 108 TFEU. However, by repeatedly postponing the creation of a functional enforcement structure, Türkiye has rendered its legislative framework, *de facto*, ineffective.

Following the abolition of the Directorate General for State Aid (DGSA), in 2022, Türkiye established a new DGSA, under the Presidency of Strategy and Budget. However, the new DGSA does not have the same full legal mandate as its predecessor. The decree establishing the new DGSA gives a different definition of State aid than the definition given in Law on the monitoring and supervision of State aid, which was aligned with the EU *acquis*. The President postponed implementation of the law and its implementing legislation indefinitely. As a result, not only the law is not enforceable, but the **institutional framework** and the new administrative structure also clearly deviate from the EU *acquis*. Accordingly, Türkiye still needs to make substantial efforts to align its legislation with the EU *acquis*.

In 2023, the project-based investment programme – where the transfer of State resources is provided on a selective basis (i.e. only to certain undertakings) – included 64 projects with an investment amount of TRY 491 billion (incentives granted since the beginning of 2022, covering 25 projects with an investment of TRY 336 billion). The breakdown of State aid for these investments was not disclosed, contrary to the commitments made under the EU-Turkey Customs Union. The lack of a transparent State aid inventory covering all aid schemes – including the amount or budgeted amount of the State support granted – remains a source of concern.

Liberalisation

State-owned enterprises are subject to competition and State aid rules, however the overall challenges in the area of State aid also apply to state-owned enterprises.

Chapter 9: Financial services

EU rules aim to ensure fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.

Türkiye has a **good level of preparation** in the area of financial services. It made **limited progress** in the reporting period by strengthening the insurance market and developing new alternative financing instruments. However, Türkiye's pre-2023 election approach to apply a set of unorthodox macroprudential and regulatory measures made the operating environment for the banking sector increasingly challenging during the reporting period. The country should make further efforts to align with the financial services *acquis*, focusing on the priorities identified based on the current state of play.

The Commission's recommendations from last year were partially implemented, and therefore remain valid. In the coming year, Türkiye should in particular:

- gradually phase out distortive macro-prudential and regulatory measures and improve the transparency of asset quality review;
- further strengthen bank governance and supervision, crisis management and the resolution framework;
- continue to support the development of Türkiye's capital markets and their supervision.

Regarding **banks and financial conglomerates**, Türkiye is in line with the Basel III framework (but not taking into account the Basel III Finalisation of 2017) according to the

Basel Committee. In October 2022, Türkiye released the 2022-2025 participation finance strategy, with the aim of building a legal, administrative and corporate infrastructure for participation finance.

Overall, the banking sector has remained resilient, with the indicators tracking asset quality improving. The share of non-performing loan ratios continued to fall, down to 1.9% in February 2023. The capital adequacy ratio of the banking sector remained above the legal thresholds, supported by the sector's strong profitability performance. Action is needed to improve the transparency and predictability of the financial sector regulatory framework, including by carefully phasing out distortive regulatory measures and conducting transparent asset quality reviews.

Türkiye made some progress on **insurance and occupational pensions**. In October 2022, the Insurance and Private Pension Regulation and Supervision Agency (SEEDK) published a new regulation laying down the procedures and principles for the collection, storage and sharing of insurance data. Under a new regulation on the state contribution to the private pension system, state contributions can be received in the following years for contributions paid above the annual limit. In November 2022, SEEDK announced its roadmap for traffic insurance aiming at overcoming structural weaknesses in the sector. It mainly plans to switch to person-based insurance and to improve the arbitration process. In June 2023, a possibility of electronic applications was introduced for insurance arbitration system through an online platform. Following the February 2023 earthquakes, SEEDK took several measures to ease the burden of insurers such as extending the maturities of all expired mandatory earthquake insurance policies or removing the penalty for delays to compulsory motor insurance.

As regards **financial market infrastructure**, the Capital Markets Board adopted some amendments to the sale methods and distribution principles applied to initial public offering of shares to protect investors' rights. It also amended the criteria for institutional investors. Portfolio management companies are now considered individual investors and no longer as institutional investors. To raise awareness of sustainability among companies trading in the Borsa Istanbul markets, Türkiye launched futures contracts based on BIST Sustainability 25 Index for trading on the derivatives market in January 2023.

Regarding **securities markets and investment services**, the Borsa Istanbul made some amendments to the regulations on precious metals in August 2022 by expanding the scope of conversion transactions to include all precious metals. As part of the efforts to develop alternative investment instruments, Turkish State mint gold certificates started trading on the commodity market segment of the Borsa Istanbul Equity Market at the end of November 2022.

On **sustainable and digital finance**, Türkiye took a number of steps to accelerate the digital transformation of the banking sector over the last few years. Amendments were made to the remote identification services of banks, mainly allowing legal entities to access these services, and facilitating the use of the system by persons with disabilities. The use of crypto currency and crypto assets directly or indirectly as an instrument of payment is still banned in Türkiye. In February 2022, Türkiye adopted guidelines on green debt instruments, sustainable debt instruments, green lease certificates and sustainable lease certificates. They are based on the Green Bond Principles of the International Capital Markets Association (ICMA) and aim to improve transparency and international comparability of green bonds, sustainable bonds, green sukuk and sustainable sukuk.

Chapter 28: Consumer and health protection

EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats, including communicable diseases.

Türkiye has a **good level of preparation** on consumer and health protection. **Limited progress** was achieved overall over the reporting period in this chapter. Efforts were made to strengthen its surveillance system for health (security) services and to tackle serious cross-border health threats. However, implementation issues remain regarding consumer protection and enforcement, and consumers continue to face problems in exercising their rights. The capacity of the healthcare system was seriously affected by the February 2023 earthquakes in south-east Türkiye.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- strengthen consumer rights enforcement and further improve coordination and cooperation with the consumer movement and with enforcement bodies; increase raising awareness activities and take more measures on infringements in the digital environment and more measures to support vulnerable consumers;
- strengthen its primary healthcare services by providing sufficient resources for public health emergencies risk assessment and risk management at central and provincial levels;
- boost its workforce and administrative capacity to ensure effective multi-sectoral preparedness and response to disasters, within and across the relevant sectors.

Consumer protection

While Türkiye's national legislation remains mostly aligned with the *acquis* on consumer protection in **non-safety-related issues**, with further legislative alignment on consumer arbitration, issues remain in the application of consumer rights. Consumers face problems in exercising their right to choose, and consumer awareness and education remain insufficient. The level of cooperation and coordination between consumer organisations and enforcement bodies remains low. The national consumer information system (TÜBİS) is complex, preventing its widespread usage. Consumer NGOs lack financial and professional support and are unable to participate actively in legal and public decision-making mechanisms. Consumer arbitration committee members remain insufficiently trained and lack a common understanding of the legal issues. Of 602 613 decisions taken by consumer arbitration committees in 2022, 50% were in favour of consumers and 50% against them. Cooperation between out-of-court and court consumer systems is yet to be improved. Alignment with the representative actions Directive is at an early stage and significant work is still needed.

On **safety-related measures**, there is a low level of consumer awareness of the national unsafe products information system. Regular monitoring and more robust regulatory tools are required to combat online sales of counterfeit goods that endanger consumer and public health (*see Chapter 7- Intellectual property law*). Market surveillance of e-commerce remained limited, although the volume of online shopping has increased (*see Chapter 1-Free movement of goods*).

Public health

In the field of public health, while Türkiye was recovering from the impact of COVID-19 pandemic, two earthquakes hit the country in February 2023. The earthquakes had a direct impact on 15 million people, claiming over 50 500 lives and injuring over 120 000 people. Hospitals, family health centres and public health laboratories in the region suffered damage. The earthquakes interrupted the diagnostics chain from health facility to laboratory. Disease surveillance was set up for infections and communicable disease outbreaks, including airborne and waterborne diseases. The capacity of the health system remained insufficient to meet the healthcare needs in the earthquake-affected areas, especially the mental health needs, and psychological and nutrition needs. The COVID-19 pandemic and the February 2023 earthquakes have shown that inter-sectoral linkages and collaboration on emergency prevention, preparedness and response are vital in ensuring public health safety and wellbeing in the aftermath of disasters.

Türkiye's health system faces a growing burden from **non-communicable diseases**, including cardiovascular diseases and cancer. These illnesses have a significant impact on premature mortality. In 2022, Türkiye scaled up its cancer screening activities to 7.3 million scans across the country from 4.4 million in 2021. Of these scans, 2.8 million were for breast cancer, 2.7 million for cervical cancer, and 1.8 million were for colon cancer.

Türkiye made good progress on serious cross-border health threats including **communicable diseases**, especially in workforce development and in building institutional capacity for central and provincial public health professionals. To strengthen the capacity to detect and counter the threats posed by outbreaks of infectious diseases, Türkiye introduced a molecular laboratory-based surveillance component to its national health surveillance system. It prepared acute public health threats guidelines for biological, chemical, environmental and radio nuclear threats at central level and distributed the guidelines to the provincial authorities for implementation.

On **tobacco control**, the actions planned to meet the targets set under Türkiye's 2017-2025 non-communicable diseases action plan to reduce tobacco and salt consumption by 30% are insufficient. Tobacco is consumed by 31% of the Turkish population.

No progress was made regarding **patients' rights in cross-border healthcare**, neither on **drug abuse prevention**. On **blood, tissues, cells and organs**, Türkiye developed a patient blood management software for ensuring quality, safety and effectiveness of transfusion applications.

On **mental health**, Türkiye set up community mental health centres and provided psychological first aid for children as part of the earthquake response., Türkiye's capacity to provide mental health and psychosocial support is not sufficient to meet the needs resulting from the crisis. In earthquake-impacted regions, 20% of people are estimated to have developed a mental health disorder due to earthquake-related traumas, and 5% are experiencing severe long-term mental health problems.

On **health inequalities**, vulnerable groups namely LGBTIQ persons, people living with HIV and sex workers as well as refugees are subject to discrimination and continue to face significant challenges to access healthcare information and services.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers: digital transformation and media (Chapter 10), taxation (Chapter 16), economic and monetary policy (Chapter 17), social policy and employment (Chapter 19), industrial policy (Chapter 20), science and research (Chapter 25), education and culture (Chapter 26), and Customs Union (Chapter 29).

Türkiye has some level of preparation in the area of digital transformation and media. It continued to backslide as it did not address concerns regarding the lack of sufficient competition, lack of transparency of media funding, concentration of media ownership, political influence on editorial policies, restrictions on the freedom of expression and the lack of independence of regulatory authorities. Türkiye's preparations in the area of science and research are well advanced and Türkiye made good progress during the reporting period, notably as a result of joining Horizon Europe and continued efforts to raise awareness of and capacity for the programme. Türkiye is moderately prepared on education and culture, and continued to make some progress, notably through the continued implementation of the national qualifications system and the increased participation in some EU programmes. Access to education in south-east Türkiye was significantly impacted by the February 2023 earthquakes.

On the economy-related chapters, backsliding continued on economic and monetary policy, where Türkiye has some level of preparation. The Central Bank continued to loosen its unorthodox monetary policy stance, which triggered multi-year high inflation and unhinged inflation expectations. Until the parliamentary and presidential elections in May 2023, the Central Bank was subject to significant political pressure to keep real interest rates deeply negative. Far-reaching prudential and regulatory measures disrupted the functioning of financial markets and increased risks. After the elections, the Central Bank has started to tighten monetary policy and the new government took measures to limit the bulging fiscal deficit. Türkiye is moderately prepared and made limited progress on enterprise and industrial policy. Major challenges in relation to measures incompatible with EU industrial policy principles remain unaddressed. Türkiye has some level of preparation in the area of social policy and employment. The labour market situation improved but concerns remain over trade union rights and effective social dialogue, persistent levels of informal economic activity and the gender gap in employment. The February 2023 earthquakes had a major impact on the labour market in the affected regions.

Türkiye is moderately prepared on taxation. It made no progress during the reporting period and still needs to enable tax information exchange with all EU Member States. Türkiye maintains a good level of preparation for the customs union but made limited progress over the reporting period. Several longstanding and new trade barriers still infringe the basic provisions of the EU-Turkey Customs Union.

Chapter 10: Digital transformation and media

The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.

Türkiye has **some level of preparation** in this area. **Backsliding** continued during the reporting period. Concerns persist regarding the lack of sufficient competition, the lack of transparency of media funding, the concentration of media ownership, political influence on editorial policies, restrictions on the freedom of expression, and the lack of independence of regulatory authorities.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- align the universal service, authorisation arrangements, market access and rights of way in electronic communications with the EU *acquis*;
- strengthen the independence of the regulatory authority and its board members and amend

the Internet Law in line with the Venice Commission's recommendations, with a view to ensuring media pluralism;

→ take steps to strengthen the public broadcaster's independence.

On **electronic communications and information technology**, Türkiye made no progress in aligning its legislation with the *acquis* on market access and universal service. Concerns remain regarding the lack of financial and administrative independence of the regulatory authorities. More transparency in spending is needed. Further regulatory and administrative steps are required to establish a competitive and consumer-friendly market in telecommunications.

Competition on the market for fixed voice communications remains limited. The market share of alternative fixed voice operators was 12.9% in the first quarter of 2023, down from 14.6% in the last quarter of 2022. The lack of sufficient competition on the broadband market remains a concern. The number of fixed broadband subscribers increased to 22.3% in March 2023, against the OECD average of 34.7%. The total number of mobile broadband users was 71 million, which corresponds to a penetration rate of 84.4% of the population at the end of 2022, against the OECD average of 128.2%. The number of LTE subscribers rose to 84 million in the first quarter of 2023 as compared to 82.9 million at the end of 2022.

There was no progress reported in the procurement of 5G. Türkiye still needs to allocate additional frequencies for the development and predictability of the sector. In 2022, 94.1% of households had access to the internet, increasing from 92% the previous year. In the last quarter of 2022, Türkiye published a new Regulation on the electronic seal. The regulation covers the procedures and principles governing electronic seal certificates and the obligations of electronic seal holders, further regulating this area. Türkiye has yet to revise its Data Protection Law to align with the *acquis*.

Regarding the recording of a new unified Cypriot plan below 700 MHz under the Geneva 06 ITU plan, Cyprus is still facing an objection from Türkiye to such recording in International Telecommunications Union (ITU). It is essential that Türkiye's objection in ITU be lifted; the television channels below the 700 MHz band, including those channels that have been agreed to be used by Turkish Cypriots, are still not registered in this ITU Plan, which deprives from the necessary regulatory protection against interferences coming from neighbouring countries, a situation where both Greek and Turkish Cypriots are affected.

The level of enforcement of consumer rights in the telecommunication sector remained very weak. The main focus of consumer complaints included the quality of internet services, subscription services for fixed lines and cable TV services.

Regarding the **information society services**, the number of services offered by the e-Government Gateway reached 7 229. The number of integrated institutions increased to 994. The number of citizens using e-government increased from 57 663 331 in 2021 to 61 743 325 in 2022, and to 63 193 741 by May 2023. In order to ensure better services to citizens and establish a governance structure to enable public administrations from all levels and sectors to co-create and coordinate the exchange of information across network and information systems, Türkiye should seek alignment with both the European Interoperability Framework and the Interoperable Europe Act.

The volume of e-commerce in Türkiye reached TRY 800.7 billion in 2022, increasing 109% compared with the previous year. Following the amendment of the e-commerce Law in July 2022, Türkiye published an implementing regulation on e-commerce service providers and e-commerce intermediary service providers. Some objectives of the revised e-commerce Law

are in line with the Digital Markets Act, such as preventing unfair competition and monopolisation.

On **audiovisual policy**, the mainstream media remains dominated by pro-government voices. According to independent reporting, the government can exert power in the management of 90% of the most-watched TV stations and newspapers. This impedes media independence, pluralism, encourages self-censorship, and limits the scope of public debate. A large share of these companies' revenue stems from state advertising and public tenders. Türkiye aimed at aligning its national legislation regarding audiovisual media services with Directive 2010/13/EU and efforts are underway to align the new rules introduced by Directive 2018/1808 into the national legislation. Yet, the legislation on the rules of radio, television and on-demand media services lacks clarity in terms of its scope, definitions, licencing criteria, and has controversial rules regarding jurisdiction and restricting access to online content.

Between mid-June 2022 and March 2023, the Radio and Television Supreme Council (RTÜK), issued 1 768 penalties to media service providers. 1 405 (nearly 80%) of these penalties were due to infringements of the Law regulating commercial communications. In the same period, Turkish courts imposed 128 broadcasting bans on broadcasters. A pending application by the Turkish Bar Association at the Council of State continues to halt and cancel the execution of a presidential decree, dated January 2022, obliging media entities and institutions to eliminate content that contravenes Turkish values and culture and to take necessary action to prevent its dissemination. The decree risks violating basic rights and freedoms and leading to self-censorship.

Chapter 16: Taxation

EU rules on taxation cover value added tax, excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.

Türkiye is **moderately prepared** on taxation, with **no progress** made over the reporting period. In line with the tax screening process used for the purpose of drawing up the EU list of non-cooperative jurisdictions, Türkiye still needs to activate effective exchange relationships with all EU Member States to enable the automatic exchange of financial account information.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- put arrangements in place for the automatic exchange of tax information with EU Member States;
- align the range of excisable energy products with the EU *acquis*;
- continue to combat the informal economy and report on progress transparently through performance indicators.

In the area of **indirect taxation**, Türkiye still has a wide range of products that are subject to a 1% value added tax (VAT), in breach of the EU *acquis*. The accommodation tax, introduced in December 2019, entered into force in 2023. The VAT exemption period for deliveries of new machinery and equipment to the manufacturing industry for innovation, design and R&D activities introduced in 2018, was extended until the end of 2024. Following the February 2023 earthquakes, Türkiye declared a state of *force majeure* in the affected provinces until the end of June 2023. As a result, in addition to the delayed liabilities,

taxpayers were allowed to pay their arrears in 24 instalments. It also reduced the VAT rate applicable to prefabricated buildings and containers for delivery to the regions affected by the earthquakes from 18% to 1% until December 2023. The legislation on structure, exemptions, special schemes and the scope of reduced rates is not fully aligned with the EU *acquis*.

Although the overall level of taxation on cigarettes is close to EU levels, Türkiye's legislation on cigarette excise duties differs from the EU *acquis* in terms of specific and proportional elements of the tax. Excise duties on energy products are lower than the EU minimum rates and coal, coke and electricity are not subject to excise duties, which is not in line with the EU *acquis*. Kerosene is subject to excise duty, but it is zero rated. A 7.5% digital services tax (on digital advertising, content, and intermediary services) has been in force since March 2020.

On **direct taxation**, Türkiye issued a new amnesty on the repatriation of foreign and domestic assets in July 2022, and a new provision on tax restructuring entered into force in March 2023. This means that, since 2016, Türkiye has adopted five tax repatriations and six tax restructuring measures, extending their implementation periods repeatedly. Thus, contrary to the emphasis made in policy papers of the importance of taxpayer voluntary compliance and the priority placed on increasing the predictability of the taxation system declared, tax restructuring and cash repatriation have become established practices. Such uninterrupted periods of capital repatriations and regular tax restructuring practices undermine the effectiveness of the voluntary tax collection mechanism and distort the reliability and predictability of the taxation system.

Türkiye extended implementation of the corporate income tax exemption brought in to promote the FX-protected TRY time deposit account scheme until the end of 2023. Due to the high levels of inflation in 2022, it postponed the inflation accounting (adjustment) practice to the end of 2023. In March 2023, it brought in a one-time additional tax on corporate income taxpayers to compensate for the tax losses incurred as a result of the earthquakes.

Türkiye has exempted the minimum wage from income tax since 2022, including the tax on all wages corresponding to the minimum wage.

On **administrative cooperation and mutual assistance**, Türkiye is still listed in Annex II to the Council Conclusions on the EU list of non-cooperative jurisdictions for tax purposes for criterion 1.1 (automatic exchange of tax information on financial accounts), as it is still not fully in line with the requirements. The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) decision in November 2022 qualified Türkiye as 'largely compliant' on the exchange of information on request and Türkiye fulfilled the Council Conclusions on criterion 1.2, exchange of tax information on request. In February 2023, the Council concluded that Türkiye should continue the technical work and ensure that tax information is exchanged effectively with all EU Member States to meet criterion 1.1 of the EU list.

To manage its **operational capacity and computerisation**, the Turkish Revenue Administration uses an electronic document management system. The use of e-tax statements, which began in 2004, reached 99.9% of taxpayers by 2022. Türkiye is in the process of developing an integrated public finance management information system. In 2022, it unveiled a new action plan to combat the informal economy (2023-25). However, the new action plan lacks performance indicators and a publicly accessible system to track implementation.

Chapter 17: Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

Türkiye has **some level of preparation** on economic and monetary policy. There was **backsliding** during the reporting period, as the Central Bank continued to loosen its unorthodox monetary policy stance, which triggered multi-year high inflation and unhinged inflation expectations. Until the parliamentary and presidential elections in May 2023, the Central Bank was subject to significant political pressure to keep real interest rates deeply negative. Far-reaching prudential and regulatory measures disrupted the functioning of financial markets and increased risks. After the elections, the new government has started a process of policy normalisation, gradually removing some of these measures and tightening the monetary and fiscal policy stance. In 2022, Türkiye made efforts in sending fiscal notifications.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- restore the functional independence of the Central Bank and implement an appropriately tight monetary policy stance, reinstalling interest rates as the key monetary policy tool, with a focus on price stability and re-anchoring inflation expectations;
- continue to gradually unwind the most disruptive regulatory measures under a transparent monetary policy framework, and underpinned by consistent communication;
- further align fiscal reporting and notifications under the excessive deficit procedure (EDP), as well as government finance statistics (GFS) reporting, with ESA 2010, by gradually expanding data coverage and quality.

On **monetary policy**, over the last decade the Central Bank drifted away from the official inflation target of 5% that it set jointly with the government. Concerns over the Central Bank independence persist. The President of the Republic has extensive powers to appoint and dismiss the Central Bank Governor and Board members and has made repeated public comments about the need to lower interest rates. The monetary policy framework proved to be inefficient in anchoring inflation expectations, strengthening the lira and restoring market confidence. According to the Law on the Central Bank, monetary financing of the public sector is prohibited, and the public sector cannot have privileged access to financial institutions.

Inflation reached a peak of 85.5% on an annual basis in October 2022, before falling gradually to 38.2% in June 2023 on the back of a strong base effect. Inflation rebounded again in the following months driven by renewed depreciation of the lira and sizeable tax increases that needed to curb the mounting budget deficit. Reducing interest rates and keeping them very low was the announced policy ‘anchor’ until the summer, which required wide-ranging and disruptive macroprudential and regulatory measures to reduce its fundamental contradictions in a context of high inflation. The Central Bank kept the real interest rate deeply negative, despite soaring inflation and global tightening of financial conditions. It lowered its key policy rate by 500 basis points from 14% to 9% between August and November 2022, and by an additional 50 basis points, down to 8.5% in February 2023 in the aftermath of the February 2023 earthquakes. After the presidential and parliamentary elections in May, and under a new governor, the Central Bank has started a policy normalisation, raising its key rate to 25% in August and launching a process of a

gradual unwinding of some of the macroprudential and regulatory measures. The costs of the FX- and gold-protected time lira deposit scheme has been fully transferred to the Central Bank and are not yet publicly disclosed.

Meanwhile on **economic policy**, Türkiye consolidated the medium-term fiscal plan with the medium-term programme for 2023-2025 set out in a single document. A more credible economic plan, based on more updated assumptions and fully reflecting all fiscally relevant measures, has not been developed before September 2023. Türkiye could improve the credibility of its macroeconomic forecasts by providing alternative scenarios. Türkiye is still not aligned with the Directive on Requirements for Budgetary Frameworks and lacks numerical fiscal rules and an independent fiscal body to monitor compliance with these rules. The excessive deficit procedure (EDP) notification tables for 2021 and 2022, with the latest one received in April 2023, were largely complete. However, further progress is needed on the coverage and quality of EDP notifications and government finance statistics reporting.

Türkiye submitted its 2023-2025 **Economic Reform Programme** (ERP) on time. However, it did not consult external stakeholders on the document and did not publicly present it before adoption. Further efforts are needed to boost the institutional capacity needed to design, implement and monitor structural reforms. The ERP included measures to nurture competitiveness, tackle the green transition and strengthen digital transformation. However, the analysis of structural challenges is incomplete and some of the measures fall short of addressing the core problems in these areas. Implementation of the policy guidance set out in the conclusions of the Economic and Financial Dialogue of May 2022 has been limited, with a lower rate of implementation than in the previous year.

Chapter 19: Social policy and employment

EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at European level.

Türkiye has **some level of preparation** on social policy and employment. It made **no progress** over the reporting period. The labour market situation improved, but concerns remain over trade union rights and effective social dialogue, persistent levels of informal economic activity, and the gender gap in employment. The February 2023 earthquakes had a major impact on the labour market in the affected regions.

The Commission's recommendations from last year were met only to a very limited degree, and therefore remain valid. In the coming year, Türkiye should in particular:

- remove obstacles limiting the exercise of trade union rights and use social dialogue mechanisms effectively;
- tackle emerging challenges in health and safety at work, particularly in relation to fatal incidents in the construction and mining sectors, as well as plastic waste recycling;
- increase the employment rate of women by adopting effective active labour market and work-life balance policies.

Türkiye made no progress on **labour law**. A number of workers in agriculture, forestry and domestic services, as well as apprentices, remain exempt from several protective clauses of the labour law. Although unregistered employment fell to 26.8% in 2022, its high level hampers worker's access to effective minimum wage protection and other labour rights and social protection. Digital labour platforms need to be regulated to ensure that platform workers can fully exercise their right to labour law protection. Capacity-building efforts to

tackle child labour continued at national and local levels. Nevertheless, child labour practices that breach international standards persisted, affecting adolescents and migrant boys in particular. Türkiye lacks adequate data on child labour that would provide the evidence needed to tackle the root causes of the problem. Regulatory frameworks for emerging jobs, such as platform workers, need to be strengthened.

In the area of **health and safety at work**, despite some alignment there are several implementation challenges, in particular as regards to enforcement and labour inspection resources. The government continued workplace inspections and awareness-raising efforts to improve health and safety at work, in high-risk sectors in particular. Workplace inspections slightly increased to 26 434 in 2022 (up from 24 099 in 2021), conducted by the Directorate of Guidance and Inspection of the Ministry of Labour and Social Security. Yet, the number of fatal workplace incidents continued to rise. According to the latest available official data, in 2021, 1 394 people lost their lives at work, increasing from 1 240 the previous year. The informal economy remains a major risk factor as many workplace accidents took place in sectors where undeclared work is common. Asbestos, dust, and construction-specific risks for employees need to be accounted for in rubble-removal and reconstruction efforts in the earthquake-affected regions. Plastic recycling facilities in Istanbul and Adana pose long-term health threats for workers and surrounding residents. Observance to occupational safety and health standards should be supervised.

There was no progress on **social dialogue**. Türkiye does not have a functioning economic and social council, and the existing tripartite social dialogue mechanisms are very limited in scope. The unionisation rate was 14.42% for private-sector employees and 72.63% for civil servants. In the private sector, serious impediments to unionisation persist, including lengthy legal appeal procedures suspending bargaining certification of trade unions. The government continued imposing *de facto* bans on strikes in non-essential services. Adequate protection in line with International Labour Organisation conventions needs to be provided against anti-union dismissals and discrimination. Türkiye has yet to recognise the right to strike for civil servants, and collective agreements need to have wider material scope beyond social and financial rights.

On **employment policy**, the labour market situation in Türkiye has improved. The employment rate (15+) was 47.5% in 2022, compared with 45.2% the previous year. The unemployment rate (15+) fell from 12% in 2021 to 10.4% in 2022. The composite measure of labour underutilisation fell from 24.4% in 2021 to 21.3% in 2022. Despite a 2.3 percentage point increase, the labour force participation rate of women (15+) remained low at 35.1%. The youth unemployment rate (15-24) continued to fall from 22.6% in 2021 to 19.4% in 2022. Female youth unemployment fell from 28.7% to 25.2%. The rate of unemployed young people aged 15-24 neither in employment nor in education or training fell slightly from 24.7% in 2021 to 24.2% in 2022, yet it remained particularly high for women (32.3%). Adult learning (25-64) was at 5.8% in 2020.

The number of job and vocational counsellors in the Turkish Employment Agency (ISKUR) remained around the same level at 4 734, against 4 755 in 2021. The number of people registered in active labour market programmes fell significantly by 65%. At the same time, the number of vocational training courses on offer fell sharply from 5 027 to 514, and the number of on-the-job training courses from 93 840 to 40 332 in 2022. The vocational training courses previously available for vulnerable groups were discontinued in 2022. Türkiye should reverse the trend and invest in more re- and upskilling of its labour force through targeted active labour market policies. The number of people, not in employment, education or

training, under the new counselling model initiated by ISKUR, increased to 100 150 in 2022, up from 80 730 in 2021.

The informal economy continues to undermine the social security and welfare systems, and one of the most affected groups are the Roma community. Efforts to grant Syrian migrants access to the formal labour market continued. This remains low, given the large working age population of Syrian migrants.

Due to loss of life, injury, workplace damage, and internal displacements, the February 2023 earthquakes had a major impact on the labour market in the affected regions. Türkiye authorised the swift execution of payments under short-term work allowances, and people who were not entitled to this payment received wage support in cash. The government also declared an employee dismissal ban in the earthquake zone.

For the **European Social Fund**, Türkiye maintained a good level of preparation. The Ministry of Labour and Social Security continued to manage an operational programme under IPA II, covering areas of employment, education and social inclusion. (*Concerning the effectiveness of management of IPA funds, refer to Chapter 22 - Regional policy and coordination of structural instruments*).

On **social inclusion and protection**, Türkiye still lacks a dedicated poverty reduction strategy. Sustained price increases further posed the risk of poverty for the unemployed and wage labourers in precarious jobs. The poverty rate reached 14.4%, up from 13.8% in 2021. The severe-material-deprivation rate reached 28.4% in 2022 (2021: 27.2%). The child poverty rate for 2022 was particularly high at 41.6%. In 2022, social assistance payments amounted to TRY 151.9 billion, or 1.01% of GDP. Türkiye has fragmented benefits at local and national level, and it still lacks a general minimum income scheme. It has adopted a national strategy on Roma (2023-2030), including measures on employment and social protection.

Türkiye needs to step up efforts to **de-institutionalise care** and move towards community and family-based care services.

Türkiye lacks a strategy for **non-discrimination in employment and social policy**. There is still no ban under Turkish law on discrimination on the grounds of sexual orientation. The effectiveness of the Human Rights and Equality Institution and the Ombudsman in combating workplace discrimination is limited. Clear rules of conduct are needed for public-sector recruitment, as are appropriate remedies for victims of discrimination. The adopted 2023-2025 action plan on the rights of persons with disabilities includes measures on non-discrimination, such as legal sanctions and soft measures as the revision of the legal framework. When accessing employment however, legislation and practices that discriminate against persons with disabilities persist. This includes the law on judges and prosecutors that prohibits the appointment of physically disabled candidates. The principle of reasonable accommodation should be promoted among employers by providing both financial and non-financial incentives.

On **equality between women and men** in employment and social policy, the gender gap remained very high, despite improvements on the labour market. Legislative work is needed to achieve full alignment with the EU Directive on work-life balance for parents and carers. Beyond big urban centres, access to quality and affordable formal care services and early childhood education is rudimentary in Türkiye (*see Chapter 26 – Education and culture*). The barriers that women still face in accessing employment include the lack of childcare facilities, gender bias in caring responsibilities, and discriminatory stereotypes. Further action is needed to prevent harassment and violence at work, including data collection and awareness raising.

The share of women in decision-making positions remained very limited (*see Chapter 23 - Judiciary and fundamental rights*). Despite the increase from 17.3% in 2022, following the 2023 elections, the representation of women in parliament remains low at 20.1%; 600 members of parliament comprise of 481 men and 121 women.

Chapter 20: Enterprise and industrial policy

EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).

Türkiye is **moderately prepared** on enterprise and industrial policy. It made **limited progress** over the reporting period with phasing out of discriminatory treatment of certain EU products. However, concerns persist that the public procurement practices are incompatible with EU industrial policy principles. There are also concerns over the lack of transparency in State aid for large investments, the large informal economy, the long-term financing needs of small and medium-sized enterprises (SMEs), and the insufficient legal framework for microfinance.

The Commission's recommendations from last year were only partially implemented, and therefore remain valid. In the coming year, Türkiye should in particular:

- remove schemes, such as local content requirements and public procurement price premiums that are incompatible with industrial policy principles and substitute them with measures that encourage innovation effectively;
- publish the results of implementation of the industry strategy from 2019 to 2021 as well as the amounts distributed under the industry support programme;
- continue conducting assessments on the impact of the SME support framework and identify any gaps and overlaps.

On **enterprise and industrial policy principles**, Türkiye maintained the scope of the 15% domestic price advantage in public procurement and made it compulsory for medium and high-tech industrial products. In 2022, the percentage of international tenders using the domestic price advantage increased to 43% (*see Chapter 5 – Public procurement*). Türkiye adopted a national technology entrepreneurship strategy (2022-2025) in October 2022, aiming to stimulate competitive technology entrepreneurship and to strengthen the ecosystem. A policy tool under the strategy allows the use of public procurement to develop techno-entrepreneurship, including models enabling direct procurement. While Türkiye adopted several measures to adjust the localisation and prioritisation schemes for pharmaceuticals, the EU's assessment on whether Türkiye has completed the implementation of all findings in the Arbitrators' Award is ongoing. In January 2023, the new Turkish legislation entered into force, phasing out the discriminatory treatment of EU agricultural and forestry tractors in terms of engine emission requirements.

Türkiye has yet to publish the results of performance indicators tracking the industrial strategy adopted in 2019. In December 2022, Türkiye adopted a new action plan and strategy to combat the informal economy (2023-2025). As in previous versions, this new strategy lacks performance indicators. In July 2022, Türkiye established a Coordination Board on Sustainable Development to monitor and coordinate the work on aligning with the UN sustainable development goals. Türkiye continued to successfully implement the Small Business Act framework.

On **enterprise and industrial policy instruments**, Turkish legislation is still not fully

harmonised with the Late Payment Directive. Türkiye continued to implement various schemes supporting companies, particularly small and medium-sized. It granted incentives, subsidies, and amnesties on public liabilities to companies in earthquake-affected regions. However, support for innovation eco-systems is fragmented across numerous programmes. Smart specialisation strategies were formulated in some regions, but limited information is available on how these strategies will be implemented.

The SME support administration (KOSGEB) continued to run a range of technical assistance and financing schemes. In total, nine evaluation reports are publicly available on KOSGEB's website. As of March 2023, 98 technology development zones were in place; 82 were operational. 1 627 patents were obtained from 51 085 completed projects in these zones (compared with 1 511 patents obtained from 47 456 completed projects in 2021).

On policy instrument, Türkiye signed the Single Market Programme Association Agreement in March 2023, and completed the national ratification procedures necessary for the entry into force. Türkiye is participating in the SME pillar of this programme. There were no **sectoral policy** changes adopted. Türkiye's 11th development plan, along with the complementary industry and technology strategy, focus on technological transformation of manufacturing at all levels, and follow a sectoral prioritisation approach. Under the technology-focused industrial movement programme and under the project-based investment support programme, Türkiye intends to support investments in strategically chosen sectors such as machinery, computers, electronics, optics, electrical hardware, pharmaceuticals, chemistry, and transport vehicles. In 2023, a total of 64 projects received support with an investment of TRY 491 billion under the project-based investment support programme (*see Chapter 8 – Competition policy*). The breakdown of State aid for these investments was not disclosed, contrary to the commitments made under the EU-Turkey Customs Union. For the last three tenders, the overall financial amounts were not disclosed on the relevant Ministry's website.

Chapter 25: Science and research

The EU provides significant support for research and innovation. All Member States can benefit from the EU's research and innovation programmes and benefit from them, especially where there is scientific excellence and solid investment in research and innovation.

Overall, Türkiye's preparation in the area of science and research is **well advanced**. It made **good progress** during the reporting period, notably linked to Türkiye's participation in Horizon Europe and continued action to raise awareness of and capacity for the programme. There is good, active and expanding cooperation between the EU and Türkiye on research and innovation.

In the coming year, Türkiye should in particular:

- continue its efforts to align its national research area (TARAL) with the new European Research Area;
- step up efforts to increase innovation to remedy the continued fall down the rankings in the European Innovation Scoreboard.

On **research and innovation policy**, in March 2023, the Turkish Statistical Institute revised the calculation method for R&D expenditure and provided updated data in line with the Frascati Manual guidance: the share of R&D expenditure in GDP rose slightly to 1.4% in 2021 from 1.37% in 2020. The total number of full-time equivalent R&D personnel increased by 11%, from 199 371 in 2020 to 221 811 in 2021, but the share of female personnel in research remained at 32%. Türkiye came closer to the commitment made in its industry and

technology strategy to increase national R&D expenditure and personnel to 1.8% and to 300 000 respectively by 2023. However, a wide gap remains between R&D expenditure in Türkiye and the EU-27 average (2.26% in 2021).

According to the 2023 European Innovation Scoreboard, Türkiye remains an Emerging Innovator, performing at 47.6% of the EU average. Türkiye's performance is below average of the Emerging Innovators (54.0%) and the performance it achieved in 2022 (47.7%). The gap between Türkiye's performance and the EU average is widening. According to the Scoreboard, Türkiye has strengths in knowledge-intensive services, as well as in government support for R&D conducted by businesses. However, Türkiye does not yet provide data on some relevant indicators, such as "Venture capital expenditures" and "Air emissions by fine particulate matter". Providing the full set of indicators might help raise Türkiye's overall performance in the European Innovation Scoreboard.

On the policy side, Türkiye updated the study entitled Priority Research, Development and Innovation (RDI) Areas for 2022 and 2023. With a focus on green and digital technologies, in line with EU priorities, the updated study has three main pillars: RDI topics in priority and key technologies, RDI topics for compliance with the EU Green Deal and adaptation to climate change, and strategic and needs-oriented RDI topics.

Support measures focus both on developing the innovation ecosystem and on building the innovation capacity of enterprises. However, support continues to focus on regions with more mature innovation systems, which widens the gap between urban hubs and less developed regions in Türkiye.

Türkiye's action plan to boost the national research and innovation capacity and awareness on **Horizon Europe** contributes to the positive trend of Türkiye's performance in the programme. Türkiye has improved its performance in recent years, practically doubling the average yearly amounts at the end of Horizon 2020 and doubling again over the first years of Horizon Europe. Cooperation on the EU Missions is promising, particularly in the context of climate-neutral and smart cities' mission. Istanbul and Izmir were selected among 100 cities interested in becoming climate neutral by 2030.

Türkiye is in the process of implementing the 2019 national European Research Area (ERA) roadmap, which needs to be updated. Türkiye has yet to actively engage in a set of European Research Area priorities. Türkiye's participation in the activities of the European Institute of Innovation and Technology (EIT) is satisfactory.

There is good and active cooperation between the EU and Türkiye on research and innovation. A High-Level Dialogue on Science, Technology and Innovation took place in autumn 2022. It underlined the shared ambition to design and deploy cutting-edge technologies and to transform the research and innovation outputs into green and sustainable industrial products.

Chapter 26: Education and culture

The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policy through the 'open method of coordination'. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

Türkiye is **moderately** prepared on education and culture. There was **some progress** in the reporting period, notably through the continued implementation of the national qualifications system and the increased participation in some EU programmes. On cultural policy, Türkiye took some steps to implement the UNESCO Convention on the Protection and Promotion of

the Diversity of Cultural Expressions. Türkiye does not have a national youth strategy nor an officially recognised national youth council. The February 2023 earthquake seriously disrupted the education system in the affected areas.

The Commission's recommendations from last year were only partially met, and therefore remain valid. In the coming year, Türkiye should in particular:

- further improve inclusive education, with a particular focus on girls and children from disadvantaged groups and closely monitor and continue work to reduce the proportion of school dropouts;
- ensure the good functioning of the Turkish Qualifications Framework and Turkish Higher Education Quality Council;
- take further steps to implement the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.

On education, access to early childhood education (ECE) in Türkiye varies by age group and region. The net enrolment rate for preschool education (age 5) increased from 56.89% in 2020-2021 to 81.63% in 2022, and the combined enrolment rate for children aged 3-5 increased from 28.35% to 44.05%. In 2019-2020, before the COVID-19 pandemic, the rate for preschool education (age 5) was 71.22%, and the combined rate for children aged 3-5 was 41.78%. The need to expand flexible and community-based ECE models, set targets and strategies to include vulnerable children, and guarantee effective and free access to and the quality of ECE services remains a valid recommendation for Türkiye.

The net enrolment rate in primary school fell slightly from 93.23% in 2021 to 93.16% in 2022, and increased slightly in lower secondary school from 88.85% to 89.84%. In secondary education, the net enrolment rate continued to increase from 87.93% to 89.67%. A slight increase in the enrolment rates of higher education was registered from 44.41% in 2021 to 44.66% in 2022.

Although Türkiye increased the duration of compulsory education for children to 12 years in 2012, the level of non-attendance at the upper secondary level (grades 9-12) remains significant, though varying from province to province.

Regarding students in special education, the enrolment rate increased from 425 816 in 2021 to 472 686 in 2022. Given public investments in recent years, a large majority of children with special needs (75%) receive inclusive education in mainstream classrooms. However, nearly 50 000 children with special needs still study in separate classrooms, and more than 50 000 are in separate schools. Reliable data is needed on the educational achievements of boys and girls with disabilities as well as on school attendance rates.

The February 2023 earthquakes seriously disrupted the education system in the affected areas. Türkiye has made large investments to improve its digital learning platform called Education Information Network, to reduce the impact of emergencies (e.g. pandemic, earthquake, refugee crisis) on children's learning and to increase preparedness for future shocks.

Türkiye remains advanced in its implementation of the Bologna process, though notable disparities remain in the quality of Türkiye's 208 higher education institutions. In March 2023, the European Quality Assurance Register for Higher Education (EQAR) approved the Turkish Higher Education Quality Council's registration based on compliance with the Standards and Guidelines for Quality Assurance in the European Higher Education Area (ESG). Türkiye is also actively participating in 7 European Education Area (EEA) working

groups, which foster European collaboration on education and prepare youth for the green and digital transitions.

On **technical and vocational education and training (TVET)**, Türkiye continues to implement the National Vocational Qualifications System (NVQS) by the Vocational Qualifications Authority (VQA). As of June 2023, the number of national occupational standards published in the Official Gazette reached 901 (893 in June 2022), and the number of qualifications approved was 648 (up from 586 in June 2022). During the reporting period, the number of authorised certification bodies in Türkiye increased to 277 from 272, and the number of VQA vocational qualification certificates issued for individuals through exams and skills tests run by the certification bodies increased to 2 507 663 from 2 253 424.

Although the Turkish Qualifications Framework (TQF) is operational in Türkiye, the vocational training provided by vocational education and training institutions remains incompatible with the needs of national qualification (NQ) candidates. This is due to candidates falling short of demonstrating full competence, seeking to obtain a higher qualification, or moving horizontally/vertically between qualifications in the related occupation. To improve the functioning of the TQF, in addition to the existing vocational education and training institutions, continuous education centres of universities should prepare modular vocational training courses for specific occupation levels that are in line with the expected NQ learning outcomes and in cooperation with the authorised certification bodies.

Since 30% of the minimum wage payment to students of the vocational training centres was introduced in December 2021, the number of students in centres has increased from 159 000 in 2021 to 1 200 000 in 2022. Despite considerable progress in this area, the credibility of the NVQS remains a serious challenge in VET implementation in Türkiye. It is essential to closely align the quality and validity of vocational education and training provided by companies with the requirements of the associated national qualifications and with the occupational standards on which they are based. The accreditation of national qualifications education and training providers and the programmes they deliver is crucial to the successful functioning of the NVQS and TQF in Türkiye.

On **education, training and youth**, Türkiye continues to participate in EU programmes. For Erasmus+ and the European Solidarity Corps, the number of contracted projects increased from 918 in 2021 to 1075 in 2022, with an overall budget of EUR 225 million. The number of participants who carried out a mobility activity (from and to Türkiye) within both programmes, exceeds 239 000. Regarding the European Solidarity Corps programme, the number of awarded applications remained constant at 184 in both 2021 and 2022, with a total budget of over EUR 5 million.

On **culture**, the freedom of cultural expression is still restricted in Türkiye. The authorities continue to censor, confiscate, restrict distribution, or reclaim funding for books and films based on allegations of ‘harmful and obscene contents’, ‘terror propaganda’, or ‘scenario change’. The ban on live music at night, imposed during the COVID-19 pandemic, remains in place. Music events and festivals are cancelled at the discretion of governors, district governors, or mayors, citing security and public morality concerns (*see also political criteria*). The February 2023 earthquakes caused damage to Türkiye's cultural heritage in the affected regions. The Ministry of Culture and Tourism reported that more than 8 500 registered cultural assets in 10 provinces have been affected by the disaster. Action plans to salvage cultural assets were prepared. The restoration and conservation of damaged cultural properties has commenced.

To implement the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, Türkiye's cultural industries platform is operational. The platform, set up by the Ministry of Culture and Tourism, is a forum to share opinions, statistics and data, where civil society organisations, public or private-sector entities, can inform users about events or activities planned in support of cultural industries. The Cultural Industries Support and Incentives Guide was updated in 2023, listing support and incentive mechanisms of public institutions for cultural and creativity-intensive industries.

Türkiye's participation in the EU's Creative Europe programme is not yet finalised. Türkiye is seeking to re-join parts of the programme, having left it in 2017.

Regarding **youth**, Türkiye still lacks a national youth strategy and an officially recognised national youth council. The number of youth centres increased from 388 in 2021 to 451 (June 2023) located in 81 provinces of Türkiye. More than 850 000 higher education students, including foreign students, are living in 800 student dormitories located all over the country. 1.5 million higher education students, including students receiving education abroad, receive an education credit or a state scholarship.

There are 64 **sports** federations in Türkiye. The revenue of sports federations flows from participation shares, registration fees, sponsorship, advertisement, donations and similar incomes.

Chapter 29: Customs Union

All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementation and enforcement capacity, and access to the common computerised customs systems.

Türkiye maintains a **good level of preparation** for the Customs Union. It made **limited progress** in the reporting period.

Several longstanding and new trade barriers still infringe the basic provisions of the EU-Turkey Customs Union. Duty relief, free zones and surveillance measures are not fully aligned with the EU *acquis*, again in clear contradiction with Türkiye's obligations under the Customs Union.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- step up efforts to fully align new legislation with the EU Customs Code;
- bring risk-based controls and simplified procedures in line with the EU *acquis*;
- fully eliminate import and export restrictions as well as additional duties on goods in free circulation in the EU-Turkey Customs Union.

Türkiye made limited progress on **customs legislation**. Türkiye lifted some additional duties applied on imports of a long list of products originating in third countries, which are in free circulation in the EU or imported from third countries. However, the scope was not significantly narrowed as new additional duties were introduced in parallel.

Turkish customs authorities started to systematically request subsequent verifications of movement certificates and certificates of origin documents for textiles and materials used in the production of textiles and to require financial guarantees to release the goods in certain cases pending the result of the post-verification.

Türkiye's implementation of value-based import surveillance measures and the lack of a legal remedy to recover overpaid amounts are neither aligned with the EU *acquis* nor compatible with transparent, objective and verifiable customs valuation procedures. Turkish authorities are continuing to implement export tax measures on hides, skins and wet-blue leathers and an export licencing regime on copper scrap. New export registrations were put in place on a number of products, in particular feldspar and clays and were often applied in an opaque and discretionary manner.

Turkish Customs Law needs to be fully harmonised with the EU Customs Code, including implementation of risk-based controls and simplified procedures to facilitate legitimate trade while ensuring security and safety. The designation of specialised customs offices is not compatible with the provisions of the Customs Union. Rules on free zones and duty relief are yet to be aligned with the EU *acquis*.

On **administrative and operational capacity**, efforts continued to strengthen customs enforcement capacity for border controls. Yet, more work is needed to align the Law on the customs enforcement of intellectual property rights and in particular on export and in-transit operations. Risk-based controls to enforce safety and security measures need to be improved and brought in line with Customs Union provisions. Türkiye implements the computerised transit system as part of its membership in the Convention on a Common Transit Procedure. However, it has not yet put in place tariff IT systems. It needs to implement the IT strategy in line with business initiatives and update the documented customs business processes in line with the legal basis.

CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

This cluster covers: transport policy (Chapter 14), energy (Chapter 15), trans-European networks (Chapter 21) and environment and climate change (Chapter 27).

Türkiye is moderately prepared in transport policy. It made limited progress during the reporting period, mainly linked to the update of the nationally determined contribution under the Paris Agreement with a specific chapter on transport mitigation policies. Türkiye is moderately prepared in the area of energy, and made limited progress overall. It increased its energy dependence on Russia. Progress continued on renewable energy deployment, reforms in the natural gas sector and legislative alignment on nuclear safety. Türkiye is well advanced on trans-European networks and made no progress. The trans-Anatolian pipeline continues to operate smoothly and transmit gas to the European section of the Southern Gas Corridor. The construction of the flagship Halkali-Kapıkule railway line connecting the EU border to Istanbul continued.

Türkiye has some level of preparation in the area of environment and climate change and made limited progress over the reporting period. Türkiye submitted its updated nationally determined contribution under the Paris Agreement. It faces critical environmental and climate challenges, and needs more ambitious and better coordinated environment and climate policies, strategic planning, substantial investment and stronger administrative capacity.

Chapter 14: Transport policy

The EU has common rules for technical and safety standards, security, social standards, State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

Türkiye is **moderately prepared** in transport policy. It made **limited progress** in the reporting period. Türkiye published its first updated Nationally Determined Contribution (NDC), under the Paris Agreement with a specific chapter on transport mitigation policies. The number of cities implementing sustainable urban mobility plans (SUMP) increased. The new railway framework law has not yet been adopted and the reform of the incumbent railway operator has not progressed.

The Commission's recommendations from last year were only partially met, and therefore remain valid. In the coming year, Türkiye should in particular:

- consider charting project-led pathways to achieve its net-zero targets for the decarbonisation of the transport sector;
- prioritise disaster resilience of urban mobility in Turkish cities and include disaster aspects as a part of the evolving SUMP;
- improve policy dialogue and increase institutional coordination between local and central authorities on sustainable urban mobility.

Regarding **general transport**, Türkiye published its first updated nationally determined contribution (NDC), under the Paris Agreement with a specific chapter on transport mitigation policies. The number of cities implementing sustainable urban mobility plans (SUMP) increased. The preparation of Türkiye's online electronic legislation inventory tool, which will digitally track Türkiye's transport legislation in English to create a continuous monitoring system with the EU *acquis*, reached its final stage. Regarding sustainable urban mobility, policy guidance and better institutional coordination between local and central bodies still need to be improved.

On **road transport**, the legal framework has a good level of alignment with the EU *acquis*. Limited progress was made during the reporting period. Türksat, the communications satellite operator of Türkiye, advanced work to create a user portal to provide access to best practices on the intelligent transport services, which is compatible with the EU. The Director General for Communications was appointed as the national access point for Intelligent Transport Systems (ITS) issues. Institutional capacity remains insufficient to meet Türkiye's national ITS targets. No progress was made on the smart tachographs transition for road transport. The implementing legislation on the transport of dangerous goods by road entered into force in June 2022. In the area of road safety, the number of road fatalities remains well above the EU average and continuous efforts are needed in the implementation of the road safety strategy.

Türkiye is moderately prepared in the field of **rail transport** and made no further progress during the reporting period. The comprehensive railway framework Law was not adopted and Türkiye is not aligned with the EU's fourth railway package. A draft law aiming to align with the Directive on Railway Interoperability reached its final stage of preparation. The independence of the National Safety Authority, currently assigned to the DG for Railway Transport Services, has yet to be achieved. The subsidies to the incumbent railway operator and the financial independence of transport operator from the infrastructure manager remain major issues.

Türkiye achieved a good level of preparation in aligning with the EU *acquis* in the field of **maritime transport**. Some progress was made during the reporting period. Türkiye issued a new regulation to support the shifting of freight from road to maritime services. According to a new regulation adopted in August 2022, Türkiye will provide USD 2 per nautical mile to roll-on/roll-off operators to open new ro-ro lines. To this end, a new line was opened from Izmir to Sète. Türkiye's efforts on maritime decarbonisation and green shipping continued

through the renewal of the maritime fleet with energy-efficient and more environmentally friendly ships. The switch to alternative fuels like green hydrogen and green methanol is planned under the scope of government incentives. A national legislation implementing the EU Port Services Regulation is yet to be developed.

Türkiye's legislation on **inland waterways** is not yet aligned with the EU *acquis*. Türkiye has limited inland waterways and it has not signed the main international agreements on this issue.

Türkiye is moderately prepared in the field of **aviation**. It made some progress during the reporting period. Discussions started on the renewal of the working arrangements between Türkiye and the European Union Aviation Safety Agency. The regulations on training organisations, continuous air worthiness management and maintenance personnel licencing were updated to further align with the EU *acquis*. Türkiye adopted the regulation on CORSIA requirements for carbon off-setting and implementation. The regulation on accreditation of institutions carrying out monitoring, reporting and verification services entered into force.

The lack of adequate communication between air traffic control centres in Türkiye and Cyprus continued to compromise air safety in the Nicosia flight information region, requiring an operational solution. Türkiye continues to refuse to accept the principle of EU carrier designation in its air services agreements with Member States, which is a cornerstone of the EU internal market in aviation.

There was limited progress on **combined transport**. The by-law on combined freight transport was published in May 2022.

Regarding **EU passenger rights**, further efforts are needed to align in all modes of transport.

As long as restrictions remain in place on vessels and aircrafts registered in Cyprus, related to Cyprus, or whose last port of call was Cyprus, Türkiye will not be in a position to fully implement the EU *acquis* relating to this chapter.

Chapter 15: Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy, nuclear safety, radiation protection and nuclear safeguards.

Türkiye is **moderately prepared** in the area of energy. **Limited progress** was achieved during the reporting period. Overall, energy dependency on Russia has increased; Türkiye reduced gas imports from Russia but it increased imports in oil and coal and inaugurated a new nuclear power plant built and operated by Russia. While the rollout of renewable energy continued at good pace, local content requirement practices in the sector remained in place. Türkiye made some legislative changes related to the natural gas market, but the reformative effect of these changes is contradictory. Türkiye made efforts in the legislative alignment of nuclear safety regulations.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- deepen natural gas market reform by setting up a legally binding plan and a timetable for unbundling activities and by updating the natural gas market Law to ensure it is compatible with the EU's third energy package;
- complete the legislative alignment on nuclear safety and stress tests on the Akkuyu nuclear power plant;

→ discontinue local content requirement practices in the renewable energy sector, as such practices contradict WTO and EU-Turkey Customs Union rules.

On **security of supply**, Türkiye remains an important transit country, ensuring the smooth operation of the Trans-Anatolian Pipeline (TANAP), which transmits Azeri natural gas to Europe by connecting to the Trans-Adriatic Pipeline. Natural gas also continued to flow to Europe, which also includes Russian gas via the TurkStream pipeline. Türkiye actively expanded its import capacity for liquefied natural gas (LNG) as well as its gas storage capacity. The country now has five LNG import facilities, three of which are floating storage regasification units. The latest new facility started operations in early 2023. The largest gas storage facility at Tuz Gölü has a capacity of 5.4 bcm and the second gas storage facility at Silivri has a capacity of 4.6 bcm since December 2022.

Although significant amounts of natural gas have been discovered in the Black Sea by the Turkish Petroleum Corporation (TPAO), Türkiye remains dependent on energy imports. Russia provides more than one third of the country's natural gas imports and a quarter of the country's oil imports and is building, operating and owns the first nuclear power plant in Türkiye, launched in April 2023. Faced with rising energy prices, Türkiye took measures to satisfy consumer demand while providing support to cushion high energy prices. Türkiye continued to invest in becoming a natural gas hub thanks to the country's existing infrastructure of pipelines, LNG terminals, gas storage facilities, gas exchange and a balancing system.

On the **internal energy market**, Türkiye made only limited progress on the natural gas market reforms. It suspended yet again the unbundling of the state-owned gas company BOTAŞ and has not set a date to achieve it. Amendments to the Natural Gas Market Law, adopted in April 2023, lifted the restrictions on long-term gas imports, simplified the export scheme and abolished the strict limitations and time-based obligations aimed to reduce the market share of BOTAŞ. The entry of new long-term importers and exporters to the gas market depends on the Ministry of Energy. The Energy Market Regulatory Authority (EMRA) was authorised to draft regulations for determining quantities, terms, and procedures for spot pipe gas imports in line with the opinion of the Ministry of Energy. The new law also changed the approach to transmission tariffs and paved the way for setting exclusive tariffs for gas exports that will be based on a separate methodology. These changes will not help transparent, cost-reflective and non-discriminatory pricing.

Türkiye has modernised its wholesale electricity market and it follows developed market practices. The eligibility limit in the electricity market was reduced to 1 000 kWh by an EMRA Board decision in December 2022. Türkiye brought in the concept of 'aggregator' as a separate market operation in the electricity market by amending the Law on the electricity market of December 2022. The implementing regulation for licencing was amended in November 2022 but additional work is needed to address the missing issues.

On **hydrocarbons**, Türkiye is at an advanced stage of alignment with the EU *acquis*. However, alignment with the Directive on the safety of offshore oil and gas operations remains insufficient, also regarding the transit of hydrocarbons. Amid growing concerns about energy price inflation, Türkiye has accelerated action to produce gas domestically from its recently discovered Sakarya field in the Black Sea, with an estimated potential of 710 billion cubic meters.

On **renewable energy**, Türkiye announced ambitious goals when it published its latest national energy plan (2023-2035) in January 2023. The plan envisages maximising solar and wind energy to achieve the country's greenhouse gas emission targets. The declared goal is to

increase the share of renewable energy in primary energy consumption from 16.7% currently to 23.7% in 2035, and the share of nuclear energy from zero to 5.9% in 2035. With the integration of intermittent renewable resources, the need for flexibility in the system will increase.

At the beginning of 2023, Türkiye published a new hydrogen technologies strategy and roadmap strategic document, highlighting that green hydrogen will be an important element for the country to achieve its net-zero emission targets. The local content requirement practices in Türkiye continue to raise concerns as they contradict WTO and the EU-Turkey Customs Union rules and undermine the competitiveness of the EU and other international companies on the Turkish energy market.

As regards **energy efficiency**, in the context of Türkiye's 2053 climate targets, energy efficiency and renewable energy standards in buildings are being tightened, electrical vehicles are promoted and the use of different modes of transport is prioritised. In the buildings and transport sectors, Türkiye plans to achieve an energy savings potential of 50% to reach its climate targets.

On **nuclear energy, nuclear safety and radiation protection**, Türkiye's latest national energy plan estimated that the total installed nuclear power capacity in the system will reach 7.2 GW by 2035. The first reactor in the Akkuyu power plant (built with a 99.2% investment by Russia's Rosatom) became operational in April 2023. Türkiye continued work to build 11 more large-scale reactors across the country.

Following Türkiye's voluntary commitment to conduct stress tests on the Akkuyu power plant using the EU model, an agreement between the Commission and the Turkish nuclear regulatory authority has been reached to move from the previously envisaged two-phase approach to a more streamlined single-phase approach. In July 2022, Türkiye ratified the Joint Convention on the safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

Chapter 21: Trans-European networks

The EU promotes trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.

Türkiye is **well advanced** on trans-European networks. It made **no progress** during the reporting period. Concerning energy networks, smooth operation of the Trans-Anatolian Pipeline (TANAP) continues to transmit gas to the European section of the Southern Gas Corridor. On transport networks, construction of the flagship Halkali-Kapikule railway line connecting the EU border to Istanbul continued, despite significant difficulties.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- establish a transparent, cost-reflective and non-discriminatory gas transit regime in line with the EU *acquis*;
- take concrete steps to prepare the Yavuz Sultan Selim bridge railway connections;
- accelerate action to align with key pieces of the EU *acquis* to facilitate alignment in the TEN-T networks.

Concerning **the transport networks**, Türkiye continued to progress in the construction of the new Halkali-Kapikule high speed railway line connecting the Asian part of Türkiye and

Europe. The progress rate on the main line reached 64%. The contracts under the Ispartakule-Cerkezkoy (Stage II) and Ispartakule-Halkali (Stage III) sections were signed, but implementation remains at a very early stage.

There has been no progress on the preparatory work for the railway connection between the new railway line and the Yavuz Sultan Selim bridge to allow rail traffic towards the Asian side of the straits. Due to high congestion, services and infrastructure at the border crossing points between the EU and Türkiye should be strengthened in view of the expected increase over the long term in transport flows.

Türkiye made no progress on **energy networks**. The operation of the TANAP transmitting gas to the European section of the Southern Gas Corridor continues. Türkiye is actively expanding its import capacity for liquefied natural gas as well as its gas storage capacity. In October 2022, Türkiye and Russia agreed to explore the scope for Türkiye to become a major gas hub, by expanding the current TurkStream pipeline and creating a gas distribution centre on the borders to Greece and Bulgaria. In January 2023, an agreement of cooperation for 13 years was signed between Türkiye's National Petroleum Corporation BOTAŞ and Bulgargaz, for a volume of up to 1.5 billion cubic meters per year. The first transit via Marmara Ereğlisi LNG Terminal took place in April 2023. Regarding gas networks and transmission system operator cooperation, BOTAŞ applied for observer membership at the European Network of Gas Transmission System Operators (ENTSO-G). The state-owned BOTAŞ remains vertically integrated and dominates the market with its trading and grid operator functions, which stifles market competition. Amendments to the natural gas market Law adopted in April 2023 changed the gas import and export rationale of Türkiye (*see Chapter 15 – Energy*). BOTAŞ completed the Saros Floating Storage Regasification Unit (FRSU) Terminal in February 2023, as a result of which Türkiye now has five LNG import facilities.

Concerning electricity networks, Türkiye renewed the Turkish Electricity Transmission System Operator's observer membership of the European Network of Transmission System Operators for Electricity (ENTSO-E) as of January 2023 for a 3-year duration. The safe integration of increased amounts of intermittent renewable energy remains a major challenge in modernising the electricity network.

Chapter 27: Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

Türkiye has **some level of preparation** and made **limited progress** over the reporting period in this area. On climate change, Türkiye submitted its updated Nationally Determined Contribution (NDC) under the Paris Agreement with a slightly increased, albeit still critically insufficient, mitigation goal. It still lacks a long-term strategy for decarbonisation substantiating its net-zero-emission goal. The main strategic documents on climate policy still have a time horizon to 2023 and need to be thoroughly updated. Enforcement and implementation remain weak. Türkiye has yet to set and then implement more ambitious and better coordinated environment and climate policies. The level of strategic planning, including quantified objectives and milestones, substantial investment and stronger administrative capacity, which are key prerequisites to increase preparedness, remains low.

The Commission's recommendations from last year were only partially met, therefore remain valid. In the coming year, Türkiye should in particular:

- ensure that environmental standards are met when building back better in the earthquake-affected areas, notably through full implementation of the Environmental Impact Assessment Directive and other horizontal environmental legislation, and ensure that protection from exposure to asbestos in these areas is duly implemented;
- complete alignment with the directives on industrial pollution, water and waste as well as on nature protection and air quality;
- complete its alignment with the EU *acquis* on climate action, notably but not limited to emission trading, and finalise the pending contributions required under the Paris Agreement on climate change.

Environment

Türkiye has achieved some level of preparation in the area of **horizontal legislation**, but no progress was made over the reporting period. Turkish legislation is aligned with the Strategic Environmental Assessment Directive and mostly aligned with the Environmental Impact Assessment (EIA) Directive. However, Türkiye is still not party to the Espoo Convention and thus, non-alignment with EIA procedures in transboundary contexts persists. Moreover, Türkiye is not yet party to the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters. The level of alignment on Environmental Liability Directive remains limited. The National Environment Agency, set up in 2020, became operational in 2022.

On **air quality**, Türkiye has yet to adopt national legislation in line with EU directives on ambient air quality and national emission ceilings. It reports on severe air pollution in some cities on an annual basis. It has a national strategy for air quality monitoring and all eight planned regional networks are established and operational with 360 monitoring stations.

The legal framework on **waste management** is partially aligned with the EU *acquis*. Türkiye continued to implement the legislation on zero waste adopted in 2019. In 2023, Türkiye's recycling rate increased to 27%. Preparations continued for the introduction of the Deposit Management System, designed to recycle disposable beverage packages. On medical waste treatment, alignment and capacity building for sorting and recycling continued. The level of implementation of waste management plans at local and regional level is insufficient. Türkiye has not adopted legislation on ship recycling to mirror the requirements of the EU Ship Recycling Regulation and concerns persist regarding safety, sound waste management and environmental hazards in some of these facilities. Two Turkish shipyards were removed from the EU list of ship recycling facilities, but three more Turkish shipyards were added to it. On textiles, the Turkish apparel sector published in January 2023 a sustainability strategy and action plan to transform the sector by aligning it with the EU *acquis*. The February 2023 earthquakes had a major impact on the waste management systems of affected municipalities, impacting the existing infrastructure and equipment. In addition, the management of construction debris remains a major environmental problem in terms of polluting the ecosystems into which the debris is dumped, including due to the release of asbestos.

In the area of **water quality**, the legislative alignment is advanced, but the level of implementation and enforcement remain low. Türkiye has started preparing river basin management plans in line with the Water Framework Directive and has already adopted 8 out of 25 basins plans. Preparations of all 25 flood risk management plans are close to completion, but the preparation of drought management plans and groundwater management plans is at an early stage. Türkiye has not yet aligned its provisions with the revised EU Directive on drinking water and transboundary consultations on water issues have not advanced. Wastewater treatment capacity has increased as a result of continuous investments

and with the construction of 1 176 wastewater treatment plants (WWTPs) in the country, reaching a coverage of 89% of the municipal population. Türkiye aimed to reach 100% by the end of 2023, but the February 2023 earthquakes, which damaged much urban infrastructure in the affected area, including drinking water, sewerage networks and stormwater collection systems and the WWTPs, hampers the progress on this. The preliminary estimated cost of the damage is USD 3 billion. Alignment with the EU marine strategy remains pending.

Türkiye has some level of preparation on **nature protection**. Türkiye committed to setting national targets to implement the Kunming-Montreal Global Biodiversity Framework, adopted at the 15th Conference of Parties to the UN Convention on Biological Diversity (COP15), in December 2022. However, nature protection remains a challenge in Türkiye. It made no progress on adopting the framework legislation, the national biodiversity strategy or an action plan. Planning and construction in wetlands, forests and natural sites are still not in line with the EU *acquis*. In December 2022, Türkiye amended the mining regulation to allow mining in agricultural areas, protected areas, national parks and coastal areas, which caused concern among NGOs and the general public.

In **industrial pollution and risk management**, alignment with the EU *acquis* is at an early stage. Türkiye ratified the Minamata Convention on mercury management in October 2022 and committed to phasing out existing mercury mines and the use of mercury in product and processes. Türkiye made no progress on aligning the Industrial Emissions Directive, the eco-management and audit scheme or the Directive on the limitation of emissions of volatile organic compounds.

On **chemicals**, Türkiye has achieved an advanced level of legislative alignment overall, but the level of implementation and enforcement remains weak. Türkiye is almost fully aligned with the European Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). The transitional period of enforcement finishes at the end of 2023.

Alignment with legislation on **noise** is well advanced but the level of implementation and enforcement remains weak. The noise legislation was amended to extend its scope in 2022.

On **civil protection**, Türkiye is a participating state of the Union Civil Protection Mechanism (UCPM). In the wake of the February 2023 earthquakes, Türkiye activated the Mechanism. Subsequently, all member and participating states offered major collaborative support via the Emergency Response Coordination Centre (ERCC) of the European Commission. Türkiye has not yet installed the Secure Trans-European Services for Telematics between Administrators system to be able to connect through the Common Emergency Communication and Information System (CECIS) with the ERCC.

Climate change

Türkiye has achieved some level of preparation in this area and made limited progress over the reporting period. It is in the process of revising the current climate change strategy and action plan (2011-2023) and has adopted an implementing legislation on fluorinated greenhouse gases (F-gases). Türkiye submitted an updated nationally determined contribution (NDC) to the UN Framework Convention on Climate Change (UNFCCC) in April 2023. The overall objective is slightly higher than in the previous NDC and it contains an economy-wide goal. However, the emission reduction target remains critically insufficient, as it means that emissions could rise by over 30% by 2030. This is neither in line with the EU's collective objective to cut emissions by at least 55% by 2030 compared with 1990, nor with the latest Intergovernmental Panel on Climate Change report. It remains crucial to step up the level of ambition in line with science. It is also necessary to adopt a long-term strategy on decarbonisation that reconciles the new NDC and Türkiye's objective to reach net-zero

emissions by 2053. Türkiye has not published a national adaptation plan nor an adaptation communication under the Paris Agreement.

Regarding its other commitments under the UNFCCC, Türkiye submitted the latest national inventory on greenhouse gases in April 2023. It has yet to adopt a climate law and provisions for the establishment of a domestic emission trading system. Similarly, on climate adaptation, Türkiye has yet to adopt a new national adaptation strategy beyond 2023. Türkiye still does not fully implement the Fuel Quality Directive, nor does it align with EU emissions standards for new light and heavy-duty vehicles. Türkiye needs to draw up an alignment plan for the Carbon Capture and Storage Directive and for the certain pieces of legislation under the Fit for 55 package adopted during the reporting period.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

This cluster covers: agriculture and rural development (Chapter 11), food safety, veterinary and phytosanitary policy (Chapter 12), fisheries and aquaculture (Chapter 13), regional policy and coordination of structural instruments (Chapter 22), and financial and budgetary provisions (Chapter 33).

Türkiye reached some level of preparation in the area of agriculture and rural development. Backsliding continued during the reporting period, as its agricultural policy keeps moving away from the main principles of the EU common agricultural policy and as Türkiye continued to restrict imports of agricultural products from the EU. Türkiye is a major exporter of food products to the EU, and made limited progress in the area of food safety, veterinary and phytosanitary policy, where it reached some level of preparation. Full implementation of the EU *acquis* in this area requires significant further work. Türkiye is moderately prepared in the area of fisheries and aquaculture, and made some progress on fisheries governance, inspection and control.

Türkiye is moderately prepared in the area of regional policy and the coordination of structural instruments, and continued to make some progress in accelerating the absorption of IPA II funds and setting up the structures for IPA III funds. Türkiye has some level of preparation in the area of financial and budgetary provisions but made no progress during the reporting period.

Chapter 11: Agriculture and rural development

The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.

Türkiye achieved **some level of preparation** on agriculture and rural development. **Backsliding** continued, however, as Türkiye's agricultural support policy moved away from the principles under the EU common agricultural policy and the country still continues to restrict imports of agricultural products from the EU. It still lacks a strategy for producing agricultural statistics and has not yet implemented a functioning integrated administration and control system (IACS).

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

→ adopt and start implementing a strategy for producing agricultural statistics and

implement IACS;

→ develop and start implementing a strategy to align its agricultural support policy with the EU *acquis*;

→ ensure the smooth implementation of the EU instrument for pre-accession assistance for rural development (IPARD III), including the entrustment of new measures and smooth extension of IPARD III to the whole country.

On **horizontal issues**, Türkiye took no significant steps to advance on sustainable agriculture under the Turkish Green Deal action plan. Türkiye continued to move away from the principles governing agricultural direct support under the EU's common agricultural policy. In particular, it increased support coupled to production and continued to shift to a region- or basin-based management model. Türkiye has not started implementing the integrated administration and control system (IACS). It revised the province-based application of the farm accountancy data network (FADN) and, as of 2022, procedures are carried out country-wide based on NUTS-1 level, consisting of 12 regions. It has not yet completed the agricultural census and adoption of the strategy for agricultural statistics remains pending. Further alignment requires agriculture support measures to be brought in line with EU policies.

Limited progress has been observed on **common market organisation**, mainly in terms of implementation of the related strategy. Türkiye has yet to fully implement its obligations under the trade agreement with the EU for agricultural products by opening quotas for beef and live animals on a lasting basis. Türkiye needs to implement a transparent system to manage import quotas.

On **rural development**, Türkiye has adopted a sectoral agreement underpinning the EU instrument for pre-accession assistance for rural development (IPARD III). Meanwhile, implementation of the IPARD II continued steadily, although it has been affected by the consequences of the earthquakes.

On **quality policy**, Türkiye continued to implement legislation on the protection of geographical indications, which is largely aligned with the EU *acquis*.

On **organic farming**, further alignment with the EU *acquis* is needed. There is potential to further develop the sector and to use the support opportunities available under the IPARD III programme.

Chapter 12: Food safety, veterinary and phytosanitary policy

EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with the quality of seeds, plant protection material, the protection against harmful organisms and animal nutrition.

Türkiye has **some level of preparation** in the area of food safety, veterinary and phytosanitary policy. Overall, it achieved **limited progress** in this area over the reporting period, particularly on animal identification and registration. On food safety, it has yet to upgrade food establishments to meet EU standards. Full implementation of the EU *acquis* in this area requires significant further work.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

→ upgrade food establishments to meet EU standards, notably for raw milk;

- meet EU maximum limits for pesticide residues, and effectively address recurrent shortcomings;
- make further progress in addressing zoonoses.

Türkiye made limited progress in implementing the *acquis* on **general food safety**. The number of notifications to the rapid alert system for food and feed on pesticide residues in fruits and vegetables imported from Türkiye into the EU remained high, a trend observed since 2020.

Türkiye continued its work to fully align its **veterinary policy** with the EU *acquis*. On animal diseases, Türkiye increased cooperation with neighbouring countries in controlling infectious and transboundary diseases in the veterinary field by running vaccination campaigns and increased the work on animal identification and registration. Further structural and administrative work is still necessary to fully implement the *acquis* on animal welfare. Türkiye made limited progress on controlling zoonoses.

Türkiye continued to run training, inspection and monitoring programmes on the **placing of food, feed and animal by-products on the market**, which resulted in better administrative capacity for official controls. It made no progress on developing the national plan for upgrading agri-food establishments. Significant work is still needed to apply new rules on registering and approving food establishments. Substantial work is also required on animal by-products, notably to prepare a strategy on raw milk and on the entry into force of general rules to be implemented by raw milk producers. It has yet to adopt specifications of raw milk and rules on the use of milk that does not meet the somatic cell criteria. Türkiye's provisions on funding inspections are not yet aligned with the EU system.

Türkiye made progress on the alignment of its **food safety rules** with the EU *acquis* on issues such as labelling. However, progress on **specific rules for feed** and on **phytosanitary policy** remained limited. Interinstitutional collaboration on food safety, veterinary and phytosanitary policies is too low to properly integrate the EU's One Health Approach into its policies. Türkiye has yet to align its legislation on novel food and on **genetically modified organisms**.

Chapter 13: Fisheries and aquaculture

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

Türkiye is **moderately prepared** in this area. It made **some progress** on fisheries governance, on inspections and control, namely by improving and extending the scope of legislation and strengthening institutional capacity and infrastructure.

The Commission's recommendations from last year were partially met, and therefore remain valid. In the coming year, Türkiye should in particular:

- step up efforts to align fisheries management with EU law, including data collection and data sharing for scientific stock assessments;
- step up efforts to align its market policy with EU rules, in particular on the criteria governing the recognition and roles of professional organisations;
- improve fisheries control and inspection at sea in view of improving compliance at both the Mediterranean and Black Seas, and of effectively fighting illegal, unreported and unregulated fishing activities (IUU), including catch documentation schemes.

Türkiye made some progress on **resources and fleet management**. It amended its commercial fisheries regulation to further protect aquatic biodiversity. It closed the anchovy fishing season in the Marmara Sea earlier to protect and ensure sustainable fishing of the stocks. It improved the institutional capacity and infrastructure for data collection and stock assessment. The information systems established to manage fisheries and fishing fleet became functional and contributed to monitoring, control and surveillance. The country needs to reduce the by-catch of sensitive species, in line with the General Fisheries Commission for the Mediterranean's (GFCM) recommendations and promote the use of selective gear. A Fisheries and Aquaculture Scientific and Technical Advisory Council was established in August 2022, with a first meeting in December, to provide scientific opinion for fisheries and aquaculture management. Türkiye ran support programmes for the exploitation of pufferfish, an invasive species, to protect marine biodiversity.

The amended Fisheries Law also provided for some **structural action**, such as a stronger conservation regime. Structural measures are in place to support traditional coastal fisheries.

On **inspections and control**, Türkiye continued to make progress on legislative alignment and on implementing the recommendations for control measures by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the GFCM. In line with ICCAT rules, Türkiye has implemented the circular that regulates Bluefin tuna (BFT) fisheries and has identified the BFT fishing vessels for the 2023-2025 period. The number of inspections increased, and 169 fisheries vessels were confiscated in 2022 due to IUU fishing. New technologies such as drones are used in fisheries inspections.

On **market policy**, Türkiye developed IT tools for the collection of data from producer organisations and for disseminating market intelligence. These tools were set up to support the development and control of professional organisations in line with EU market policy. Türkiye provides **State aid** for aquaculture and to improve data quality on marine and inland artisanal fishing vessels for sustainable management of fisheries.

Regarding **international agreements**, Türkiye continued cooperating with the EU in regional and international platforms. As the EU implements the provisions of the United Nations Convention on the Law of the Sea, including in the common fisheries policy, Türkiye's ratification of the Convention would improve cooperation with the EU on fisheries and maritime policy. Türkiye participated with an active and supportive stance in the works of the GFCM.

Chapter 22: Regional policy and the coordination of structural instruments

Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU acquis elements such as environmental or public procurement legislation.

Türkiye is **moderately prepared** on regional policy and on coordinating structural instruments. Overall, it made **some progress** in accelerating the absorption of IPA II funds and setting up the structure for IPA III funds.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

→ address structural weaknesses in implementing regional policy;

- accelerate implementation of ongoing operations under IPA II to deliver high quality results by the set deadlines and avoid de-commitments;
- ensure the proper functioning of local democracy.

Regarding the **legislative framework**, Türkiye made no progress in the reporting period. It has yet to set up mechanisms for evidence-based policymaking, policy and programme evaluations, and impact assessments.

A general framework is needed to put in place appropriate statistical tools to monitor and evaluate performance of the National Strategy for Regional Development (NSRD) and Regional Development Agencies (RDAs). The limited impact of implementing the NSRD on national policymaking persists, and regional level considerations continue to be inadequately reflected at central level. Türkiye has put in place key tools for implementation, namely the growth poles support programme, social development support programme, producing cities programme, institutional transformation and sustainability support programme, the working and producing youth programme, Regional Development Fund, and the RDAs project support, but the tools' functionality can be improved. Türkiye started preparations on the twelfth development plan (2024-2028).

Concerns remain regarding state overregulation and interventionism in the planning decisions taken by local authorities, as well as the lack of consultations with local authorities. The financial autonomy of local authorities remains restricted by their limited capacity to calculate the rate of local taxes, and the fact that a large proportion of local revenue (more than half) still comes from the State budget.

Türkiye has achieved no progress to remedy the situation faced by locally elected representatives. The government continues to open criminal investigations against mayors on the grounds of a broad definition of 'terrorism' in Türkiye's anti-terror legislation. It suspends the representatives targeted and replaces them with unelected officials, a practice that seriously undermines the democratic choice of Turkish citizens and impedes the proper functioning of local democracy in Türkiye.

On the **institutional framework**, the functioning of the Indirect Management by Beneficiary Countries (IMBC) authorities remains monitored by the National IPA Coordinator office (NIPAC) in coordination with the National Authorising Officer (NAO) and with regular oversight by the Presidential Office. The Financial Cooperation Committee, gathering all IMBC authorities, met on a regular basis. There is a continuous need to strengthen the role of the NIPAC to coordinate effectively amongst ministries, to prioritise interventions under IPA III, and monitor their impact. Türkiye made good progress regarding the institutional set-up and the system for managing IPA funds in IMBC, which still needs some adaptation to the IPA III requirements and alignment with the Financial Framework Partnership Agreement between Türkiye and the Commission.

Türkiye made some progress in **administrative capacity of the IPA structures**. Implementation of the action plan drawn up by the NIPAC and NAO continued to deliver some results. However, the capacity of IMBC structures require strengthening to ensure efficient and timely contracting and implementation of IPA programmes, improved capacities for programming, monitoring and evaluation activities, as well as strengthened Audit Authority. There is no clear staff retention policy and strategy. The action taken to re-focus the IMBC on specific sectors together with the political instability have not aided staff motivation in some structures. Most Operating Structures have reduced their ex-ante control rejection rates to below 10%.

Türkiye made some progress on **programming**, in line with the coordination framework set up under IPA III. The NIPAC coordinates the programming process, ensuring overall monitoring and evaluation of the implementation. For this purpose, the NIPAC coordinates the work to implement the evaluation plans, which are presented to the Commission annually. However, as there is no clear EU alignment strategy, the programming lacks a national anchor strategy.

On **monitoring and evaluation**, all but one Operating Structures (the Ministry of Transport) have set up and operationalised their monitoring systems, including Management Information Systems (MISs). The main weaknesses are observed in the systems operated by the NIPAC and the NAO. To overcome these weaknesses, work is ongoing to revise the existing MIS used by the NIPAC, namely NIPAC online. The process aims to ensure the system meets the requirements for IPA III procedures. A specific electronic system to manage the follow-up and implementation of Results Oriented Monitoring (ROM) and procedures is also fully functional.

Concerning **financial management, control and audit**, the Operating Structures have built capacity for programming, implementation and absorption. Over-programming has become an issue in the context of very low de-commitment rates. Management and control systems have improved, including controls on tender files. Türkiye has made progress on the rate of ex-ante tender approvals and on the number of monitoring activities. It has also improved the approach taken to project management. The principle of single audit is duly reflected in the work of the Audit Authority for audits and supervision of the NAO. A monitoring framework protocol was developed by NIPAC-NAO in the IPA I period, and since then the NAO supervises execution of the protocol. The Audit Authority drafts audit strategies and specific manuals and submits them to the Commission for review. In addition, there is a general circular issued by the President and specific provisions for EU project audits, as set out in the regulation of the Audit Authority (*see Chapter 32 – Financial control*).

Chapter 33: Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.

Türkiye has **some level of preparation** in the area of financial and budgetary provisions. It made **no progress** over the reporting period. The country needs to set up solid coordination structures, build administrative capacity and adopt implementing rules for the correct application of the own resources system.

The Commission's recommendation from last year was not met, and therefore remains valid. In the coming year, Türkiye should in particular:

→ further align the gross national income inventory with Eurostat's GNI Inventory Guide.

Türkiye has already put in place the basic principles and institutions in the underlying policy areas linked to the application of the own resources system (*see Chapters 16 - Taxation, 18 - Statistics, 29 - Customs union and 32 - Financial control*). The Customs Union with the EU on processed agricultural goods and industrial goods (with the exception of coal and steel products) continues to ensure considerable alignment of Türkiye's customs legislation with

the *acquis* on customs. Türkiye has yet to adopt a draft customs law aligned with the Union Customs Code. This will facilitate preparation in **traditional own resources** (mainly customs duties).

For the **value added tax-based resource**, systems are not yet in place to correctly calculate the VAT base and the weighted average rate. VAT and customs duties fraud remains an issue as does the size of the informal economy. Legislation on structure, exemptions, special schemes and the scope of reduced rates is not fully aligned with the EU *acquis*.

Concerning the **gross national income-based resource**, Türkiye has undertaken efforts to bring its national accounts and GNI calculations fully in line with the European system of accounts (ESA 2010). It also needs to improve the exhaustiveness of the estimates to ensure that they take account of the non-observed economy. The GNI inventory is not fully aligned with Eurostat's Inventory Guide and the transmission of data does not always occur in a timely manner.

In terms of the **administrative infrastructure**, Türkiye needs to set up a fully operational coordination structure, with sufficient administrative capacity and the implementing rules needed to ensure that it can correctly calculate, forecast, account for, collect, pay, monitor and report own resources to the EU in line with the EU *acquis*.

CLUSTER 6: EXTERNAL RELATIONS

There are two chapters in this cluster: external relations (Chapter 30), and foreign, security and defence policy (Chapter 31). Türkiye is moderately prepared in the area of external relations and made no progress over the reporting period. Large deviation from the Common Customs Tariff was still in place. Divergence from the EU Generalised Scheme of Preferences persisted, in violation of the EU-Turkey Customs Union. Türkiye's official development assistance was largely directed towards humanitarian support for the Syria-related activities on Türkiye's own territory.

Türkiye has some level of preparation in the area of foreign, security and defence policy, and made no progress overall in the reporting period. Türkiye's unilateral foreign policy remained at odds with the EU priorities under the common foreign and security policy.

Chapter 30: External relations

The EU has a common trade and commercial policy towards third countries, based on multilateral and bilateral agreements, and autonomous measures. There are also EU rules on humanitarian aid and development policy.

Türkiye is **moderately prepared** on external relations. It made **no progress** over the reporting period. Türkiye removed some additional customs duties but also introduced other duties, thus resulting in a very limited re-alignment. Türkiye is still not in line with the Common Customs Tariff as a wide scope of additional customs duties remained in place, as were a number of trade agreements with the third countries where the EU has no such agreements. The divergence from the EU Generalised Scheme of Preferences persisted, in breach of the EU-Turkey Customs Union. Türkiye's official development assistance was 0.79%, above the 0.7% target enshrined in Sustainable Development Goal 17. A large share of its official development assistance comprised humanitarian support for projects related to Syria but carried out in Türkiye.

The Commission's recommendations from last year were not met, and therefore remain valid. In the coming year, Türkiye should in particular:

- re-align the customs tariff completely with the Common Customs Tariff;
- complete the alignment with the EU's Generalised Scheme of Preferences and dual-use export control regime.

Türkiye made no progress on the **common commercial policy**. It lifted some of the additional duties but it brought in other duties. It has yet to tackle a major deviation from the Common Customs Tariff, which has fundamentally distorted the once good level of alignment with the EU common commercial policy, by eliminating the remaining additional duties. Türkiye also needs to align fully with the EU's Generalised Scheme of Preferences in terms of countries and products. Türkiye did not initiate any new safeguard investigations but it continues to run review investigation of two safeguard measures to extend them. The initiation of anti-circumvention investigations based on weak evidence is a cause of concern. There is a need for closer coordination between the EU and Türkiye within the World Trade Organisation, in particular on the Doha Development Agenda, in the OECD and in the G-20.

The 1998 Agreement on agricultural products, and the 1996 Agreement on coal and steel products covered by the European Coal and Steel Community need to be aligned with current rules of the Pan-euro-Mediterranean (PEM) Convention on rules of origin. Discussions between EU and Türkiye continue on the (revised) PEM Convention transitional rules of origin aiming for a complete agreement, including issues of full cumulation and duty drawback.

Türkiye has 82 bilateral investment treaties in force, 23 of which are with EU Member States. On export controls of **dual-use goods**, Türkiye did not align with the EU position on certain multilateral export control arrangements, such as the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, and the Missile Technology Control Regime. Türkiye's non-alignment with EU restrictive measures against Russia and its intensified trade and economic ties with Russia increase the potential transportation of dual-use goods. Türkiye has an export credit agency and is a Participant in the Arrangement on Officially Supported Export Credits since 2019.

Regarding **bilateral agreements with third countries**, Türkiye continued to implement its free trade agreement with Malaysia and Venezuela, diverging from the common commercial policy under the EU-Turkey Customs Union as the EU has no such agreements with those countries. Moreover, a free trade agreement that Türkiye signed with the United Arab Emirates entered into force. In addition, Türkiye signed preferential trade agreements with Uzbekistan and Pakistan and implemented the agreement with Pakistan. Türkiye continued to implement the agreement with Azerbaijan and extended its current scope to include some additional agricultural and industrial products.

As for **development policy** and **humanitarian aid**, Türkiye granted official development assistance in 2022 of EUR 7 billion, which is equivalent to 0.79% of its gross national income (GNI). It increased in real terms in volume compared with previous years and remained above the 0.7% target enshrined in the Sustainable Development Goal 17. The assistance was largely directed towards humanitarian support for projects related to Syria but carried out in Türkiye.

Chapter 31: Foreign, security and defence policy

Member States must be able to conduct political dialogue under EU foreign, security and defence policy, align with EU statements, take part in EU actions, and apply agreed sanctions and restrictive measures.

Türkiye has **some level of preparation** in the area of foreign, security and defence policy, and made **no progress** overall in the reporting period. Türkiye is an active and significant actor in the area of foreign policy, which constitutes an important element in the context of the EU-Türkiye relationship. However, Türkiye's unilateral foreign policy remained at odds with the EU's priorities under the common foreign and security policy (CFSP).

Following Russia's war of aggression against Ukraine, Türkiye condemned the Russian military aggression, and engaged politically and diplomatically, including in the facilitation of the export of Ukrainian grain and the prisoners' exchange. Türkiye worked towards facilitating talks between Ukraine and Russia and on de-escalation and bringing about a cease-fire. Nevertheless, Türkiye refrained from aligning with EU restrictive measures against Russia, and has significantly intensified trade and economic ties with Russia in several sectors (energy, tourism, transport, etc).

Türkiye also intensified its "regional normalisation" policy with the Arab states, with Armenia, and Israel. Its rhetoric in support to terrorist group Hamas following its attacks against Israel on 7 October 2023 is in complete disagreement with the EU approach. The *rapprochement* with the Syrian regime, facilitated by Russia, in the absence of a political solution to the Syrian conflict, is at odds with the EU's policy. Türkiye has a growing presence and geopolitical ambition in the South Caucasus and Central Asia, and continued the efforts to extend relations with African, Latin American and Asian countries. Türkiye's pragmatic engagement on Afghanistan, and vocal position on the developments in Sudan, underscored its ambition to be a key player in the context of major international crises.

The Commission's recommendations from last year were only partially met, and therefore remain valid. In the coming year, Türkiye should in particular:

- take decisive steps to significantly improve alignment with High Representative statements on behalf of the EU and relevant Council decisions on CFSP;
- step up cooperation on preventing and detecting circumvention of restrictive measures, in particular regarding advanced technology items that can be diverted for military purposes;
- further enhance the political dialogue on foreign and security policy with the EU and seek collaboration on convergent interests while working on reducing divergences.

The **political dialogue** between the EU and Türkiye on foreign and security policy issues continued, through contacts at senior officials' level. There were regular contacts between the High Representative/Vice-President of the European Commission and the Minister of Foreign Affairs of Türkiye, who also met on the sidelines of the UN General Assembly in New York in September 2023. In June 2023, the President of the European Commission and the President of the European Council held a telephone call with the President of Türkiye, and both Presidents met with the Turkish President in the margins of the NATO summit in Vilnius in July 2023. The President of the European Council also met the Turkish President on the margins of the G20 meeting in September 2023. Türkiye attended the Brussels VII Syria Conference organised in June 2023 by the EU.

The institutional framework enabling Türkiye's participation in **the EU common foreign and security policy** (CFSP) and, respectively, **the common security and defence policy** (CSDP) remained in place, at both the Ministry of Foreign Affairs and the Ministry of Defence, but Türkiye maintained a very low alignment rate of 10% with relevant High Representative statements on behalf of the EU and relevant Council decisions (as of August 2023), compared to 8% in 2022.

As a general policy, Türkiye consistently refrained from aligning with EU **restrictive measures** against Russia and maintained its position of not supporting sanctions adopted outside the UN framework. Türkiye continued to operate flights to Russia. The EU's International Special Envoy for the implementation of EU sanctions visited Türkiye in March and July 2023 to underline the importance of taking concrete steps and cooperating to fight against the circumvention of EU restrictive measures against Russia in a joint and systemic manner. While Turkish customs authorities highlighted the good technical cooperation with EU Member States on a case-by-case basis, Türkiye should continue to find ways to prevent the re-export of sensitive items that can be used for military purposes by Russia.

As regards the **non-proliferation** of weapons of mass destruction, Türkiye is a party to most international treaties and conventions and participates in export control regimes and other politically binding arrangements, complying with its legally-binding obligations and political commitments. However, it continued to prevent the participation of the Republic of Cyprus in the Conference on Disarmament, its membership in the Wassenaar Arrangement and in the Zangger Committee. While Türkiye aligns with a number of EU positions in multilateral non-proliferation and disarmament fora, its alignment record has further worsened since February 2022. It is still to ratify the Arms Trade Treaty.

Türkiye continued to seek involvement in CSDP and EU defence initiatives, whilst at the same time continuing to exclude a Member State from all possible cooperation with NATO. Türkiye's narrow interpretation of the EU-NATO cooperation framework continued to pose an obstacle to building a genuine organisation-to-organisation relationship, in particular by limiting the exchange of information and blocking the inclusive participation of all Member States in joint activities of the two organisations. After protracted negotiations, Türkiye's National Assembly ratified Finland's NATO accession bid in March 2023. On the sidelines of the NATO summit in Vilnius in July 2023, the Turkish President committed to forward the accession protocol for Sweden to the Turkish parliament as soon as possible. The president submitted the bill for ratification to the Parliament on 23 October 2023.

Türkiye actively **engaged with international organisations**, while continuing to obstruct the accession of EU Member States. At the UN General Assembly, in September 2022, Türkiye reiterated its support for the reform of the UN Security Council, making a plea for multilateralism. Türkiye participated in the G20 Bali Summit in November 2022 and the 29th OSCE Ministerial Council in December 2022. Türkiye attended the 4th Summit of the Council of Europe in May 2023, but it did not join the 37 Member States + Canada, Japan, the US and the EU that created a register of damage for Ukraine as a first step towards an international compensation mechanism for the victims of the Russian aggression. In September 2022, Türkiye was invited as a guest to the 22nd Summit of the Shanghai Cooperation Organisation (SCO) and reiterated its wish to become a full member. In February 2023, Türkiye attended the G20 meeting in New Delhi and hosted the 23rd meeting of the foreign ministers of MIKTA (Mexico, Indonesia, Republic of Korea, Türkiye, and Australia) on the sidelines of G20. In many international organisations, Türkiye continued to oppose the participation of international and European Non-Governmental Organisations, accusing them, without providing evidence, of supporting terrorist organisations. Türkiye is not a State Party to The Rome Statute of the International Criminal Court.

In terms of **security measures**, in the reporting period there was no Security of Information Agreement (SIA) for the exchanges of EU classified information (EUCI) with Türkiye. Since 2006, a framework participation agreement allows Türkiye's participation, including reception of EUCI, in the context of CSDP missions.

In the framework of the **EU crisis management missions and operations under the CSDP**,

Türkiye continued to participate in Operation EUFOR ALTHEA as the biggest non-EU troop contributor.

Regarding **hybrid threats**, in the context of international conflicts and crises, foreign information manipulation and interference (FIMI) activities, including the circulation of false information and propaganda on social and mainstream media, was observed in Türkiye's information environment. Türkiye did not restrict the operations of Russian state-controlled media outlets in the context of Russia's war of aggression against Ukraine.

Türkiye continued to progressively expand its global diplomatic network and pursued the development of intense relations and strategic partnerships with countries worldwide, while enhancing regional normalisation efforts.

In 2022, Türkiye recognised **Russia's war of aggression against Ukraine** as a state of war and rejected the Russian military aggression. During the reporting period, Türkiye maintained a position it describes as a 'balanced' one between the warring parties. Turkish high officials have had regular contacts with both Russian and Ukrainian counterparts. The UN- and Türkiye-brokered Black Sea Grain Initiative was terminated by Russia in July. Türkiye continued to refrain from aligning with the EU packages of restrictive measures against Russia. As of March 2023, Türkiye implemented a ban on exporting sanctioned goods, originating from the EU, the United States, and the United Kingdom, to Russia. This ban specifically targeted goods that were in transit, stored in warehouses, or located within free zones in Türkiye. However, the potential transportation of dual-use and sensitive technology goods, as well as the unrestricted movement of sanctioned goods from Türkiye to Russia still need to be addressed. Türkiye also significantly increased its trade and economic relations with Russia. Frequent high-level Turkish-Russian contacts took place in the run-up to the opening of the Akkuyu nuclear facility, financed and operated by Russia's Rosatom, attended online by the Russian President.

Türkiye, a NATO ally, remained both an important and a challenging partner for the **United States**. Türkiye and the US engaged on regional issues, including Ukraine, Afghanistan, humanitarian access to Syria, and counter-terrorism activities. Key points of friction included the Russian made S-400 air defence missile system owned by Türkiye, the participation of Türkiye in the F-35 programme, Turkish criticism of US support for the YPG forces in northern Syria, tensions in the Eastern Mediterranean and the Aegean Sea, and the respect of human rights in Türkiye. A number of high-level meetings took place between the two countries including a meeting of the two Presidents in the margins of the G20 summit in November 2022 and at the NATO summit in July 2023, and two meetings of the US-Türkiye Strategic Mechanism. Türkiye and **Canada**, as NATO allies, maintain open channels of communication at high level, reiterating and reaffirming their commitment for strong bilateral cooperation. Canada acted quickly to mobilise support following the earthquakes.

Türkiye's efforts for *rapprochement* in the Gulf region continued and intensified in the reporting period. Türkiye and the **United Arab Emirates (UAE)** held high level meetings and signed a Comprehensive Economic Partnership Agreement in March 2023. In July 2023, during the Turkish President's visit to the UAE, 13 agreements on investments estimated to be worth USD 50.7 billion were signed. Relations with **Bahrain** remained stable, while ties with **Saudi Arabia** continued to strengthen. In March 2023, the two countries signed an agreement, for a USD 5 billion swap deposit to the Turkish Central Bank. Additionally, in July 2023 they sealed a substantial defence export deal, involving the sale of Turkish drones to Saudi Arabia. Türkiye and **Oman** held in November 2022 the Joint Economic Commission and signed a cooperation agreement to boost bilateral trade and investments. Türkiye enhanced its relations with **Kuwait** in the defence industry sector, signing a contract for the

purchase of Turkish-made Bayraktar drones in January 2023. Türkiye and **Qatar** continued their cooperation in various fields and maintained close coordination on regional and international issues. **Turkish-Egyptian** normalisation efforts picked up pace in the first half of 2023, and both countries agreed to exchange ambassadors. After an initial encounter at Presidential level in 2022, contacts continued at the level of Ministers of Foreign Affairs and culminated in the meeting between the Presidents on the sidelines of the G20 meeting in September 2023.

Türkiye's relations with **Israel** were re-launched in 2022. In August 2022, the two countries decided to restore full diplomatic relations, including the exchange of ambassadors, and, in September 2022, the Turkish President held talks with the Israeli Prime Minister. Despite the *rapprochement*, Türkiye continues to criticise Israel's actions in the occupied Palestinian territory, in particular related to the respect of the *status quo* of the Holy sites in Jerusalem. Following the Hamas terrorist group's attacks against Israel in October 2023, Türkiye refrained from condemning and qualifying them as terrorism and strongly criticised Israel's response. Türkiye strongly condemned the loss of civilian lives in both sides and proposed to act as mediator between Israel and Hamas. Türkiye is currently re-evaluating its ties with Israel. On the **Middle East Peace Process** (MEPP), Türkiye's position aligns with the EU's position supporting the two-state solution.

Türkiye remained critically important actor in the **Syrian** crisis and shares with the EU the objective of achieving a stable and prosperous Syria, in the first place through the implementation of UNSCR 2254. While in the past Turkish approach was more similar to the EU's position, that of exercising and maintaining pressure on Damascus, since December 2022 Türkiye has become involved in a series of meetings, encouraged and facilitated by Russia, with the Syrian regime. These culminated in a quadripartite meeting of the Ministers of Foreign Affairs of Russia, Türkiye, Iran and the Syrian regime in Moscow in May 2023. Türkiye still maintains a military presence in parts of northern Syria and resumed significant military cross-border operations into northern Syria in November 2022. Following the February earthquakes, two additional crossing points on the Turkish border temporarily opened to allow humanitarian aid into the quake-stricken northwest of Syria.

Regarding relations with **Libya**, Türkiye advocated for an agreement in the framework of the Libyan-led and Libyan-owned political process and supported the efforts of the new UNSG Special Representative to hold national elections in 2023. Based on the 2019 Turkish-Libyan maritime delimitation agreement, in October 2022, Türkiye signed a Memorandum of Understanding with the Libyan Government of National Unity to develop bilateral scientific, technical, technological, legal, administrative, and commercial cooperation in the field of hydrocarbons on land and at sea. The EU considers the Turkish-Libyan maritime agreement an infringement upon the sovereign rights of third states, non-compliant with the Law of the Sea and having no legal consequences for third states. Ankara continued to claim that the UN embargo provisions, the articles on the withdrawal of all mercenaries, foreign fighters and foreign forces from the Libyan territory, and the suspension of military training in the cease-fire agreement had no bearing on the legitimate government. Türkiye's lack of cooperation continued to hamper the EU's efforts to implement the UN embargo effectively. In March 2023, Türkiye, as a flag state, withheld its consent to Operation IRINI's request to inspect a vessel, the tenth such incident since Operation IRINI started.

Türkiye continued its anti-terrorism operations against PKK groups and affiliates in **Iraq** and in the semiautonomous Kurdistan Region of Iraq. The last operation, launched in November 2022, was strongly condemned by the Iraqi government. In August 2023, on a visit to Iraq, the Turkish Foreign Minister asked Iraq to designate PKK as a terrorist organisation. Türkiye

maintained a high-level dialogue with **Iran** although some tensions were noticeable in the contexts of the Syrian and north-Iraqi theatres.

Türkiye-**Armenia** normalisation process continued with regular contacts between the two special envoys, although Türkiye links progress with developments in Armenia-Azerbaijan relations. The Turkish and Armenian leaders met for the first time in October 2022, in the margins of the European Political Community summit and in June 2023 the Armenian Prime Minister participated in the inauguration ceremony of the Turkish President. After three decades, in February 2023, the Türkiye-Armenia border reopened temporarily to facilitate the passage of Armenian humanitarian aid transports to the quake-struck Turkish region, followed by a visit of the Armenian Foreign Minister to Türkiye. Direct cargo flights between the two countries started in January 2023 but were interrupted a few months later. As regards the conflict between Armenia and Azerbaijan, while voicing support to the peace negotiations, Türkiye expressed full support to the military actions undertaken by **Azerbaijan** both in September 2022 and in September 2023. Türkiye continued maintaining a very close relationship with Azerbaijan, ensuring a strong collaboration and continuous consultation on the normalisation process with Armenia. The two countries had regular high-level visits and consultations, and held joint military exercises. Türkiye extended by one year the deployment of a small military contingent to Azerbaijan, in the framework of the joint Russian-Turkish monitoring centre established in Aghdman after the November 2020 Tripartite Statement signed by Azerbaijan, Armenia and Russia to monitor the ceasefire in the Nagorno-Karabakh conflict zone. Türkiye supports the construction of a transport corridor to Azerbaijan via Armenia and emphasises energy and trade cooperation, vocally supporting prospects for connectivity as means to ensure peace and prosperity of the region. Türkiye, Azerbaijan and Georgia also cooperate through a trilateral platform, the last edition of which was held in February 2023 in the format of Defence Ministers.

In **Central Asia**, EU and Türkiye policies converged to some extent. Türkiye attached great importance to connectivity and maintained close relations with the countries in the region. Türkiye and **Kazakhstan** further developed their cooperation in the defence industry sector. Türkiye and **Turkmenistan** focused on the possible transportation of Turkmen gas to Western markets. At the invitation of **Uzbekistan**, Türkiye participated as a guest in the Council of Heads of State of the Shanghai Cooperation Organisation regional security group summit in September 2022. The Turkish President attended the 9th Summit of the **Organisation of the Turkic States** (OTS) in Samarkand in November 2022, and held an Extraordinary Summit of the Heads of State of OTS in Ankara in March 2023.

Türkiye's relations with **Pakistan** remained strong, with regular high-level exchanges. In August 2022, Türkiye and Pakistan signed a preferential trade agreement offering each other concessions on tariff lines. Türkiye increasingly became an important source of military equipment, notably for the Pakistani marine. Türkiye maintained a pragmatic approach on **Afghanistan**, holding regular talks with the Taliban *de facto* authorities, hosting Afghan political opponents without facilitating the formation of a joint opposition or armed resistance, and increasing trade. Türkiye continued sending humanitarian aid to Afghanistan and kept operating the Maarif schools.

Türkiye systematically focused on development opportunities in **Asia** through its Asia Anew Initiative and becoming the axis connecting Asia to Europe. Türkiye is part of the multilateral Middle Corridor Initiative, which aims to develop connections with China via Türkiye, the Caucasus and Central Asia, in synergy with the Chinese Belt and Road Initiative. On the sidelines of the Shanghai Cooperation Organisation regional security group Summit in September 2022, the Turkish President met with his Chinese counterpart and agreed to

elevate their strategic cooperation to a higher level. Türkiye continued to strengthen its trade ties with **China**, its second biggest trading partner. Türkiye continued to voice its views regarding the treatment of the Uyghurs, a Turkic ethnic group in China, but in a less visible manner than before. Türkiye and **Indonesia** agreed to further enhance their bilateral relations and announced the formation of a High-Level Strategic Cooperation Council during the visit of the Turkish President in the margins of the G-20 Summit in November 2022. The Turkish President and the Prime Minister of **India** met in September 2022 and September 2023 and discussed ways to deepen the bilateral cooperation.

Türkiye maintained its diplomatic engagement with countries of **Latin America**, aiming to expand and strengthen the political relations. Türkiye pursued its active policies in Africa, maintaining strong ties in particular with **Somalia** in the **Horn of Africa**. Türkiye maintained a balanced position between the warring parties in the **Sudanese** conflict.

ANNEX I – RELATIONS BETWEEN THE EU AND TÜRKİYE

Within the framework of accession negotiations, 16 chapters have been opened so far and one of these was provisionally closed. In December 2022, the Council of the European Union reiterated its position of June 2018 that Türkiye continues to move further away from the European Union and that accession negotiations with the country are therefore at a standstill and no further chapters can be considered for opening or closing.

The European Council has repeated that the EU has a strategic interest in a stable and secure environment in the Eastern Mediterranean and in the development of a cooperative and mutually beneficial relationship with Türkiye. The EU is ready to engage with Türkiye in a phased, proportionate and reversible manner to enhance cooperation in a number of areas of common interest, subject to the established conditionalities set out in European Council conclusions. In case of renewed unilateral actions or provocations in breach of international law, the EU will use all the instruments and the options at its disposal, including in accordance with Article 29 TEU and Article 215 TFEU, in order to defend its interests and those of its Member States. The European Council in June 2022 also recalled that it expects Türkiye to fully respect international law, to de-escalate tensions in the interest of regional stability in the Eastern Mediterranean, and to promote good-neighbourly relations in a sustainable way. With its June 2023 conclusions, the European Council reconfirmed its commitment to a comprehensive settlement of the Cyprus problem, within the UN framework, in accordance with the relevant UNSC resolutions and in line with the principles on which the EU is founded and the *acquis*. It also called for the speedy resumption of negotiations and stated that the EU is ready to play an active role in supporting all stages of the UN-led process, with all appropriate means at its disposal. The European Council in June 2023 invited the High Representative and the Commission to submit a report to the European Council on the state of play of EU-Türkiye relations, building on the instruments and options identified by the European Council and with a view to proceeding in a strategic and forward-looking manner.

The Council adopted conclusions in July 2019, as a response to Türkiye's unauthorised drilling activities in the Eastern Mediterranean. In November 2022, following the third annual review of the framework for restrictive measures in response to Türkiye's unauthorised drilling activities in the Eastern Mediterranean, the European Council extended the regime for a further year, until 12 November 2023. Currently, two individuals are subject to sanctions.

Reforms and developments in Türkiye continued to be monitored by the bodies set up under the Association Agreement, with subcommittees kept being held throughout the reporting period. High-level engagement continued in areas of joint interest in the second half of 2022.

Türkiye is the EU's seventh largest trading partner, while the EU is Türkiye's largest, representing more than one third of Turkish **trade** and its main source of investment. Türkiye's exports to the EU amounted to EUR 98.68 billion in 2022 and imports from the EU amounted to EUR 99.65 billion.

In May 2023, Türkiye participated in the annual **economic policy dialogue** between the representatives of the EU Member States, the Western Balkans and Türkiye, the European Commission and the European Central Bank, as well as representatives of the central banks of the Western Balkans and Türkiye. The dialogue aims to prepare the future participation in the European Semester of the Western Balkans and Türkiye. The EU and Türkiye also continue to coordinate in the framework of the G-20.

Regarding the **Customs Union**, the Commission recommended opening negotiations with Türkiye on the modernisation of the Customs Union in December 2016. In March 2021, the EU Leaders invited the Commission to intensify talks with Türkiye to address current difficulties in the implementation of the Customs Union, ensuring its effective application to all Member States, and invited in parallel the Council to work on a mandate for the modernisation of the Customs Union. Such a mandate may be adopted by the Council subject to additional guidance by the European Council. The Commission continued intensified engagement with Türkiye to discuss issues hampering the smooth functioning of the Customs Union. The European Commission and Türkiye continue their engagement on the EU Green Deal.

In the area of **visa, migration and asylum**, the implementation of the March 2016 EU-Turkey Statement has continued to deliver concrete results in reducing irregular and dangerous crossings on the Eastern Mediterranean route to Europe and in saving lives at sea. Türkiye sustained its considerable efforts to provide significant support to 3.6 million refugees, of which 3.3 million Syrians (as of September 2023). In the context of the EU-Türkiye visa liberalisation dialogue, no outstanding visa liberalisation benchmarks were fulfilled. An international agreement on the exchange of personal data between Europol and the Turkish authorities competent for fighting serious crime and terrorism is yet to be concluded. The Council of December 2022 recalled that the full and effective implementation of the EU-Turkey Readmission Agreement and cooperation in the area of justice and home affairs with all EU Member States remain essential.

Türkiye and the EU continued to have fruitful cooperation for supporting refugees in Türkiye. Out of the almost EUR 10 billion in EU support to refugees allocated since 2011, EUR 6 billion were provided under the Facility for Refugees in Turkey. The full operational budget of the Facility was contracted by the end of 2020. Facility funding continued to support projects focused on humanitarian assistance, education, migration management, health, municipal infrastructure, and socio-economic support. Over 2 million refugees, including those most vulnerable, continue to receive basic needs support and close to 774 390 refugee children are enrolled in school with Facility and post-Facility support. Other achievements of the Facility include the construction of 160 new schools (out of a target of 348) and delivering over 30.3 million primary health care consultations. After bridge funding of EUR 535 million in 2020, the Commission continued implementation of an additional package of EUR 3 billion covering the 2021-2023 period requested by the Council. This additional funding continues providing support, in particular in key areas such as basic needs, health care and education, border management, and protection and socio-economic support. Overall, some EUR 7 billion has been disbursed by September 2023.

Regarding **bilateral financial assistance**, projects under the **Instrument for Pre-accession Assistance (IPA)** for Türkiye continued to be implemented, in compliance with the political guidance of the EU Budgetary Authority. Financial assistance under the IPA III focuses on priorities linked to the fundamental pillars of the enlargement strategy and sectors of common strategic interest, mainly related to the green, connectivity and digitalisation agendas, as well as on building more resilient and more sustainable economies and societies.

Following the February 2023 earthquakes, the Commission rapidly deployed humanitarian and relief support to Türkiye. It also hosted, together with the Swedish Presidency of the Council of the EU, an International Donors' Conference for the people in Türkiye and Syria on 20 March, where it pledged EUR 1 billion for the people in Türkiye. Beyond immediate relief and humanitarian assistance, the EU will also provide longer term reconstruction assistance. Assistance will be mobilised for the benefit of the population in Türkiye affected

by the earthquakes, including refugees and their host communities, covering the areas of health, education, socioeconomic support, job creation and recovery of municipal infrastructure, notably water and sanitation.

Türkiye has expressed interest to participate in a number of **EU programmes** in the period 2021-2027 and has signed association agreements for its participation in Erasmus+, Horizon Europe, the European Solidarity Corps programme, the Customs programme, the Single Market Programme (small and medium size enterprises (SME) component) and the Digital Europe Programme. Negotiations on association agreements for the participation in other programmes continue. Türkiye participates in the European Environmental Agency, the European Monitoring Centre for Drugs and Drug Addiction and the Union Civil Protection Mechanism. The Turkey Investment Platform (TIP) under the European Fund for Sustainable Development Plus Instrument (EFSD+) will enable stronger EU support to investments through guarantee programmes in the three overarching policy priorities, namely the Green Deal, global gateways as well as jobs and growth. To facilitate progress on sustainable development in the country, Türkiye is participating as an observer in a pilot project under the Technical Support Instrument.

STATISTICAL DATA (as of 31/08/2023)
Türkiye

Basic data	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		72 561 s	79 815 s	80 811 s	82 004 bs	83 155 s	83 614 s
Total area of the country (km²)	1)	785 347 w	780 270 sw	779 972 w	779 972 w	779 972 w	779 972 w

National accounts	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million national currency)		1 167 665	3 133 704	3 758 774	4 311 733	5 048 220	7 248 789
Gross domestic product (GDP) (million euro)		584 856	760 497	658 544	678 180	626 742	689 547
GDP (euro per capita)		8 000	9 470	8 090	8 210	7 520	8 190
GDP per capita (in purchasing power standards (PPS))		13 127	19 363	19 177	18 481	18 325	20 337
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		52.7	66.0	63.3	59.0	61.0	62.7
Real GDP growth rate: change on previous year of GDP volume (%)		8.4	7.5	3.0	0.8	1.9	11.4
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		10.2	6.8	6.4	7.1	7.5	6.2
Industry (%)		21.0	23.3	24.9	24.3	25.6	29.1
Construction (%)		6.9	9.6	7.9	6.0	5.9	5.7
Services (%)		62.0 s	60.3 s	60.7 s	62.7 s	61.0 s	59.1 s
Final consumption expenditure, as a share of GDP (%)		77.6	73.0	70.9	72.4	71.9	68.4
Gross fixed capital formation, as a share of GDP (%)		24.6	29.9	29.7	25.9	27.4	28.1
Changes in inventories, as a share of GDP (%)		2.1	0.8	- 0.3	- 0.7	4.1	3.7
Exports of goods and services, relative to GDP (%)		21.2	26.0	31.2	32.5	28.7	35.3
Imports of goods and services, relative to GDP (%)		25.5	29.7	31.4	30.2	32.2	35.5
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)		69.8	112.7	114.2	113.6	115.4	135.6
Number of active enterprises (number)		2 678 787 w	3 100 412 w	3 160 371 w	3 228 421 w	3 304 088 w	3 578 931 w
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	14.1	13.3	12.9	14.7	:
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		12.8	12.1	11.5	:	:	:

People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		77.6 sw	74.2 sw	74.4 sw	73.8 sw	73.9 sw	74.0 sw
Value added by SMEs (in the non-financial business economy) (EUR million)	2)	84 181 sw	127 683 sw	106 199 sw	110 591 sw	95 660 sw	88 925 psw
Total value added (in the non-financial business economy) (EUR million)	2)	153 453 w	236 088 w	202 005 w	208 171 w	181 250 sw	178 072 psw

Inflation rate and house prices	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)		8.6 d	11.1 d	16.3 d	15.2 d	12.3 d	19.6 d
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		- 34 121.9	- 35 995.3	- 17 585.8	9 696.1	- 28 125.9	- 5 958.1
Balance of payments current account: trade balance (million euro)		- 42 605.3	- 51 370.2	- 33 861.9	- 15 027.1	- 33 199.4	- 24 845.2
Balance of payments current account: net services (million euro)		12 688.0	22 968.3	25 774.4	34 541.0	12 476.9	27 103.6
Balance of payments current account: net balance for primary income (million euro)		- 5 436.3	- 9 811.8	- 10 144.2	- 10 590.5	- 7 560.4	- 9 012.0
Balance of payments current account: net balance for secondary income (million euro)		1 231.7	2 218.4	651.9	781.2	149.4	792.9
Net balance for primary and secondary income: of which government transfers (million euro)		425.9	1 644.7	223.5	547.5	90.9	355.2
**3 year backward moving average of the current account balance relative to GDP (%)		:	- 3.8	- 3.5	- 2.0	- 1.9	- 1.3
**Five year change in share of world exports of goods and services (%)		:	6.8	5.6	8.8	- 2.0	7.4
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)	3) 4)	5 745.6 w	7 444.8 s	7 805.3 s	5 978.0 s	3 942.6 s	5 832.2 s
Foreign direct investment (FDI) abroad (million euro)	3) 4)	1 117.9 w	2 321.7	3 049.7	2 653.2	2 829.2	4 204.1
of which FDI of the reporting economy in the EU-27 countries (million euro)	3) 4)	430.1 w	713.8	1 716.7	1 266.9	1 065.9	1 748.6
Foreign direct investment (FDI) in the reporting economy (million euro)	3) 4)	6 863.5 w	9 766.5	10 855.0	8 631.2	6 771.8	10 036.3
of which FDI of the EU-27 countries in the reporting economy (million euro)	3) 4)	3 878.8 w	2 555.0	3 094.7	1 174.7	1 206.5	2 349.1
**Net international investment position, relative to GDP (%)		- 46.7 w	- 51.5 w	- 42.2 w	- 40.7 w	- 53.9 w	- 31.7 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)	5)	0.2 sw	0.1 sw	0.1 sw	0.0 sw	0.0 sw	0.0 sw

Public finance	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)		- 2.8 w	- 2.8 w	- 2.9 w	- 4.4 w	- 4.7 w	:
General government gross debt relative to GDP (%)		:	28.0 w	30.2 w	32.7 w	39.8 w	:
Total government revenues, as a percentage of GDP (%)		32.6 w	31.2 w	31.8 w	31.0 w	31.2 w	:
Total government expenditure, as a percentage of GDP (%)		35.3 w	34.0 w	34.7 w	35.4 w	35.9 w	:

Financial indicators	Note	2010	2017	2018	2019	2020	2021
Gross external debt of the whole economy, relative to GDP (%)	3)	39.7 sw	52.5 sw	54.8 sw	54.7 sw	60.4 sw	54.3 sw
Gross external debt of the whole economy, relative to total exports (%)		196.1 w	202.0 w	179.0 w	166.6 w	209.3 w	154.7 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		65 975.6 w	99 086.3 w	84 551.5 w	108 083.1 w	135 348.7 w	143 842.8 w
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		286 594.7 w	357 980.4 w	321 665.4 w	367 703.3 w	369 288.3 w	347 910.9 w
Money supply: M3 (M2 plus marketable instruments, million euro)		300 181.9 w	370 715.7 w	330 910.9 w	384 079.8 w	379 878.0 w	354 818.1 w

Total credit by monetary financial institutions to residents (consolidated) (million euro)		282 814.2	377 583.0	349 848.6	409 716.3	408 386.7	397 220.1
**Annual change in financial sector liabilities (%)		:	31.4	18.2	11.8	38.9	50.1
**Private credit flow, consolidated, relative to GDP (%)	6) 7)	12.3 w	15.0 w	- 2.9 w	4.2 w	13.0 w	7.6 w
**Private debt, consolidated, relative to GDP (%)		56	84	82	80	89	89
Interest rates: day-to-day money rate, per annum (%)		6.59	11.58	17.76	20.52	10.85	17.87
Lending interest rate (one year), per annum (%)	7)	12.56 w	18.12 w	28.96 w	15.86 w	16.25 w	22.79 w
Deposit interest rate (one year), per annum (%)	8)	8.97 w	13.53 w	22.31 w	14.56 w	13.51 w	17.85 w
Euro exchange rates: average of period (1 euro = ... national currency)		1.997	4.121	5.708	6.358	8.055	10.512
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)		153.2	75.9	55.7	49.7	40.2	30.6
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)		0.0 sw	- 0.3 sw	- 0.4 sw	- 0.5 sw	- 0.5 sw	- 0.5 sw
Value of reserve assets (including gold) (million euro)	3)	64 847.2 w	95 361.6 w	78 770.5 w	94 413.6 w	81 937.5 w	94 006.1 w

External trade in goods	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		138 720	207 000	188 337	181 038	182 328	219 224
Value of exports: all goods, all partners (million euro)		85 298	139 229	142 290	153 201	140 035	180 299
Trade balance: all goods, all partners (million euro)		- 53 422	- 67 771	- 46 047	- 27 836	- 42 293	- 38 925
Terms of trade (export price index / import price index * 100) (number)	9)	:	98.1 sw	94.4 sw	94.5 sw	98.5 sw	85.9 sw
Share of exports to EU-27 countries in value of total exports (%)		40.0 s	40.9 s	43.3 s	42.2 s	41.1 s	41.1 s
Share of imports from EU-27 countries in value of total imports (%)		36.5 s	33.6 s	32.9 s	31.6 s	33.1 s	31.1 s

Demography	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		11.8	10.8	10.1 be	9.1 be	:	:
Infant mortality rate deaths of children under one year of age (per thousand live births)		12.0	9.2	9.3	9.1	:	:
Life expectancy at birth: male (years)		74.2	75.7	76.2	76.4	:	:
Life expectancy at birth: female (years)		79.4	81.3	81.6	81.8	:	:

Labour market	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)	10) 11)	55.9	61.9	62.3	62.2	58.7	61.2 bw
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)	10) 11)	50.0	55.3	55.6	53.8	51.0	53.9 bw
Male employment rate for persons aged 20–64 (%)	10) 11)	72.7	76.1	76.0	73.2	70.1	73.6 bw
Female employment rate for persons aged 20–64 (%)	10) 11)	28.0	34.5	35.2	34.4	32.0	34.1 bw
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)	10) 11)	29.6	34.4	35.3	33.6	31.1	33.4 bw
Employment by main sectors							

Agriculture, forestry and fisheries (%)	10) 11)	23.7 s	19.4 s	18.4 s	18.1 s	17.6 s	17.2 bw
Industry (%)	10) 11)	19.9 s	19.1 s	19.7 s	19.8 s	20.5 s	21.3 bw
Construction (%)	10) 11)	6.3 s	7.4 s	6.9 s	5.5 s	5.7 s	6.2 bw
Services (%)	10) 11)	50.1 s	54.1 s	54.9 s	56.6 s	56.2 s	55.3 bw
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	11) 10)	13.5 w	13.3 w	15.4 w	16.8 w	17.7 w	16.9 bw
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	11) 10)	86.5 w	86.7 w	84.6 w	83.2 w	82.3 w	83.1 bw
Unemployment rate: proportion of the labour force that is unemployed (%)	10) 11)	10.7	10.9	10.9	13.7	13.2	12.0 bw
Male unemployment rate (%)	10) 11)	10.4	9.4	9.6	12.4	12.4	10.7 bw
Female unemployment rate (%)	10) 11)	11.4	13.9	13.8	16.5	14.9	14.8 bw
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)	10) 11)	19.7	20.5	20.2	25.2	25.1	22.6 bw
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)	10) 11)	2.8	2.4	2.4	3.2	3.3	3.7 bw
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)	10) 11)	9.2	8.9	9.1	12.3	11.8	10.4 bw
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)	10) 11)	7.0	9.4	9.8	10.6	10.0	10.0 bw

Social cohesion	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)	12)	1 142 w	2 287 w	2 509 w	2 857 w	3 501 w	3 904 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		:	:	:	:	:	:
GINI coefficient		44	43	43	42	43	43
Poverty gap		32.3	26.4	25.8	27.4	27.5	27.5
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)	11) 10)	43.1	32.5	31.0	28.7	26.7	23.0 bw

Standard of living	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		102.0	149.0	151.0	150.0	157.0	163.0
Number of mobile phone subscriptions relative to population size (number per thousand population)		837.0 w	964.0 w	977.0 w	972.0 w	982.0 w	1 019.0 w
Mobile broadband penetration (per 100 inhabitants)		9.8 w	70.5 w	74.5 w	75.0 w	78.5 w	82.7 w
Fixed broadband penetration (per 100 inhabitants)		10 w	15 w	16 w	17 w	20 w	21 w

Infrastructure	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km ²)	13) 14)	12.2 sw	13.1 s	13.2 s	13.3 s	13.3 sw	13.5 sw
Length of motorways (kilometres)		2 080	2 657	2 842	3 060	3 523	3 532

Innovation and research	Note	2010	2017	2018	2019	2020	2021
Public expenditure on education relative to GDP (%)		:	4.4	4.3	4.4	4.0	3.5 sw
*Gross domestic expenditure on R&D relative to GDP (%)		0.79	0.95	1.03	1.06	1.09	1.13
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		0.36	0.34	0.35	0.35	0.28	0.28
Percentage of households who have internet access at home (%)		41.6	80.7	83.8	88.3	90.7	92.0

Environment	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)		181.4 w	240.4 w	238.5 w	231.2 w	238.4 w	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		191.5	175.3	167.7	168.6	162.7	159.7
Electricity generated from renewable sources relative to gross electricity consumption (%)		26.5 w	29.4 w	32.2 w	43.6 w	41.9 w	35.6 w
Road share of inland freight transport (based on tonne-km) (%)		94.3 w	95.4 w	94.8 w	94.8 w	94.6 w	95.6 w

Energy	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		31 412	36 466	39 909	45 134	43 636	46 208
Primary production of crude oil (thousand TOE)		2 478	2 695	3 010	3 102	3 274	3 518
Primary production of solid fuels (thousand TOE)		16 741	15 682	16 547	17 429	15 006	17 151
Primary production of gas (thousand TOE)		562	292	351	390	363	324
Net imports of all energy products (thousand TOE)		74 712 s	116 755 s	109 980 s	105 649 s	104 983 s	115 096 s
Gross inland energy consumption (thousand TOE)		105 375	150 445	148 120	150 123	148 064	161 774
Gross electricity generation (GWh)		211 097	296 429	303 852	302 796	305 426	333 412

Agriculture	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		:	38 120.0	38 239.0	37 712.0	37 747.0	38 038.0
Livestock numbers: live bovine animals (thousand heads, end of period)		:	16 105.0 p	17 220.9 p	17 872.3	18 158.0	18 036.1
Livestock numbers: live swine (thousand heads, end of period)		:	:	:	:	:	:
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	44 312.3 s	46 117.4 s	48 481.5 s	54 112.6 s	57 519.2 s
Raw milk available on farms (thousand tonnes)		:	:	:	:	:	:
Harvested crop production: cereals (including rice) (thousand tonnes)		32 773.0	36 598.8	34 705.8	35 202.1	38 050.8	32 602.0
Harvested crop production: sugar beet (thousand tonnes)		17 942.0	21 149.0	18 900.0	18 055.0	23 026.0	18 250.0
Harvested crop production: vegetables (thousand tonnes)		:	30 826.0	29 987.0	31 041.0	31 120.0	31 691.0

Source: Eurostat and/or the statistical authorities in Türkiye

: = not available
b = break in series
d = definition differs
e = estimated value
p = provisional
s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) Area values are calculated by reference to corine classifications and adapted to LUCAS. Corine data production period is 6 years.
- 2) Data converted in EUR by Eurostat
- 3) Average of year exchange rate used to convert to euros.
- 4) Based on BPM6.
- 5) Average of year exchange rate used to convert to Turkish Lira.
- 6) Data cover debt securities and loans.
- 7) Updated values.
- 8) Average of monthly data. Overnight deposit facility.
- 9) With the January 2021 press release, foreign trade statistics according to the general trade system were used in the calculation of the indices and the base year was updated as 2015=100. Data are given as of January 2013. Since the indices based on 2015=100 are not withdrawn annually, the requested data cannot be provided. Indices are calculated with Fisher index formula and 2015=100.
- 10) *In HLFS, the series is not comparable to previous years due to the adjustments in the definition, scope and design of the survey with the year 2021.
- 11) Annual LFS results.
- 12) Source: Income and Living Conditions Survey.
- 13) Main lines only.
- 14) Main lines only.
Area values are calculated by reference to corine classifications and adapted to LUCAS. Corine data production period is 6 years.



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Kosovo* 2023 Report

Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions**

2023 Communication on EU Enlargement policy

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MT:Style_footnote reference,Superscript,Style></FMT> 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.

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1. INTRODUCTION

1.1. CONTEXT

The EU-Kosovo Stabilisation and Association Agreement has been in force since April 2016. Kosovo adopted a revised 2023-2027 national programme for EU integration. Kosovo submitted an application for EU membership in December 2022. The authorities remain committed to Kosovo's European path.

The Commission's proposal to lift the visa requirements for Kosovo citizens was agreed by the Council and the European Parliament, with adoption of the relevant regulation taking place on 9 March 2023 in the Council and on 18 April 2023 in the European Parliament. Visa liberalisation for Kosovo citizens is scheduled to enter into force on 1 January 2024.

The EU-facilitated Dialogue on normalisation of relations between Kosovo and Serbia continued in the reporting period with regular meetings on the level of Chief Negotiators and Leaders. After months of intense negotiations and with the support of key partners, the Parties reached an Agreement on the Path to Normalisation in Brussels on 27 February 2023, and agreed on its Implementation Annex in Ohrid, North Macedonia, on 18 March 2023. Both Kosovo and Serbia are yet to start implementation of their respective obligations stemming from the Agreement, which are binding for the Parties and part of their European paths.

Kosovo has continued to condemn Russia's war of aggression against Ukraine and to support Ukraine's independence, sovereignty and territorial integrity. The government has continued to adopt packages of restrictive measures against Russia and Belarus, mirroring those imposed by the EU and the US.

1.2. SUMMARY OF THE REPORT¹

The government led by *Vetëvendosje* still holds a solid majority in the Assembly and continued to push ahead with its ambitious EU reform agenda.

However, the continued lack of cross-party cooperation and disagreements within the majority proved to be a challenge to reforms. Additionally, *Srpska Lista* members of the Assembly boycotted the Assembly's work. Nevertheless, the reporting period witnessed important legislative achievements, including electoral reform.

Overall, Kosovo has remained engaged in the EU-facilitated Dialogue on the **normalisation of relations with Serbia**, but it needs to demonstrate more serious commitment, invest more efforts and make compromises to take the process of normalisation of relations with Serbia forward. Kosovo needs to uphold its Dialogue commitments and commit to the full implementation of all past Dialogue agreements and the Agreement on the Path to Normalisation and its Implementation Annex. Kosovo and Serbia are expected to engage more constructively to enable negotiations on the comprehensive legally binding normalisation Agreement to start and show flexibility in order to make rapid and concrete progress. Normalisation of relations is an essential condition on the European path of both Parties and

¹ This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of Kosovo, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law. The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

both risk losing important opportunities in the absence of progress.

The situation in the north of Kosovo has been affected by several crises of varying intensity on a number of issues, with a violent attack against Kosovo Police on 24 September 2023, constituting the gravest escalation in recent years. Huge quantities of small arms and light weapons (SALW) were found in the context of this attack². The EU expects the perpetrators to be apprehended and swiftly brought to justice and Serbia to fully cooperate and take all the necessary steps in this regard. Other crises during the reporting period were triggered by issues over the freedom of movement, in particular licence plates, following the Kosovo government's decision on 29 June 2022 to enforce the re-registration of all vehicles with Kosovo-issued licence plates. This led to the tensions in July 2022 and continued through the erection of roadblocks and the collective resignation of Kosovo Serbs from Kosovo institutions in November 2022. Following the withdrawal of Kosovo Serbs from Kosovo institutions, local by-elections were organised in the four municipalities in the north of Kosovo. Scheduled initially for December 2022 and then postponed to 23 April 2023, the mayoral and municipal by-elections were held in line with the legal framework of Kosovo and efforts were made for them to take place in a smooth and orderly manner. However, despite the milestone Agreement on the path to normalisation reached in Brussels on 27 February and its Implementation Annex agreed in Ohrid, North Macedonia, on 18 March 2023, and despite Kosovo extending the deadline for the registration of candidatures for the local by-elections, not all parties and communities made use of their democratic right to participate and vote. The very low turnout (3.47% of voters), following the boycott by the Kosovo Serb community, showed that these elections do not offer a long-term political solution for these municipalities. It remains imperative to restore a situation where Kosovo Serbs participate actively in local governance, policing and the judiciary in the north of Kosovo. Early local elections need to be held as soon as possible in all four municipalities, organised in a fully inclusive manner, and with the unconditional participation of Kosovo Serbs.

Due to the lack of decisive steps to de-escalate, and in line with the 3 June statement, the EU is implementing a number of measures vis-à-vis Kosovo, which also impact financial support. These measures are temporary and fully reversible, depending on the steps taken to de-escalate the tensions in the north of Kosovo. Kosovo has taken steps in the right direction, but more remains to be done.

On **public administration reform**, as last year's recommendations have not been sufficiently implemented. New legislation on public officials and salaries was approved by the Assembly using fast-track procedures. The law on salaries is currently under review by the Constitutional Court. The amended Law on public officials risks creating and exacerbating existing gaps in administrative capacities.

Kosovo is still at an early stage in developing a well-functioning **judicial system**. There was limited progress during the reporting period. The need remains to strengthen existing tools safeguarding the integrity, accountability, independence and efficiency of the justice system. The Minister of Justice and the heads of the main justice system institutions signed a Joint Commitment Statement and Action Plan on justice reforms. Quick follow-up is needed to achieve tangible results.

Kosovo is in between an early stage and some level of preparation in the **fight against corruption**. Limited progress was made during the reporting period, and corruption remains an issue of concern. While last year the Assembly adopted significant anti-corruption

² The EU and Western Balkan partners agreed in May 2023 to prolong beyond 2024 the Roadmap for a comprehensive small arms and light weapons control in the Western Balkans.

legislation and the legal framework on criminal confiscation is advanced, a lot remains to be done to implement the anti-corruption legislation. Despite improvement in the performance of the Agency for Prevention of Corruption, the anti-corruption preventive tools laid down in the legislation are not yet fully used. Kosovo should step up efforts to have more proactive investigations, final court decisions and final confiscation of assets.

Kosovo is at an early stage in the fight against **organised crime**. Limited progress was made on the investigation and prosecution of organised crime cases. Kosovo adopted a new police organisational structure and upgraded intelligence and analysis capacities. Law enforcement operations against organised crime continued. Despite this, the powerful tools envisaged by the Criminal Code and the Law on extended powers of confiscation are yet to be fully utilised. Fighting organised crime in the north of Kosovo continues to be challenging.

Kosovo remained active in the fight against terrorism and the fight against and prevention of violent extremism. The legal framework on anti-terrorism is partly aligned with the EU *acquis* and international standards. The Law on combating money laundering and the financing of terrorism is yet to be amended. The authorities need to be more effective in their efforts to combat money laundering.

The legal framework broadly guarantees the protection of human and **fundamental rights** in line with European standards. While the capacity to monitor implementation of policies and legislation has improved, further efforts are required to effectively enforce fundamental rights. More human and financial resources should be allocated to relevant institutions. Efforts continued to improve gender equality but Kosovo needs to further strengthen implementation of legislation.

Kosovo has a well-established legal framework for the protection of non-majority community rights. However, further action is needed on long-standing issues such as lack of equal access to education and employment, lack of language compliance, and low representation in public institutions, including for the Roma and Ashkali communities³.

Kosovo has some level of preparation as regards **freedom of expression**. Limited progress was made in addressing the recommendations of the previous report. Concerns remain regarding physical attacks and threats, public smear campaigns and hate speech. The lack of freedom of expression in the north of Kosovo is particularly concerning.

The Kosovo authorities continued to make progress in managing **migration** and have engaged with the EU on the implementation of the EU Action Plan on Western Balkans presented in December 2022 by the Commission. Accommodation capacity was increased. Steps should be undertaken to further align legislation, including the Law on foreigners, with the EU *acquis* and international standards.

As regards the **economic criteria**, Kosovo has made some progress and is between an early stage and some level of preparation of developing a functioning market economy. Kosovo's economic rebound moderated significantly in 2022. This was mainly due to decreasing investment and slowing household consumption growth on the back of high inflation, especially after the start of Russia's war of aggression against Ukraine. Despite the resilience the economy has demonstrated during the recent crises, the private sector continues to be hindered by long-standing structural challenges such as a widespread informal economy, a high prevalence of corruption and the overall weak rule of law. High revenue growth due to rising prices and increasing numbers of people in formal work, and a significant under-execution of

³ In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

public capital spending led to an almost balanced budget in 2022, while the public debt ratio also fell. Inflation surged to double digits due to rising energy, food and transport prices, leading to an increase in the current account deficit. The financial sector remained well capitalised and stable and bank lending continued to expand.

Kosovo has made limited progress and is at an early stage in terms of its capacity to cope with competitive pressure and market forces in the EU. The education system does not sufficiently teach the necessary key skills and is not adequately aligned with labour market needs. Kosovo made efforts in improving road infrastructure and increasing investment in renewables, but the coal-based, outdated and unreliable energy supply remains a concern. Kosovo made some progress on the digitalisation of the economy.

Limited progress was made during the reporting period in the areas of public procurement and financial control. On statistics, there was some progress.

As regards **good neighbourly relations and regional cooperation**, Kosovo continued to participate in most regional forums. Kosovo maintained overall good relations with Albania, Montenegro and North Macedonia. There has been no change in Kosovo's formal relations with Bosnia and Herzegovina, as the country does not recognise Kosovo's independence. Georgia, Moldova and Ukraine have no formal relations with Kosovo, as they do not recognise Kosovo's independence.

On alignment with European standards, Kosovo made some progress in **cluster 2, internal market** with regards to free movement of goods, freedom to provide services, free movement of capitals and intellectual property law. It made limited progress in the area of freedom of movement for workers, company law, competition policy, financial services and consumer and health protection.

In **cluster 3, competitiveness and inclusive growth**, Kosovo made some progress in most areas (customs, taxation, social policy and employment, education and culture), except for digital transformation and media where progress was limited.

In policy areas related to **cluster 4, the Green Agenda and sustainable connectivity**, Kosovo made some progress in the energy sector (including by adopting an energy strategy for 2022-2031). On transport, environment and climate change, it made only limited progress.

In **cluster 5, resources and agriculture**, Kosovo made limited progress on agriculture and some progress on food safety, veterinary and phytosanitary policy. On fisheries, it made no progress.

Concerning **external relations**, limited progress was made during the reporting period. Kosovo made progress with implementing the Common Regional Market action plan, notably by ratifying the three 'Berlin process agreements' on free movement and mutual recognition of qualifications. However, the government continues to block decision-making mechanisms within CEFTA due to disagreements over Kosovo's representation. Kosovo has not yet ratified the CEFTA additional protocols on trade facilitation and trade in services. Additionally, by imposing a 'temporary operational security measure' in June 2023 blocking the entry into Kosovo of Serbian goods and postal parcels, Kosovo appears not to be in compliance with its commitments under CEFTA. The measure also goes against the spirit of the Stabilisation and Association Agreement.

Overall, Kosovo needs to improve its administrative capacity and coordination across all sectors to achieve effective implementation of the EU *acquis*.

2. THE FUNDAMENTALS OF THE ACCESSION PROCESS

2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

2.1.1 Democracy

The government led by *Vetëvendosje* continued to hold a solid majority in the Assembly and to push ahead with its ambitious EU reform agenda.

Kosovo's overall political stability provided the government with an opportunity to implement EU-related reforms and to adopt overdue legislation. However, the continued lack of cross-party cooperation and disagreements within the majority proved a challenge to reforms. Despite this, the reporting period witnessed important legislative achievements. The majority agreed with the opposition to establish two *ad hoc* committees in the Assembly, including on electoral reform. Some 104 pieces of legislation had been adopted as of June 2023; many of these advanced EU integration priorities.

Opposition parties supported key EU-related laws on some occasions. However, deep disagreements between majority and opposition remain. The Assembly often failed to vote on legislative proposals due to a lack of decision-making quorum, despite the government holding a majority in the Assembly. The Assembly's committee meetings, presidency sessions and plenaries continued to suffer from frequent boycotts and lack of quorum.

Female participation at all levels of local governance and decision-making in institutions and political parties has improved, yet remains low. Kosovo should further implement the Law on Gender Equality, which calls for gender parity in public life.

Elections

Kosovo made important progress with electoral reform, as it adopted the Law on financing of political parties and the Law on general elections. The new legal framework addresses long-standing recommendations of successive EU Election Observation Missions. A new law on the Independent Media Commission still needs to be adopted. The Central Election Commission (CEC) needs to implement the new legal framework well in advance of the next general election. The CEC needs more financial and human resources to be able to carry on the additional tasks deriving from new legal framework.

Following the withdrawal of Kosovo Serbs from Kosovo institutions in November 2022, local by-elections were organised in the four municipalities in the north of Kosovo. Scheduled initially for December 2022 and then postponed to 23 April 2023, these mayoral and municipal by-elections were held in line with the legal framework of Kosovo and efforts were made for them to take place in a smooth and orderly manner. However, due to the very low turnout (3.47% of voters), in particular by Kosovo Serb citizens, these elections do not offer a long-term political solution for these municipalities. Early local elections need to be held as soon as possible in all four municipalities, organised in a fully inclusive manner, and with the unconditional participation of Kosovo Serbs.

Kosovo made important progress on addressing long-standing recommendations of successive EU Election Observation Missions (EU EOMs). The Assembly's *ad hoc* committee on electoral reform was established on 1 July 2022 and successfully completed its work on 5 April 2023. The Committee, chaired by the biggest opposition party (PDK), in cooperation with the CEC and other stakeholders, addressed most of the EU EOMs' recommendations and managed to present a consensual Law on general elections. It provides an adequate basis for the conduct of democratic elections, in line with international and regional standards. It introduces important improvements in several parts of the process, including in relation to suffrage rights,

voters' lists, registration of political parties, independence of the CEC, campaign regulations, polling and counting, electoral dispute resolution system and provides additional budget for political parties that exceed the 30% of women quota.

In parallel, the CEC updated electoral rules. However, these will need to be aligned further with the new Law on general elections. In August 2022, the Assembly adopted the new Law on political party financing, which established a new Office for Registration, Certification and Financial Control of Political Entities. In December 2022, the CEC recruited its director within the legal timelines laid down in the new law.

Following the mass resignation of Kosovo Serbs from Kosovo institutions in November 2022, local by-elections were organised in the four municipalities in the north. On 10 November 2022, the President of Kosovo set 18 December as the date for extraordinary mayoral elections in North Mitrovica, Zvecan, Leposavic and Zubin Potok, and 25 December 2022 as the date for by-elections for the Municipal Assemblies of Zvecan and Leposavic. As in December, the security situation in the north of Kosovo deteriorated and groups of Kosovo Serbs blocked CEC staff from entering the two Municipal Election Committee offices. As a result, the President postponed the elections until 23 April 2023, a decision welcomed by the EU as it advanced efforts to promote a more secure situation in the north of Kosovo.

The elections were held on 23 April in line with the legal framework of Kosovo and efforts had been made for them to take place in a smooth and orderly manner. However, despite the agreement on the Implementation Annex of the Agreement on the Path to Normalisation reached in Ohrid on 18 March 2023, and Kosovo extending the deadline for the registration of candidatures for the local by-elections, not all parties and communities made use of their democratic right to participate and only 3.47% of voters cast their ballot. Kosovo Serb political parties did not participate and *Srpska Lista* called for voters not to turn up, with the result that the Kosovo Serb community largely boycotted the elections. Out of the 45 095 voters, only 1 567 cast their ballot. While Kosovo's legislation does not stipulate a threshold for voter participation, the very low turnout, in particular among Kosovo Serbs, clearly indicates that the elections do not offer a long-term political solution for these municipalities. Early local elections need to be held as soon as possible in all four municipalities, organised in a fully inclusive manner, and with the unconditional participation of Kosovo Serbs.

Parliament

During the reporting period, the Assembly's work continued to be hampered by the lack of a decision-making quorum and limited efforts to build cross-party consensus. The Assembly was not able to adopt laws and to make necessary appointments to public bodies for long periods of time. The boycott by *Srpska Lista* MPs made adopting laws in the category of vital legislation impossible. The lack of political consensus for some of the key reforms and legislative processes continued. The Assembly needs to introduce measures and/or penalties to ensure it can perform its role. To that end, it would also need to improve its internal management, adopt an annual work plan, and introduce an electronic voting system and electronic presence recording system. In addition to its legislative function, the Assembly needs to strengthen its oversight function. On 8 June 2023, the Assembly adopted the new Law on general elections. It also achieved cross-party consensus with the swift adoption of the three Berlin Process agreements on freedom of movement. The Assembly continued using fast-track/accelerated procedures for the adoption of key legislation. The number of women MPs remains the same, although for the first time women lead more than half of the Assembly committees.

Discussions between the ruling majority and opposition in the Assembly were polarised and at

times tense. Some MPs used inflammatory language against political opponents, including stereotyping and non-sensitive gender language.

The Assembly did not reach consensus on many issues, including on energy policy, salary increases in the public sector, strikes in the education sector, security strategy and economic policy. While the Assembly remains the main forum for political dialogue between political parties and non-majority representatives, limited efforts are made to build consensus on issues of general interest. The political debate should be directed towards substantial discussions that lead to consensual and sustainable results. The lack of decision-making quorum, despite the government having a majority in the Assembly, led to a backlog of items on the agenda and parliamentary sessions dragging on for months, causing delays in adopting EU-related reforms and in making appointments. Absenteeism, late arrival and early departure from plenary sessions and committee meetings have become common practice. The new Rules of Procedure lack measures to impose, financial (or other) penalties for unjustified absence from parliamentary proceedings.

On 7 November 2022, 10 *Srpska Lista* MPs resigned from the Assembly as part of the collective withdrawal of Kosovo Serbs from Kosovo institutions. On 17 November, candidates next in line took over their mandate. Nine new *Srpska Lista* MPs, one member of the Kosovo Serb opposition Civic Initiative 'Freedom, Justice, Survival' (SPO) and two Gorani and Roma MPs attended the plenary session of 6 April 2023 in order to secure the continuation of their mandates, only to continue their boycott of plenary sessions afterwards. The lack of discipline and a loose interpretation of parliamentary responsibilities have become a growing obstacle to the functioning of the Assembly and its bodies.

During the reporting period, the Assembly adopted 104 laws, out of which 25 ratifications of international agreements. Out of the 104 adopted laws, 21 were adopted using a fast-track procedure. This included essential laws such as the Law on the 2023 budget, the Law on public officials and the Law on salaries. There were no efforts to build consensus on key pieces of legislation, and opposition parties have referred a number of them to the Constitutional Court. On 23 February 2023, the Assembly promptly adopted three international agreements reached in the Berlin Process. These enable free movement with identity cards and recognition of higher education qualifications and professional qualifications in the Western Balkans.

The Assembly did not manage to make timely appointments in most of the key independent bodies. As a result, there are several vacant posts in various institutions, and the Assembly has continued to postpone voting on appointments.

The Assembly needs to strengthen its oversight function of the executive and of independent institutions. The new Rules of Procedure include advanced reporting procedures for handling annual reports of independent institutions, but this has not resulted in the timely review of these reports. Most of the 2021 annual reports of the independent institutions were reviewed in the first months of the 2023 spring session and often without substantial debate.

The Assembly made limited efforts to address the lack of qualified staff, in particular regarding specialised legal and gender issues. It remains dependent on external experts and international donor support.

Governance

Kosovo made progress in implementing EU-related reforms: Kosovo adopted the National Programme for EU integration and continued to implement the European Reform Agenda (ERA) II action plan. In December 2022, Kosovo submitted an application for EU membership. To pursue EU-related reforms in a more efficient and sustainable way, it is essential that the

government ensures cross-party support, increases coordination across departments, and decentralises decision-making to line ministries to implement policies under their responsibility.

On 31 March 2023, the government approved the revised 2023-2027 **National Programme for EU Integration**, further endorsed by the Assembly on 15 June 2023. Kosovo continued to implement the ERA II Action Plan.

Although the interinstitutional **coordination** structures for European integration are in place, weak administrative capacity affected the EU reform agenda and integration activities. The number of key positions in the public sector functioning with staff in an acting capacity is concerning. The other challenge is the lack of a permanent inter-ministerial coordination body at expert level. This results in limited political ownership of the EU agenda in line ministries and a lack of prioritisation and sequencing of reforms. More efforts are needed to increase trust and to strengthen coordination between the political and technical levels.

As regards **local government**, disparities remain between municipalities in their performance and service delivery. With the increase of the overall budget for 2023, the general grant for municipalities expanded by 15% (EUR 100 million). However, municipalities led by mayors from opposition parties have raised concerns that the line ministries' capital investment funds are not always allocated according to objective criteria. In July 2022, the Assembly adopted the Law on the Municipal Performance Management System, an important instrument to promote competitiveness among the municipalities in delivering quality services and to incentivise transparency. Effective oversight of municipal legislative bodies over the municipal executive bodies remains a challenge. Communication and cooperation between the government and the municipalities needs improvement. On audit practices, progress was made towards more effective oversight and transparent governance. Municipalities do not sufficiently use the existing inter-municipal cooperation mechanisms.

Women's representation in senior government positions increased but remains unequal. They remain under-represented in local decision-making bodies. Affirmative measures are needed to ensure equal representation of women and men in the local executive. Three political parties (*Vetëvendosje*, PDK and LDK) have undertaken measures to increase women's participation in their parties.

Civil society

In general, civil society operates in an enabling environment. Civil society continues to actively participate in public consultations and contributes to policy-making and monitoring processes. Efforts by public authorities to involve the public in decision-making processes are welcomed and should be further increased. The government should ensure that each public consultation process fulfills the minimum standards, principles and procedures set by the relevant regulation. Efforts to increase the transparency and accountability of public funding to civil society organisations should be sustained.

An empowered civil society is a key component of any democratic system and continues to be recognised as such by public institutions. Civil society remains an important partner in the framework of Kosovo's preparation for EU accession, as it contributes to the design, implementation and monitoring of EU-related reforms, and participates in the Stabilisation and Association policy dialogue platforms. Its role in promoting social change, building trust and promoting multistakeholder cooperation is widely recognised. Civil society also plays a critical role in advocating for the rights of persons with disabilities, gender equality, and the rights of persons belonging to non-majority communities.

The Council for Government-Civil Society Cooperation has not met since 2022 (when it endorsed its new Rules of Procedure). Besides some progress on the public consultation process, there were no significant developments on implementing the 2019-2023 strategy for cooperation with civil society.

The government has made some efforts to involve civil society in decision-making. In 2022, the online platform for public consultations was upgraded with features facilitating the participation of persons with disabilities. Most legislative acts approved by the government were submitted to public consultation. Civil society organisations (CSOs), interested parties and the public engaged almost four times more often in public consultations at the central level than in 2021. At the same time, the implementation of some standards, principles and procedures specified in the Minimum Standards for Public Consultation continued to lag behind. Public consultations are generally carried out at central level, in writing and electronically through the online platform. It is recommended to increase the use of other forms of public consultation. Local administrations do not use those mechanisms sufficiently.

The implementation of the Regulation on public funding for NGOs is gradually improving. Despite being included in the legislative agenda of 2022, the amendments to the Regulation were not initiated. The online platform was upgraded with data visualisation based on providers, beneficiaries and territory of implementation, and is now linked with the Platform of Donors' Support to Civil Society. Kosovo would benefit from increased transparency and accountability on public funding for NGOs. More efforts are needed to update the CSO registry and to ensure that Kosovo's electronic system of non-governmental organisations is fully reliable.

In 2022, the government initiated the sectoral terrorist financing risk assessment process on non-profit organisations, involving civil society. This work should feed into the review of the Law on the prevention of money laundering and terrorist financing. The aim is to remove unnecessary reporting burdens on CSOs, alleviate excessive control measures on low-risk CSOs, lift limitations on cash donations, and remove barriers to access banking or financial services. The tax regime for CSOs is considered to partially meet relevant standards according to the EU's Technical Assistance to Civil Society Organisations (TACSO) 2021 baseline assessment.

The environment for volunteering needs to be improved, including by putting in place an appropriate legislative framework, aligned with international standards and by allocating financial and human resources for youth volunteering programmes.

2.1.2 Public administration reform

Kosovo has **some level of preparation** and made **no progress** with regard to public administration reform during the reporting period. Oversight of the implementation of the legislative framework for public administration reform (PAR) across line ministries is still ineffective. This is despite the adoption of a new strategic framework for both PAR and public finance management. New legislation on public officials and salaries was approved by the Assembly using fast track procedures. Both laws were sent for review to the Constitutional Court which ruled some articles of the Law on Public Officials unconstitutional. The amended Law on Public Officials risks creating and exacerbating existing gaps in administrative capacities. Some progress was made with harmonising sectoral laws with the Law on general administrative procedures and in digitalising public services. However, the overall pace of public administration reforms remained insufficient to deliver tangible results in the reporting period.

As last year's recommendations have not been sufficiently implemented, they remain broadly valid. In the coming year, Kosovo should:

- improve the functioning and accountability of the public administration, including through rationalising agencies and introducing performance management in agencies; to that end, strengthen administrative capacities, fill open vacancies regularly and in line with the principle of merit-based recruitments, and amend the new Law on public officials in line with the principles of a modern public administration;
- ensure efficient functioning of the new remuneration system by implementing the Law on organisation and functioning of the state administration and independent agencies and to finalise the processes of: (i) regulating the internal organisations of public bodies, (ii) job classification; and (iii) systematising positions at central level according to job descriptions;
- improve legal certainty, reduce the administrative burdens and increase the number of e-services in the public administration for businesses and the public.

Strategic framework for public administration reform

During the past year, Kosovo consolidated the strategic framework for PAR by adopting a new PAR strategy (2022-2027) and an action plan for its implementation. The Ministerial Council on PAR, which is the main oversight and coordination mechanism on public administration reform at political level, generally meets only once a year to approve the annual reports under the PAR strategic framework. This mechanism is ineffective in ensuring coordination among key bodies to steer the PAR process. The Ministry of Internal Affairs (MIA) leads reforms at the technical level. However, both the MIA and line ministries have limited capacities to effectively supervise, analyse data in an evidence-based manner, and manage the reform processes. The 2022 monitoring report on PAR implementation was adopted. The internet-based platform for monitoring PAR has been built and tested but is not yet functioning efficiently.

Policy development and coordination

On the **policy-making system**, the government adopted the national development strategy and -plan 2023-2029 (NDS/NDP), which sets both long-term and short-term priorities, covering activities on a three-year rolling basis. There are no clear links between the NDP/NDS and the sector strategies and their respective action plans, or with the medium-term expenditure framework. The Strategic Planning Office (SPO) is responsible for planning, monitoring, and reporting on the strategies as well as *ex ante* impact assessment. The SPO's capacities need to be further strengthened.

Kosovo has made limited progress on **gender-mainstreaming, as well as on inclusive and evidence-based policy development**. The government's Rules of Procedures are still under consultation. Procedures on regulatory impact assessments are in place; however, implementation remains weak. Public institutions should foster inclusive participation. Despite the fact that almost all primary draft laws and policy documents are regularly published on the government web portal, public consultations and public inclusion in reform agendas remains limited and should be improved. The involvement of civil society, stakeholders and the public in the government's policy and legislative development processes remains limited.

Public financial management

A new public finance management (PFM) strategy (2022-2026) was adopted in December 2022. The 2022 monitoring report on PFM was adopted in July 2023. The concept document of the new law on PFM and accountability has been approved and legislative preparatory work is ongoing. The new law should foresee a better linkage between the policy planning and budgeting process in the annual and medium-term. A first step was the integration of medium-

term policy priorities in the medium-term expenditure framework adopted in April 2023. In general, Kosovo's budget classification system for public finances remains consistent with international standards.

Fiscal risks contained in contingent liabilities, at both central and local levels, are still a weakness, and these risks are not identified in a systematic way. Kosovo needs to advance its planning and spending of capital expenditure by improving execution of multi-year **public investments through** a transparent appraisal of costs and benefits as a basis for investment decisions. Better linkage between the public investment programme and the Kosovo Financial Management Information System should be ensured, as well as further strengthening of the credibility and accuracy of medium-term budget revenue and expenditure plans. Budget systems should include objectives towards gender equality and gender-disaggregated data indicators with specific targets.

On **public procurement**, contract management and commitment controls remain weak. The government's electronic procurement platform is still not connected to the financial management information system in the Treasury. On **budget transparency**, citizen-friendly budgets and budget implementation reports are regularly published (*See chapters on public procurement, taxation, customs and financial control*).

The public service and human-resource management

The Law on public officials from 2020 provides for **merit-based recruitment, promotion and dismissal**, but has not been effectively implemented. In particular, a centralised system for merit-based recruitment for the professional category is lacking. In addition, the public sector has not managed to fill open vacancies effectively or in a timely manner, resulting in major weaknesses in administrative capacity. Extensive use of acting positions in the civil service, especially at senior managerial levels, as well as ineffective external recruitment procedures for senior management have instead undermined the quality of management in the institutions. The Law on public officials was amended at the end of 2022, introducing substantive systemic changes. The revised law was consequently suspended pending review by the Constitutional Court which found some of the provisions unconstitutional. There are other amendments, which, if implemented, would risk further weakening the administrative capacities of the civil service. Particularly the proposed introduction of fixed-term mandates at all managerial levels potentially puts the stability and professionalisation of the civil service at risk.

Women remain under-represented at senior level positions in the civil. Measures need to be adopted to increase the number of women in senior positions in line with the Law on gender equality.

The capacity of the MIA to manage the implementation of a **human-resources-management policy** throughout the public administration has not increased. The Department for the Management of Public Officials (DMPO), together with the human-resources-management units of institutions, should: (i) improve their coordination; (ii) provide regular training; (iii) promote the transfer knowledge; and (iv) disseminate/promote methodological tools. The data collection system through the internal human resource management (HRM) information system covers modules on civil servants categories, recruitment, remuneration, and promotion. However, this tool is not effectively used by the civil service to monitor HRM performance and the system needs further update and improvement. Transparency on HRM needs to be improved, although the public can have some information through a dedicated website for applications and appointments. Advancement in finalising the regulations on internal organisations for state institutions - including ministries- and alignment with the Law on

organisation and functioning of state administration and independent agencies (LOFSAIA) has been slow. This has further weakened human resource management and planning.

The Independent Oversight Board for the Civil Service is effectively exercising its mandate on ruling on appeals and monitoring the implementation of the legislation regarding the civil service. The planned amendments to the law governing the board curtail some of the Board's powers to review and decide on appeals and do not ensure compliance with all rules and principles governing the civil service.

A new Law on salaries helped to lay down a clearer and more transparent **remuneration framework** for all public employees. However, the Law is currently under review by the Constitutional Court. Some salary levels are not based on a thorough assessment of the job requirements due to delays in finalising the job classification and streamlining positions according to job categories. As a result, without the right conditions on human resource management, the new law, even if implemented, risks not to ensure a fair remuneration system.

There is no systematic approach to the **professional development** of civil servants. Training at both central and local levels largely depends on donor support. Despite practical guidelines for appraising the performance of civil servants and training delivered to DMPO and HRM units, the system for managing performance remains ineffective. A mandatory training programme stipulated by the Law on public officials for all civil servants was developed in 2022, but has still not been implemented.

Integrity in the public service remains a challenge. Some institutions still lack integrity plans, and the implementation of these plans is ineffective. The Law on conflict of interest and the Law on protection of whistle-blowers should be applied in a coherent and efficient manner throughout the public administration.

Accountability of the administration

Implementation of the LOFSAIA remains slow, with the MIA's capacity to lead and steer the implementation process still ineffective. There are no clear lines of managerial accountability and no clear delegation of powers between ministries and sub-ordinated bodies. As a result, there are many executive agencies subordinated to the Assembly or to line ministries but with no clear reporting procedures in place. The Law on rationalisation and establishment of accountability lines of independent agencies (first wave) and the Law on rationalisation and establishment of accountability lines of executive agencies (second wave) were adopted. In addition, the government has adopted a methodology for rationalising agencies, which should support the accountability and supervision of bodies subordinated to the executive. The system for managing the performance of agencies is not in place due to delayed finalisation of the organisational set-up of line ministries.

Recommendations from oversight mechanisms are still poorly implemented. The availability and provision of information and documents from public institutions remains a challenge. At present the system for gaining access to this information and these documents does not work well.

The legislative framework regulating access to administrative justice is being reviewed in line with international practices, and access to justice continued to be inefficient due to delays in processing cases by the basic court and the appeal court in Pristina. Fragmented legislation affects the liability of public authorities in cases of wrongdoing and **the right to seek compensation**.

Delivering services to businesses and the public

The programme to prevent and reduce administrative burden (2022-2027) is being implemented. A list of public services at central and local level has been drawn up together with analyses of how these services are to be digitalised. There has been some progress with the Assembly adopting an omnibus law covering the harmonisation of sector-specific laws with the Law on general administrative procedures. In addition, the government approved an action plan to further harmonise and align sector-specific laws with the Law on General Administrative Procedure.

The government's e-Kosovo portal further improved the online delivery of services to the public while including more services in the e-catalogue. However, data quality and reliability on this portal remains a challenge. The management of the technical structures for e-government is still dependent on donor support. In order to simplify and digitalise public services, efficient e-government processes and systems must be set up to ensure consistency in the design and maintenance of digital solutions, and to ensure the interoperability, safety and security of these solutions. The draft e-government strategy is not adopted yet. As the reforms in this area are general and touch on all areas of public administration, there is a need set up an inter-institutional coordination mechanism under the leadership of the Office of the Prime Minister.

2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS

2.2.1. Chapter 23: Judiciary and fundamental rights

The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is the respect for fundamental rights in law and in practice.

Kosovo is **in between an early stage and some level of preparation** to apply the EU *acquis* and European standards on the judiciary and fundamental rights. **Limited progress** was made in this area. Some improvements were observed on the functioning of the judiciary, as well as on investigation and prosecution in organised crime and high-level corruption cases. Further efforts must be made to reinforce freedom of expression.

Functioning of the judiciary

Kosovo is **at an early stage** in developing a well-functioning judicial system. During the reporting period, Kosovo made **limited progress**, despite an increase in the ratio of productive court hearings, a faster pace in scheduling court hearings, and improvements in recruitment of judges and prosecutors. The human resources situation and the organisation of the administration across the judiciary remains affected by inefficiencies. The National Centralised Criminal Records System was established and has been accessible online since December 2022, enabling the public to obtain certificates of criminal records online. The government decision lowering the salaries of judges and prosecutors and the subsequent Law on salaries raised concerns with regards to the independence of the judiciary. In March 2023, the Minister of Justice and the heads of the main justice system institutions signed a joint commitment statement on justice reforms, reflecting the most important reform issues that need to be tackled. Swift follow-up is needed to achieve tangible results. In September 2022, the government handed over the file related to integrity checks of judges and prosecutors to the Assembly, which established an *ad hoc* committee to finalise the constitutional amendments and the relevant legislation towards integrity checks of senior positions within the justice system, in line with the Venice Commission Opinion of June 2022. Kosovo should ensure that the Venice Commission is re-consulted throughout the process of finalising the draft constitutional amendments and relevant legislation related to justice reform. It is crucial that

the justice reform focuses on strengthening the existing tools to safeguard the integrity, accountability, independence and efficiency of the justice system, in line with the recommendations of the Venice Commission Opinion and relevant European standards. Kosovo should ensure that the guidance of the Venice Commission on the amendments to the Law on the Kosovo Prosecutorial Council is duly incorporated in the new law. Efforts should continue to fully use the Case Information Management System, further promote the alternative dispute resolution tools, and ensure reliable statistical data. The Commission's recommendations from last year were only partially met and therefore remain valid. In the coming year, Kosovo should in particular:

- take immediate action to implement the obligations deriving from the joint commitment statement signed by the heads of justice system institutions, with specific focus on improving the integrity, accountability and efficiency of the judiciary;
- step up efforts to reduce the backlog of cases, based on a clear action plan with audits and internal control supported by a digitalisation strategy. To that end, Kosovo should reform the court and prosecution administration, and strengthen management functions in the judiciary and prosecution to ensure efficient use of resources;
- improve the capacity of judges and prosecutors to handle cases of gender-based violence in accordance with laws, the 2022-2026 strategy against domestic violence and violence against women and the new State Protocol for the treatment of sexual violence cases.

Strategic documents

The rule of law strategy and action plan continue to be implemented at a slow pace. Nevertheless, the April 2023 annual implementation report highlighted a number of positive developments, including: the establishment of the Commercial Court; an increase in the recruitment of judges and prosecutors; the advancement of the Case Management Information System in accordance with European Commission for the Efficiency of Justice (CEPEJ) requirements; the automatic assignment of cases to judges; and the strengthening of free legal aid. In terms of risks, the report mentions the lack of prioritisation of the implementation of activities, and a lack of capacities, budget and interinstitutional cooperation.

The Kosovo Prosecutorial Council (KPC) and Kosovo Judicial Council (KJC) regularly update their **strategic plans**, setting objectives for the judicial and prosecutorial systems respectively. Both Councils adopted annual action plans. During the previous reporting period, the KJC adopted a strategic plan for the efficient solving of cases of corruption and organised crime, a communication strategy for 2022-2024, and the strategic plan for access to justice for 2022-2025. It also established a committee aimed at overseeing implementation of its strategy on corruption cases. The KPC adopted the 2022-2024 strategic plan of the prosecutorial system. The prosecutorial system requires urgent reform of its administration and management structure. Kosovo should step up its efforts to ensure proper donor coordination regarding support for the judicial and prosecutorial systems.

In March 2023, a joint commitment statement and an action plan on justice reforms was signed by the Minister of Justice, the KJC, the KPC, the Supreme Court and the acting Chief State Prosecutor. The action plan provides for a series of assessments and legislative revisions to improve the systems of performance evaluation, disciplinary sanctions, recruitments and appointments, integrity checks, status, professional development, and asset declarations. Working groups have been established to cover each of these areas.

Management bodies

The KJC and KPC are the main bodies responsible for ensuring the independence and impartiality

of the judiciary and for managing the judicial system and careers of judges and prosecutors. Their composition and appointment procedures are broadly in line with European standards.

On 23 June 2022, the Assembly adopted amendments to the Law on the Kosovo Prosecutorial Council, aiming to reduce corporatism by, for example, changing the composition of the Council itself. The Venice Commission issued two opinions on the drafts, which the Assembly addressed before adopting the amendments to the draft. A number of MPs submitted the adopted amendments to the Constitutional Court for review in July 2022. On 24 March 2023, the Constitutional Court announced a judgment declaring the amending law invalid in its entirety. The Court found that the law infringed the KPC's constitutional independence on several accounts, as well as the principles of separation of powers and control and balance among constitutional bodies. Following the judgment, the law is under revision. Kosovo should ensure that the guidance of the Venice Commission on the amendments to the KPC Law is duly incorporated.

The appointment of the Chief State Prosecutor has been pending since April 2022 and is overdue. The EU and other international actors, as well as civil society, publicly expressed disappointment over the lack of fairness, transparency and merit principles in the selection process. The lengthy proceedings have caused a state of uncertainty, which detracts from the functioning of the institutions. The Assembly must increase efforts to ensure timely appointment of Council members, as there are persistent delays. The Councils should make use of available statistics for policy analysis and development.

The mass resignations of Kosovo Serb officials from public institutions in November 2022 included the resignations of Kosovo Serb judges, prosecutors and administrative staff working in the north of Kosovo. The KJC and KPC decided to postpone any decision on such resignations, pending other developments. At the same time, both Councils arranged to ensure that cases are processed, especially those requiring urgent action. Kosovo must consistently ensure that judicial proceedings are accessible in all official languages, as required in the Constitution. Additional court translators have been recruited, and the KJC is in the process of developing a platform to centralise translations in courts. However, more efforts are necessary to address the shortage of qualified translators, also with an aim to reducing the backlog of cases. Access to judgments and decisions rendered by the Serbian courts in Kosovo between 1999 and up until the integration of Serbian judges in October 2017 remains challenging.

Independence and impartiality

The Constitution and the applicable legal framework outline the principles of **independence and impartiality**. Consistent efforts are necessary to ensure respect of these principles in practice, and to effectively shield the judicial system from undue pressure and interference. The Councils should ensure prompt reaction in all cases of alleged undue interference. The government decision of November 2022 reducing the salaries of judges and prosecutors and the Law on salaries, with a similar effect, raised concerns about the judiciary's independence.

The regulatory framework provides for the **random allocation of most cases** through a case management information system, except for the cases of the newly established Commercial Court, which are not yet included. In practice, improvement has been noted. However, a number of cases remain manually assigned, creating concerns. This happens especially when a judge is unavailable or when there is a change of court jurisdiction. Court presidents need to follow the rule that any deviation from the random allocation of cases needs to be explicitly justified and transparently documented. The timely handling of several high-profile and sensitive cases remains a challenge. This is due to recourse to long adjournments, inadequate mechanisms to avoid excessive duration of cases, lack of effective remedy when trials' duration goes beyond a reasonable time, and insufficient management of cases.

During the reporting period, three prosecutors and one judge requested close protection from the police. Following the risk assessment, only one prosecutor was granted protection.

Accountability

While **codes of ethics** for judges, prosecutors and attorneys are in place, authorities must continuously ensure their effective implementation. Professional ethics is part of the initial training programme for judges, prosecutors and support staff.

The KJC established an Advisory Committee on Judicial Ethics and adopted a regulation on disciplinary proceedings against KJC Members. Both Councils continue to conduct **disciplinary procedures** against judges and prosecutors. The Councils should ensure strict and efficient proceedings in full compliance with the applicable legislation and the necessary procedural safeguards. While efforts are being undertaken, more is needed to ensure consistent and effective application of disciplinary proceedings against judges and prosecutors. For example, the KPC and KJC's communication strategy on proceedings should be further improved, training should be reinforced and the Law on disciplinary liabilities should be amended, to enable further specialisation of the investigation bodies. During the reporting period, the KJC established an electronic database to register all complaints and requests for initiation of disciplinary investigations as required by law.

By law, judges and prosecutors are obliged to **declare their assets** and gifts received, and to report any possible **conflict of interest** to the Agency for Prevention of Corruption. In 2022, all judges and prosecutors submitted the annual asset declarations on time (*see fight against corruption*).

Following the Venice Commission's June 2022 Opinion on the Concept Document on Development of the vetting process within the justice system of Kosovo, in September 2022 the government handed over to the Assembly responsibility for leading the process and the related file. The file contains, among others, draft constitutional amendments and a draft law on integrity checks. In December 2022, the Assembly established an ad hoc committee which finalised the constitutional amendments. Representatives of *Srpska Lista* do not take part in this committee, as they continue to boycott the Assembly's work. In March, the Speaker of the Assembly submitted the constitutional amendments to the Constitutional Court for review. Kosovo should fully align with the Venice Commission recommendations, including on the need to explore further alternative measures instead of a large-scale vetting. These should include, through legislative changes, the establishment of 'verification units' within the Councils, making more active use of judges' and prosecutors' asset declarations, ensuring that proper checks are made and that irregularities in asset declarations eventually trigger meaningful disciplinary actions. Integrity checks for high-level judicial institutions (in particular the Councils) could also be established. These are examples of possible measures that could effectively strengthen independence and accountability of the judicial system through targeted legislative changes. Kosovo should continue the dialogue on the next stages of the envisaged justice reform, both with the Venice Commission (including re-consulting on any constitutional and legislative changes regarding integrity checks), and with the European Commission. Consultations with all relevant internal stakeholders should also continue. Finally, any reform aimed at improving the quality and independence of the system should include mitigating measures to prevent any deterioration of efficiency across the judicial system.

Professionalism and competence

The Councils independently organise **recruitment procedures for judges and prosecutors**, based on merit-based criteria. Successful candidates are appointed by the President of the Republic for an initial three-year term, based on the proposals of the Councils. During the reporting period, the KJC initiated the recruitment process for 84 judges, including 12 positions for the Kosovo Serb

community. The President decreed 77 judges, out of which 3 are Kosovo Serb and 2 are Bosnian. Out of the reserved positions for the Serbian community, 5 positions remain unfilled. In June 2023, the President appointed the President of the Supreme Court. The KJC recruited a significant number of legal associates to support the work in the Basic Courts and certified 1 401 judicial experts. Any initiative in this regard should be properly coordinated among the relevant institutions. During the reporting period, the KPC initiated 2 recruitment processes for new prosecutors, which resulted in 29 candidates being appointed by the President. The general process of appointment and reappointment of judges and prosecutors after their initial term of office should fully respect the constitutional principles of the independent functioning of the judiciary and prosecution system.

The Councils are required to carry out **performance evaluations** of prosecutors and judges with a permanent mandate every 3 years. Both Councils have made efforts to regulate the performance evaluation process over the years. Despite this, issues remain, including the need to improve the regulatory framework's implementation and to increase managerial accountability. Further actions are needed to address poor performance by judges and prosecutors. Both Councils must ensure rightful and objective performance evaluations based on clear criteria.

A number of cases of femicide raised questions about the role of judges and prosecutors in the handling of cases of **domestic violence and gender-based violence**. As accusations of failing to protect victims and of justice actors' lack of accountability were widespread, the Ministry of Justice proposed changes to the Criminal Code and Criminal Procedure Code. These changes, however, need to ensure proper safeguards for those suspected or convicted of committing domestic violence and gender-based violence offences. The handling, prosecution and adjudication of cases is still inappropriate. Specialised prosecutors and judges have been appointed, but human resource shortages slow prioritisation. The duration of cases from when they are committed to when a verdict is reached is still long. In addition, victims are often not represented. Judges and prosecutors need further training to understand their role and assume responsibilities. In a landmark decision, in March 2023 the Constitutional Court confirmed the failure of state institutions to protect a victim of domestic violence.

Quality of justice

The Academy of Justice is responsible for delivering initial and in-service **training** for all legal professionals. The Academy's budget is insufficient, which affects the quality of human resources management and the quality of training. The total budget allocated to training initiatives at the Academy in 2022 amounted to EUR 687 156 (the budget per inhabitant was EUR 0.39, increasing from EUR 0.30 in 2020). The law on the Academy was amended in 2022, addressing the issue of independence and supervision of the Academy. Further in-service training is needed on ethics and integrity and professional skills, in particular in management, ICT/administration and the analysis of jurisprudence/case-law. Oversight and reporting lines of the Academy should be strengthened in line with European best practices.

Overall, the level of **professionalism and competence**, especially of prosecutors, continued to be a matter of concern, despite efforts to increase the available training.

On **jurisprudence**, Kosovo made further progress on the legal obligation for all courts to publish their judgments on an accessible and searchable web portal within 60 days. While there have been improvements in the publication of judgments, timely and consistent publication will need improved audit and internal control. In addition, although the Albanian-language versions are published, not all courts respect the requirement of the Law on languages to publish them in both official languages. The KJC has approved the publication of decisions of court presidents regarding complaints against judges by members of the public, as well as publication of the regular

reports on the work of judges. The prosecution offices publish relevant information on indictments on the website of the State Prosecutor within 24 hours. The Academy of Justice maintains a database of legislation, commentaries and other legal material accessible to all judges and prosecutors.

In 2022, Kosovo had 443 full-time judge positions (155 women and 288 men), 24.4 per 100 000 inhabitants and 198 full-time prosecutor positions (82 women and 116 men), 10.9 per 100 000 inhabitants. According to the European Commission for the Efficiency of Justice (CEPEJ), the European averages are 22.2 judges and 11.8 prosecutors per 100 000 inhabitants. Kosovo still has a low percentage of **female** judges and prosecutors in comparison with most other European countries. The Commercial Court, functional as of August 2022, has now 18 appointed judges, as planned in total. In July 2022, 6 754 cases were transferred to the chambers of first instance of the Commercial Court and 1 342 cases to the chamber of second instance.

The number of **professional associates** in all Kosovo courts increased significantly in 2022, including a high number of female associates. The number of legal and administrative staff directly assisting judges and prosecutors remains a challenge in terms of efficiency and quality of staff and of human resources management. Human resources planning and management need to focus on the quality of legal and administrative staff rather than sheer numbers. A number of vacancies remain unfulfilled, as the Assembly did not approve the full request of the judiciary's budget for 2023.

The **budget approved for the judiciary** for 2022 was about EUR 48.9 million (an increase of 15.6% from 2021), equivalent to EUR 27 per inhabitant. An additional EUR 17.9 million were allocated to the probation and correctional services.

For **e-justice tools**, the Court Management Information System (CMIS) is implemented in almost all courts, including the Supreme Court, resulting in improved efficiency, accountability and transparency. In the recently established Commercial Court it is not yet in place⁴. Some courts still apply a manual registry of cases, although only for internal purposes and not as a parallel case registration system. Manual registration books are no longer allocated and will eventually be eliminated. The CMIS is planned to remain in a transition phase until May 2025, the ultimate aim being to ensure the system's optimal usage in all courts and prosecution offices. The KJC is in the process of developing an electronic file system for judges.

For the prosecution, implementing the CMIS remains a challenge. While formally all Basic Prosecution Offices are using the system, certain cases are still handled manually. Based on a decision of March 2023, the KPC introduced a new ICT/administration methodology to eliminate the manual handling of cases. Consistent use of the system should be encouraged by the management to ensure that the system is applied systematically and that the data entered is accurate. This is of particular importance in ensuring the reliability of the statistical data obtained automatically on the performance of the judiciary and prosecution (in line with CEPEJ recommendations and methodology). Administrative staff need further training to ensure consistent use and accuracy of data.

As a positive step, the National Centralised Criminal Records System (NCCR) was established and is accessible online since December 2022, enabling the public to apply and obtain certificates of criminal records online. However, the KJC and the courts need to ensure the system's sustainability, including the verification of data entered into the CMIS, so that only verified and

⁴ The CMIS is in use in the three tiers of the court system (Basic Court, Appellate Court and Supreme Court). One of the system's main features is the automatic assignment of cases to judges, based on predefined criteria approved by the Kosovo Judicial Council on 29 January 2020. The KJC amended criteria and introduced new ones, which have applied since 15 February 2023.

complete data about convictions is transferred to the NCCR. Once data quality is improved, the two IT systems will become interoperable. While the Law on NCCR is still with the Assembly, NCCR operates based on a regulation deriving from the Law on the Kosovo Judicial Council. There is a tracking mechanism for high-level corruption and organised crime cases, which currently includes 88 cases. (*See section on the fight against corruption*)

The **mediation system** is implemented by the KJC and KPC and has been operational since 2008. There is still a need for a monitoring and evaluation system to assess the overall impact of mediation services, the allocation and acceptance procedures, and the impact on the reduction of pending and backlog of cases. Both Councils have adopted internal regulations and protocols to support the mediation system, but they struggle with proper budget allocation. In 2022, the Basic Courts referred 5 887 cases to mediation and solved 2 426 cases, slightly lower than in 2021 (3 119 cases referred to mediation and 2 472 cases solved).

In 2022, the State Prosecutor and the prosecution offices solved 1 769 cases using alternative procedures, a decrease compared to 2021 (2 153). The number of licensed mediators remained the same, at 190 (67 women, 123 men), of whom 14 were from the Serb-majority municipalities. The mediation system needs strengthening; this can be achieved through full implementation of the Law on mediation and through the allocation of a sufficient budget. The Ministry of Justice has adopted two administrative instructions to improve the liberal professions system and increase the overall efficiency of the judicial system. The KJC published a protocol for referring appropriate civil cases to mediation.

Efficiency

The efficiency of the judicial system slightly improved. In 2022, the courts of first instance for civil/commercial, administrative and criminal cases received 63 229 new cases and the clearance rate was 76.06% (up from 70% in 2021). During 2022, the Supreme Court received 1 425 new cases, while the court solved 1 630 cases or 114% (99% in 2021). During 2022, the Court of Appeals received 13 075 new cases and solved 11 588 cases or 88% (71% in 2021). Out of 220 cases filed at the Constitutional Court in 2022 and 145 cases carried over from the last 2 years, the Court ruled in 184 cases. More challenging are the number of old cases (pending for over three years). At the beginning of 2022, there were 49 110 such cases, while at the end of 2022 the number stood at 58 240. As for the number of civil, commercial, administrative and other pending cases (first instance), during 2022, 144 014 cases, or 8 cases per 100 inhabitants, remained unresolved (up from 7 per 100 inhabitants in 2021). For the number of civil, commercial, administrative and other pending cases in appeal per 100 inhabitants, there were 15 050 cases during 2022, or 0.8 cases per 100 inhabitants (similar as in 2021).

In April 2023, the KJC approved a regulation for the work standards of judges, with the aim of increasing efficiency. The capacity of the judiciary and prosecution to handle cases in a timely manner remains limited, particularly in high-level corruption cases, with numerous defendants and complex evidence. Court adjournments could be avoided if the trial panels were more assertive in using the tools to sanction defendants and other parties for unjustified absences from hearings. There is, however, a continued increase in the percentage of productive court hearings (hearings held as scheduled and where progress is made towards adjudication) and an increased pace in the scheduling of court hearings.

The time taken for judgments (i.e. the average time from filing a court case to receiving a judgment) remains a cause for concern as this overall takes far too long. In 2022, the disposition time was 1 396 days for civil cases in first/second instance, and 953 days for administrative cases in first/second instance (in 2021 the figures were 1 339 and 426 days respectively). The average time for solving criminal cases in the General Department was 673 days, while for the Penal Crime

Department the average time was 740 days. For the Special Department the figure was 1 037 days.

These delays in proceedings, in combination with a preference for detention over alternative measures, have led again to cases of overly **long pre-trial detention**. During the reporting period, the Ombudsperson continued to receive complaints against courts and prosecutors over allegations of unjustifiable delays in judicial proceedings. The authorities need to consider introducing an effective judicial legal remedy to address such delays, including compensation. The authorities also need to ensure proper managerial follow-up on the deadlines, including reacting to delays with proper and timely managerial action.

To further improve the quality and efficiency of the judicial system, judges, prosecutors and support staff should make full use of the CMIS and related training. In addition, monitoring and evaluation of courts' activities and giving judicial systems adequate funding and qualified human resources need to be a priority. The revised Criminal Procedure Code, which entered into force in February 2023, addresses shortcomings in criminal proceedings that detracted from the functioning of the justice system. The Code allows online court hearings under exceptional/objective circumstances (epidemics and natural disasters) and codifies the practice allowing parties to agree on considering previous testimonies as read in the records. The **sentencing policy** on organised crime and corruption continued to be erratic. Courts are still not systematically implementing the Supreme Court's 2018 sentencing guidelines, even though the Court established a committee to monitor its implementation.

The KJC designed and developed advanced statistical reports using the CMIS. These reports include CEPEJ indicators for measuring and evaluating judges and court performance. They provide a wide range of data, including the number of pending cases, age of pending cases, number of resolved cases, length of procedures and number of sessions held per solved cases. Continuous efforts are needed to produce and analyse reliable **statistical systems** and to use the findings for management and policy-making purposes.

Domestic handling of war crime cases

The government has put forward measures to strengthen domestic institutional mechanisms dealing with war crimes. The amendments to the new Criminal Procedure Code on the applicable procedure of trial *in absentia* for war crimes are in line with Venice Commission recommendations.

Kosovo continued to implement its war crime strategy, although with limited results given the lack of resources and lack of effective international and regional cooperation. In 2022, the Kosovo Police arrested 5 individuals suspected of war crimes and initiated 19 new investigations. The number of war crime-related cases adjudicated during 2022 was 15. Out of these cases, most judgments were later either sent back for retrial or significantly modified in appeal. Significant obstacles remain in the proper adjudication of war crime cases. More broadly, concerns remain about the willingness to hold former Kosovo Liberation Army members accountable in war crimes cases.

During the reporting period, the Kosovo Police arrested five individuals suspected of war crimes. The relevant court issued a decision ordering detention on remand for all five suspects. The Special Prosecution Office of Kosovo (SPRK) started investigations against 62 people, expanded investigations against 39 and re-started investigations against 71. Seven cases were solved. Also, the SPRK indicted four individuals on war crime charges, while three were convicted based on indictments filed before 2022.

Despite the increase in assigned prosecutors (from three to four), the War Crimes Department of the Special Prosecution Office continues to struggle in processing the workload. There are over

1 000 war crimes cases pending, mainly inherited from the European Union Rule of Law Mission in Kosovo (EULEX) in 2018. There is a need for continuous training and support staff, in particular on cooperation between police and the prosecution. Mutual legal assistance between Kosovo and Serbia in war crimes cases remains difficult. Cooperation with the UN International Residual Mechanism for Criminal Tribunals in The Hague is good.

The Kosovo Specialist Chambers and Specialist Prosecutor's Office continued to investigate and prosecute violations of international law. During the reporting period, pre-trial preparations in two cases were completed and trial proceedings started, including the case against the then President of Kosovo and another case involving a former Kosovo Liberation Army member. In one other case, the Chambers found a former member guilty of torture, arbitrary detention and murder and sentenced him to 26 years of imprisonment. The verdict was appealed. It is essential that Kosovo institutions provide full cooperation with the Specialist Prosecutor's Office and Specialist Chambers, enabling them to fulfil their mandate in full independence, without any outside interference. Kosovo has put in place a fund that dispenses legal aid to the accused at the Kosovo Specialist Chambers, as well as financial support to their families, without any proof of financial needs. However, no financial support has so far been made available for victims who have been found by the Kosovo Specialist Chambers to have suffered as a result of war crimes and crimes against humanity. The Kosovo Specialist Chambers has issued a first reparation order to victims. It is therefore not clear how the victims will be compensated in the absence of funds from the accused or a fund by Kosovo for this purpose. It is key that Kosovo addresses this inequality of treatment.

The Government Commission on Recognition and Verification of the Status of Survivors of Sexual Violence during the Conflict continued its work. Since the beginning of the process in February 2018, this Commission has received 1 939 applications. Of these, 1 473 applicants had their status recognised (1 402 women and 71 men), while 283 requests were rejected (247 women and 36 men). During the reporting period, the Commission received 249 applications: 356 applicants had their status recognised (332 women and 24 men) while 50 applications were rejected (43 women and seven men). As of February 2023, the Commission could not accept new applications due to the deadline set by the law. Although the government approved the request to extend the deadline and the respective draft, as of March 2023 this is still pending approval by the Assembly. The draft law approved by the Kosovo government makes provision for extending the Commission's mandate by another 3 years despite appeals by civil society calling for an indefinite mandate. The law's timeframe still excludes those who suffered conflict-related sexual violence after 20 June 1999. The government assigned 14 April as a memorial day for survivors of sexual violence during the war as an acknowledgment of their pain and suffering.

The unresolved fate of **missing persons** who disappeared during the conflicts of the 1990s remains a key issue to be solved in the Western Balkans. The Kosovo authorities conducted 16 exhumations and officially identified 6 people in 2022. As of April 2023, there were still 1 621 missing persons as a result of the conflict.

The adoption of the **transitional justice strategy** is still pending. The Assembly adopted the law to establish an Institute for crimes committed during the war in Kosovo. This initiative has replaced the initiative on a truth and reconciliation commission. The Government Commission on Missing Persons within the Office of the Prime Minister took over the leading role in the working group to amend the Law on missing persons. Civil society remains actively engaged in truth-seeking, reconciliation and memorialisation initiatives.

In the context of the EU-facilitated Dialogue, the Parties agreed on and endorsed a joint Declaration on Missing Persons at a High-level Dialogue meeting in Brussels on 2 May 2023, committing to improving Kosovo and Serbia's joint efforts towards resolving the outstanding cases

of missing persons from the Kosovo conflict. Work is ongoing to establish the Joint Commission that will monitor the implementation of this Declaration. During the reporting period, a number of **field operations and exhumations** were carried out in Kosovo. Four of them included the participation of forensic experts from Serbia, which is a positive development. There has been no session of the ICRC-led Belgrade-Pristina Working Group on Missing Persons since April 2021, as the Kosovo delegation refuses to hold meetings until the Serbia delegation changed its head. Nonetheless, lower levels of the mechanism (sub-working group on forensic issues analytical team and one meeting on unidentified bodies) have continued to work on specific cases and sites. Both the Kosovo and Serbia delegations have shown interest in resuming excavations at the Stavalj mine complex in summer 2023. From June 2022 until March 2023, the combined efforts of EULEX and local forensic experts resulted in 34 field operations and 12 exhumations. Some 12 sets of remains were recovered, representing a minimum of 12 individuals. Eight individuals were identified, of which three were on the list of missing persons. A total of 21 individuals were handed over to the families and 74 DNA samples were sent for analysis.

Fight against corruption

Kosovo is **in between an early stage and some level of preparation** in fighting against corruption. During the reporting period, Kosovo made **limited progress**. Kosovo adopted a new regulatory framework on auditing political parties and campaign financing. A lot remains to be done to implement the recently adopted anti-corruption legislation, including the Law on the Agency for Prevention of Corruption, the Law on asset declaration and legislation on political parties and campaign financing. The legal framework on criminal confiscation is fairly advanced, including the Law on extended powers of confiscation. However, the law remains largely unimplemented and the value of finally confiscated assets remains low. The Law on the State Bureau for Verification and Confiscation of Unjustified Assets, which aims to introduce a system of non-conviction-based confiscation, is pending before the Constitutional Court. Sustained efforts are needed to have more proactive investigations, final court decisions and final confiscation of assets. Accessory punishments prohibiting the exercise of public functions or other professions, in particular for those convicted of corruption-related offences, are not sufficiently enforced. Despite improvement in the performance of the Agency for Prevention of Corruption, the anti-corruption preventive tools laid down in the legislation are not yet fully implemented, in particular the adoption of integrity plans in public institutions, legislation ‘proofing’, risk assessments, and the practical use of whistle-blower procedures in the public and private sectors. Overall, corruption remains an issue of serious concern. There is a need for a robust criminal justice response to high-level corruption cases. In this regard, the removal of the Head of the Kosovo Police Special Investigative Unit is a cause for concern, sending a negative signal about Kosovo’s commitment to fight corruption. The Commission’s recommendations from last year were only partially met, and therefore remain valid. In the coming year, Kosovo should in particular:

- further strengthen the capacity of the Agency for the Prevention of Corruption in terms of staff and expertise, to ensure it can effectively carry out its mandate; relevant institutions should adopt and implement integrity plans and whistle-blower internal procedures (including in the private sector);
- further strengthen the efficiency of the criminal confiscation regime; promote systematic use of extended and ‘regular’ confiscation by criminal prosecution and police; increase the level of specialisation/expertise in seizure and confiscation of assets; establish a confiscation fund;
- further strengthen law enforcement and prosecution as well as multidisciplinary cooperation and a target-based approach to ensure proactive investigations, and effectively

combat high-level corruption cases; systematically conduct financial investigations during the criminal investigations; ensure the security of judges and prosecutors.

Track record

Kosovo continued to make efforts on its track record of **investigations, prosecutions and convictions** in the fight against corruption. However, more political will and resources are necessary, in particular to tackle high-level corruption. These efforts should continue, and the Commission will continue to monitor development. By the end of the reporting period, the track record mechanism for visa liberalisation, established in 2015 to monitor and coordinate **high-level corruption and organised crime cases**, included 88 cases in total. By that time, there had been 75 indictments: 33 organised crime cases (involving 320 individuals) and 42 corruption cases (involving 310 individuals). Of these, 22 cases ended in convictions/partial acquittals, leading to the conviction of 22 individuals for corruption-related offences and 66 for organised crime-related offences. At present, the track record mechanism includes only the cases selected in the context of visa liberalisation benchmarks. However, in the future it is expected that the track record will cover all high-level cases relating to organised crime and corruption.

During 2022, the Agency for Prevention of Corruption handled some 619 cases under preliminary investigation for suspicion of corruption-related offences. Of these, 267 reports were submitted to prosecution and police to initiate criminal proceedings, including 4 cases delegated to other institutions (Police Inspectorate, Medical Inspectorate and Education Inspectorate). In addition, 6 cases were transferred to competent administrative bodies with a request to initiate disciplinary proceedings. 267 cases were terminated, and 65 cases are ongoing.

In 2022, 4 687 of the 4 748 officials (98.72%) obliged to submit regular annual **declarations of assets** did so on time, while 61 (or 1.28%) officials did not meet the deadline (51 officials declared after the deadline, and 11 did not declare at all). The Agency for Prevention of Corruption performed a full assets control procedure for 973 officials. The checks were mainly done through random selection, but for 41 officials based on the Agency's own information or reports by members of the public. As a result of the full control of assets, around 180 officials are being investigated for having made a false declaration or for failure to declare assets. 178 cases were referred to prosecution and police for further investigation. There were 38 court decisions in 2022, of which 37 convictions and a single acquittal. Shortcomings persist in the system for declaring and assessing the origin of property belonging to senior public officials. The Agency's staffing, IT resources and training capacities should be increased. An electronic declaration system came into operation, simplifying the declaration and submission process and increasing transparency and accuracy in monitoring and verification. Cooperation and exchange of data should be strengthened with the police, the Tax administration, the Financial Intelligence Unit, the cadastral registry and municipal authorities.

In 2022, the Agency handled 233 cases of suspicion of **conflicts of interest**. The number of requests of institutions submitted to the Agency for advice and opinion on conflicts of interest doubled from the previous year. The Agency provided advice and opinions in 129 cases. Conflict of interest was avoided in 49 cases, while 34 cases resulted in non-existence of conflict, a single case was forwarded to the competent court, and 4 cases were referred for preliminary investigation.

In 2022, the Agency handled 218 cases related to the monitoring and prevention of corruption in public procurement activities. These resulted in 211 opinions being issued, out of which 162 opinions were respected and 49 were not. Some 33 cases were submitted for preliminary

investigation, and 7 cases terminated.

Despite a fairly advanced legal framework being in place, criminal **asset confiscation** remains low. Even though the 2019 Law on extended powers of confiscation is in force, it is not being consistently applied. Local coordinators for confiscation matters were appointed in the prosecution offices. Confiscation, as a means of targeting the economic interests of criminal organisations, remains underutilised by prosecutors, who remain the weakest link in this regard. The confiscation of criminal assets should become a strategic priority in the fight against organised crime, terrorism and high-level corruption in the country.

In 2022, the value of assets frozen, sequestered and confiscated amounted to about EUR 21.4 million (EUR 14 million in 2021) while the value of final confiscated property was around EUR 670 000 (EUR 770 000 in 2021). The Agency for the Management of Sequestered and Confiscated Assets (handling more than EUR 1.5 million in various assets in 2022) continues to struggle to manage the assets in its portfolio. This is partially due to the courts not allowing the anticipated sale of assets pending proceedings and partially due to the Agency's set-up. The value of assets sold in 2022 was about EUR 36 000, which is less than in 2021 (about EUR 52 000). The government approved the concept document on the establishment of a confiscation fund, which would allocate confiscated funds in part to law enforcement, prosecution and courts, and in part to social projects.

Kosovo adopted a new regulatory framework on **auditing political parties and campaign financing**. The aim of the framework is to ensure complete reporting, timely disclosure, meaningful oversight and accountability for irregularities. The power to conduct the auditing was shifted from the Assembly to the newly established Office for Registration, Certification and Financial Control of Political Entities under the Central Election Commission (CEC). This Office has operational independence in performing monitoring and financial control of political entities. It has powers to receive financial annual reports and campaign funding reports, to hire external auditors to conduct the auditing, and to issue annual reports which form the basis for Parliament's allocation of public funds to political entities. During the reporting period, the Chairman of the CEC appointed the Director of the Office. In recent years, the Assembly has not regularly conducted audits, and the CEC applied selective sanctions, which resulted in incomplete oversight of campaign finance. There is limited awareness and compliance with campaign finance rules. Most political entities did not establish internal financial control rules, and numerous sources of income and expenditures remain unreported.

Institutional framework

Interinstitutional coordination and cooperation between preventive anti-corruption institutions and law enforcement entities are key to implementing anti-corruption legislation.

Prevention measures

The competences of the **Agency for Prevention of Corruption** include the verification and control of asset declarations and gifts, dealing with whistle-blowing and the prevention of conflicts of interest. A law reorganising the competences of the former Anti-Corruption Agency was adopted in July 2022 with a view to strengthening its mandate. Specifically, the Agency has powers to implement tools such as corruption proofing, corruption risk assessment and integrity plans in public institutions, which should be adopted without delay. The Agency also has powers to initiate administrative investigations and impose sanctions. Its performance overall reflected progress as it became more operational and conducted an increased number of inspections. The Agency also launched an awareness-raising campaign on its mandate and competences. However, it is essential to strengthen its staffing capacity and expertise, and to increase its budget in order to fully and effectively fulfil its mandate and fulfil its new powers,

including checking asset declarations and implementing the new anti-corruption prevention tools.

There is a continuous need to promote the drafting and adoption of **integrity plans in the public service** as a tool for preventing corruption and ensuring discipline, including at municipal level. Under the new law on the Agency, central administration bodies, independent agencies and municipal authorities are required to adopt integrity plans and appoint the official responsible for managing the integrity plan's preparation and implementation. This should be implemented without delay.

Law enforcement

Kosovo has functional **specialised institutions** to fight corruption, including the National Coordinator for Combating Economic Crimes within the prosecution system, the Corruption and Financial Crime Department in the Special Prosecution Office and the relevant police directorate. Law enforcement authorities would benefit from additional resources to improve their operational capacity to conduct complex investigations. Cooperation between police and prosecution must be strengthened to ensure proactive investigations and to implement a joint target-based approach to combating high-level corruption cases. Financial investigations need to be launched systematically and in parallel to the main investigation. The use of special investigative measures, when applicable, should be strengthened. Measures and mechanisms to ensure the protection of judges and prosecutors from interference and pressure should be effectively implemented.

There are concerns that the accessory punishment of prohibition from exercising public functions or other professions (as provided for in the Criminal Code and the Law on execution of criminal sanctions) is not being applied, in particular for those convicted of corruption-related offences. There are inconsistencies and a lack of standardised practice in enforcement, and staff (administrative staff, judges or prosecutors) lack willingness or understanding of the concept of accessory punishments and of their responsibilities when applying such punishments.

The Kosovo Police's Special Investigation Unit, the successor of the Special Anti-Corruption Task Force abolished in 2020, continued to operate with the same chain of command and under a temporary legal mandate. The government needs to ensure its sound legal and organisational structure and that it cooperates effectively with the Prosecution Service. The ongoing reform of the police's organisational structure should ensure that the Special Investigation Unit maintains sufficient investigation capacity to efficiently fulfil its functions. The Head of the Unit was removed from this position in order to be appointed to another post this year. This change is a cause for concern. It is essential that the integrity of ongoing investigations is preserved and that the Kosovo Police's investigative capacities on anti-corruption are independent and impartial.

Following the restructuring of the Special Prosecution Office in 2020, its capacity increased with the recruitment of prosecutors, professional associates and translators. It is essential to increase the level of specialisation and expertise on prosecuting high-level corruption and financial crimes. In 2022, the total number of indictments was 236 (147 in 2021), while the total number of sentencing decisions was 29 (122 in 2021). A new law on the Special Prosecution Office is pending before Parliament. The law clarifies the scope of jurisdiction between the Special Prosecution and the Basic Prosecution on the adjudication of the investigations and prosecution.

The special departments in the Basic Court of Pristina and the Court of Appeals, which handle all cases of the Special Prosecution Office, solved 85 cases in 2022 (42 cases by the Basic Court

and 43 by the Court of Appeals) and an additional 45 cases in 2023 (25 cases by the Basic Court and 20 cases by the Court of Appeals).

Legal framework

Owing to status-related issues, Kosovo is not party to international anti-corruption conventions such as the UN Convention against Corruption and the Council of Europe's Criminal Law Convention on Corruption. Nevertheless, Kosovo's legislation is generally aligned with these instruments and in line with relevant European standards.

In July 2022, Kosovo adopted new **anti-corruption legislation**: the new Criminal Procedure Code, the Law on the Agency for Prevention of Corruption and the Law on asset declaration. The new law on the Criminal Procedure Code aims at strengthening criminal proceedings. The anti-corruption legal framework introduces, among other novelties, the suspension of officials from duty as a preventive measure in case of obstruction of proceedings. The new Law on the Agency for Prevention of Corruption strengthens the Agency's mandate on the prevention of corruption and in the implementation of the Asset Declaration Law, the Protection of Whistle-blowers Law and the Prevention of Conflicts of Interest Law. The Agency has been given new tools to prevent corruption; these include corruption proofing, corruption risk assessments and monitoring of integrity plans in the institutions. The new Law on asset declaration adds new categories of public officials obliged to declare assets. It also includes more complete asset information and data to be declared by officials, increases the number of officials under the Agency's full control and introduces an online system for asset declarations. Effective implementation remains largely pending.

The legal framework on criminal **confiscation** remains fairly advanced. The Law on the State Bureau for Verification and Confiscation of Unjustified Assets, which aims to introduce a system of non-conviction-based confiscation, is pending before the Constitutional Court. Such an advanced system requires clear safeguards against possible misuse and abuse and should respect the principles enshrined in the Constitution and fundamental rights. Moreover, such a system should not replace or undermine the application of the existing legal framework on criminal confiscation, including the Law on extended powers of confiscation.

The legal framework on **money laundering** is still not sufficiently implemented. Although the law does not require proof of a predicate offence to retain a conviction, many prosecutors and judges continue to consider a predicate offence an essential part of money laundering offences. As a result, many stand-alone money laundering cases are dismissed either by the prosecution or by the court. The legislation on prevention of money laundering and combating terrorist financing needs to be fully harmonised with the 4th and 5th EU Directives and recommendations of the Financial Action Task Force (*See also Chapter 4 on the free movement of capital and the section on organised crime*).

The legal framework on the prevention of **conflicts of interest** is in place since 2018 but still needs to be fully implemented. The Agency for the Prevention of Corruption continues to try to identify officials holding multiple positions in breach of the law. Kosovo has no specific legislation on lobbying.

The Law on the **protection of whistle-blowers** aims to align the national framework with the EU legislation. Implementing legislation determining the procedure for receiving and handling whistle-blowing cases is in place. Strengthened whistle-blowing mechanisms and protection requirements still need to be implemented in the public and private sectors.

The Assembly adopted amendments to the **legal framework on political parties and election campaign financing** in line with the Venice Commission Opinion. These need to be

implemented promptly to ensure more accountable, transparent and enforceable party and campaign financing. One remaining element missing in the law is the requirement for interim reporting of the income and expenditure of contestants during the campaign period.

Strategic framework

The rule of law strategy and action plan include specific measures to improve the institutional framework against corruption, as well as the assets declaration system and regulations on accepting gifts. Since 2018, Kosovo has no anti-corruption strategy in force. The government established a working group to draft a strategy and action plan against corruption. The Judicial Council adopted a 2022-2025 strategic plan for the efficient resolution of cases of corruption and organised crime.

Fundamental rights

In general, the legal framework guarantees the protection of fundamental rights and is in line with European standards. During the reporting period, Kosovo adopted the Law on the Kosovo Property Comparison Verification Agency and set up a protocol for the treatment of sexual violence cases. The capacity of the authorities to monitor implementation of fundamental rights policies and legislation has improved and the rate of implementation of the Ombudsperson's recommendations increased. The Parliament adopted the Law on prevention and protection from domestic violence, violence against women and gender-based violence. Despite these positive developments, additional efforts are needed to enforce fundamental rights effectively. The government's capacity to streamline and oversee fundamental rights issues requires further improvements, including in coordinating mechanisms to protect human rights, gender equality and non-majority communities, at both central and local levels. Fundamental rights issues need to feature higher on the political agenda and consequently more human and financial resources should be allocated to relevant institutions. Kosovo must continue its efforts to ensure equal access of persons with disabilities to institutions, quality services, employment and education. More efforts should be made to implement the process of verification of university diplomas from the University in Mitrovica North and extend this process to high school diplomas, to ensure language compliance in both official languages and to ensure that the representation quota for all non-majority communities is respected in public institutions. There was no progress on implementing the Constitutional Court decision on the Dečani Monastery.

The Commission's recommendations from last year were only partially met and therefore remain valid. In the coming year, Kosovo should in particular:

- reinforce the protection of women's civil and fundamental rights by adopting the Civil Code, by implementing the Law on prevention and protection from domestic violence, and by strengthening the implementation of the Law on gender equality and the strategy on gender-based violence;
- strengthen the protection of the rights of the child by adopting all the sub-legal acts of the Law on child protection as a matter of urgency and reinforcing capacities to implement the law;
- improve implementation of legislation on the rights of non-majority communities, adopt the strategy for protection and promotion of the rights of communities, adopt the law on cultural heritage and the law on religious freedom, re-establish relations with the Serbian Orthodox Church and implement the Constitutional Court decision on the Dečani Monastery.

International human rights instruments form an integral part of Kosovo's legal framework and are directly applicable, as provided for in the Constitution. Kosovo continued to align its

legislation with these instruments and maintained its practice of ad hoc reporting. Implementing human rights legislation and overseeing and coordinating existing human rights mechanisms remain a challenge. In general, human rights issues still do not feature high enough on the government's political agenda.

The 2021-2025 programme for the protection and promotion of human rights and fundamental freedoms and its action plan are the main human rights instruments. The two main mechanisms responsible for monitoring the implementation of the programme are: (i) the Inter-Institutional Coordination Group on Human Rights led by the Deputy Prime Minister for Minority Issues and Human Rights; and (ii) the Office for Good Governance within the Office of the Prime Minister (OGG/OPM). In March 2023, the OGG/OPM issued several monitoring reports, including on the implementation of the human rights programme. Some progress in implementation was noted, with activities without progress predominantly relating to health, well-being and environmental protection. Furthermore, a human rights indicators framework was developed for the first time for each mandatory right laid down in the Constitution and in legally binding international acts.

The government's Inter-institutional Coordination Group on Human Rights held its constitutive meeting in June 2022 but met only once more in June 2023. The aims of the DPM for Minority Issues and Human Rights, the Assembly's Committee on Human Rights and the Council for Democracy and Human Rights under the Presidency, are to effectively implement and streamline human rights policies and legislation. In practice, there seems to be insufficient synergy between them. The OGG/OPM was active in trying to fulfil its broad mandate, but continuously lacks appropriate human, financial and administrative resources, while its performance remains reliant on donor support. The Assembly needs to take a more proactive role in overseeing the implementation of human rights legislation.

The Ombudsperson Institution continues to play a significant role in the **promotion and protection of human rights**. During the reporting period, an electronic system for monitoring implementation of its recommendations was established, as well as a joint team for their coordination and monitoring. The latter includes the OGG/OPM, the Ombudsperson Institution and the Gender Equality Agency. After a lengthy delay, the process to select the fifth deputy Ombudsperson from the non-majority communities was finalised in June. The Parliament also finally approved the Ombudsperson's 2021 annual report in January 2023. More systematic tabling of review of the annual reports and selection of deputies in the Assembly are needed to avoid such delays. Although the institution has progressively expanded its responsibilities, it was not provided with matching financial and human resources. Nevertheless, the Ombudsperson still enjoys broad public trust. In 2022, the Ombudsperson received 1 595 complaints, of which 672 were opened for investigation, a level comparable to the previous year. The institution issued 646 recommendations. The total rate of implementation stands at 23%, while 46% of recommendations issued in 2021 had been implemented as of the end of 2022. This denotes increased responsiveness on the part of Kosovo's institutions, which needs to be further strengthened. The institution has taken a proactive approach to addressing complaints from residents of the north of Kosovo regarding the expropriation of privately owned land.

The Kosovo authorities continue to show commitment to preventing **torture and ill-treatment**. The National Preventive Mechanism (NPM) operates under the umbrella of the Ombudsperson Institution. In 2022, the National Preventive Mechanism conducted 62 unannounced visits in places of detention, including psychiatric and social care institutions (the same number as in 2021) and published 8 reports. Overall, it addressed 38 recommendations to the authorities (against 11 in 2021); 10 were already fully or partially implemented. The

NPM enjoyed very good cooperation with the institutions visited but reported one case where it was denied access. No case of torture or mistreatment of prisoners was reported during the reporting period. There were reports of alleged ill-treatment during the arrest of four Kosovo Serbs in relation to their alleged involvement in the violent events of 29 May in Zvečan/Zvečan. The Police Inspectorate registered 14 cases of suspected ill-treatment by police officers (11 the previous year); all cases were referred to the prosecution. One police officer was arrested and suspended. The Ombudsperson received 6 complaints against officers of the Kosovo Police over excessive use of force; which led to the opening of 3 investigations.

While the **prison system** broadly complies with the UN Standard Minimum Rules for the Treatment of Prisoners and with the European Prison Rules, some challenges remain. Further efforts are needed to safeguard the rights of prisoners, especially among women and girls and non-majority groups. The Law on the Correctional Service and the Law on the execution of criminal sanctions were adopted in July 2022. Under the latter, the official for prisoners' rights within the Ministry of Justice's Office for Human Rights is tasked with monitoring their protection. A number of regulations are yet to be adopted to ensure implementation of these laws. The Institute for the Treatment of Persons (prisoners) with Special Needs was established on the premises of the Dubravë/Dubrava correctional centre. Several management posts in the Correction Service remained vacant or with an acting manager, hampering the functioning of this service. A total of 3 163 alternative measures to detention were imposed during the reporting period, about half of which for juveniles. No overcrowding of existing facilities was reported by the NPM. Efforts to improve drug treatment programmes and prison medical facilities are ongoing. The agreement for transferring prisoners from Denmark to Kosovo is pending ratification by the Assembly of Kosovo.

On **personal data protection**, the laws in force are broadly in line with the EU General Data Protection Regulation and the Law Enforcement Directive. The Information and Privacy Agency oversees the implementation of the Law on personal data protection and the Law on access to public documents. The Agency has shown itself to be independent and continued to improve its capacity. It further strengthened the legal framework by adopting regulations and guidelines on the organisation, systematisation and operational procedure for controllers and inspections. Although restrained by limited budget and human resources, the Agency is processing complaints on access to public documents and on data protection in an independent and efficient manner. During the reporting period, the Agency conducted 44 inspections on its own initiative and 51 inspections based on complaints, and issued 66 decisions on violations of the Law on personal data protection, maintaining similar standards as the previous year. It issued 8 fines. Challenges remain concerning the implementation of the Agency's decisions by public and private institutions. On **access to information**, legislation is broadly in line with EU standards. The Agency needs to step up its capacity to monitor transparency levels among public institutions. In 2022, the Agency reported that public institutions received a total of 4 481 requests for access to public documents (7 561 in 2021). Among them, 154 were rejected (95 in 2021).

On **freedom of thought, conscience and religion**, there are legal provisions, mainly in the Constitution and the Law on freedom of religion, intended to promote religious tolerance and provide for the separation of religious communities from public authorities. A new draft law on religious freedom underwent consultation and was reviewed by the Venice Commission. It is expected to address one important gap by enabling registration of religious communities as legal entities. However, while the government adopted the draft law in January 2023, it remains pending before Parliament. Relations between the government and the Serbian Orthodox Church remained poor. This year marked the seventh anniversary of the Constitutional Court

decision confirming the ownership rights of the Visoki Dečani Monastery of the Serbian Orthodox Church over a portion of land surrounding the monastery. The decision has still not been implemented and this should be done without further delay.

The Kosovo Assembly approved a working definition of antisemitism as defined by the International Holocaust Remembrance Alliance. The Jewish community does not have a synagogue. However, the construction of a Jewish Cultural Centre in Prizren began in 2022 with the support of the government. Efforts need to be made to promote Holocaust remembrance, education and research.

Freedom of expression

The media environment in Kosovo remains lively and pluralistic, and the legal framework is mostly in line with European standards. In this area, Kosovo has **some level of preparation**. **Limited progress** was made in addressing the recommendations of the previous report. Concerns remain regarding physical attacks and threats, public smear campaigns and hate speech directed against journalists. Not all threats against journalists and media are reported to the authorities, although 2022 noted a slight increase in number of reported cases. Particularly concerning is freedom of expression in the north of Kosovo, including with regard to self-censorship and the security of journalists and media professionals. There was no progress on amending the Law on the radio and television of Kosovo or on amending the Law on the Independent Media Commission to align it with the EU's Audiovisual Media Services Directive. This process needs to be transparent and inclusive, with involvement of media actors and civil society. The lack of financial self-sustainability leaves the media vulnerable to political and business interests. This is further amplified by the lack of information and data on the final beneficiary of media ownership – provisions on this are still not enshrined in law. The decision to withdraw the business licence of a major private broadcaster has raised serious concerns. The Commission's recommendations from last year were not met and therefore remain valid. In the coming year, Kosovo should in particular:

- improve the institutional cooperation and response of key institutions to attacks against journalists and other forms of undue pressure, including by enhancing the prosecutorial, judicial and law enforcement authorities' capacity to handle cases concerning the right to freedom of expression and information;
- review the Law on radio and television to ensure sustainable funding preserving its independence; review the Law on the Independent Media Commission to update its powers, including regarding audiovisual media, in line with the Audiovisual Media Services Directive;
- increase the availability of data on the audiovisual market, especially on media ownership.

Intimidation of journalists

In 2022, the Association of Journalists in Kosovo (AJK) reported 33 cases of intimidation, threats and attacks against journalists and other media professionals, an increase on the 29 cases reported in 2021. Out of these, 19 cases were classified as threats and harassment against physical persons (journalists), eight were physical attacks, and six were attacks against media, media organisations and/or journalist associations. More than half of the cases of attacks against journalists targeted women journalists. During the reporting period, the Directorate for the Investigation of Serious Crimes registered 32 cases of physical attacks against journalists,

qualifying 12 cases as intimidation, seven cases as assault, one as bodily injury, and one as arson. The Kosovo Prosecutorial Council's statistics show that 14 cases of incitement of attacks and threats against journalists are ongoing, with nine cases solved. In several instances, public officials, including high-level officials, made derogatory statements and smears and used intimidating language against journalists.

With the setting up of roadblocks and increased political tension in the north of Kosovo, a series of attacks targeting Albanian-language media professionals and journalists occurred. The AJK and journalist associations condemned the attacks and called on the Kosovo Police, KFOR and EULEX to provide security for journalists and media professionals. They also called for swift and thorough investigations. During May and June 2023, an unprecedented number of attacks against journalists and media professionals were recorded. The AJK recorded over 30 attacks, including physical assault, damage to equipment and vehicles.

During the reporting period, AJK reported one case of strategic litigation against public participation lawsuits (SLAPP) filed by a public figure against journalists. Handling of cases remains slow, and lenient sentences have been handed down in cases adjudicated. The AJK advocates for the crime case database to include reference to the profession of victims so that cases against journalists can be identified. Kosovo prosecutorial and judicial authorities undertook measures to address crimes against journalists by appointing specialised prosecutors and judges. They have set the collection of statistics and the prioritisation of these cases as an objective in the 2022-2024 strategic plan for the prosecutorial system.

Legislative environment

Kosovo's legal framework guarantees freedom of the media and freedom of expression. In general, relevant laws are in line with international standards. Kosovo ranked 61st in the 2022 World Press Freedom Index, 17 places higher than in the previous year.

No steps were taken towards adopting the draft law on the public broadcaster/ Radio Television of Kosovo (RTK) proposed in 2018. Similarly, the draft law on the Independent Media Commission, harmonised with the 2018 EU Audiovisual and Media Services Directive, is still pending before the Assembly. The Law on protection of journalists' sources is yet to be aligned with European standards. The Law on the protection of whistle-blowers aims to align with EU *acquis*, but whistle-blowing mechanisms and protection requirements still need to be strengthened and effectively implemented.

Despite improvements in the implementation of laws relevant to access to public documents, journalists still encounter some obstacles, in particular due to delays or denials of access by public institutions, including the government. Lack of language compliance by public institutions in their communication with the local media continues to be concerning, mainly for Serbian-language media. Some local media occasionally report that certain political parties and public institutions engage in discriminatory selection when inviting media to their official events. Public institutions do not consistently provide relevant and complete information in official languages. Violations of the law on official languages were noted in several other instances, such as a public media outlet's failure to air the press conference of government members in the Serbian language. The Assembly has continued to fail to provide translation into Serbian during plenary sessions.

Implementation of legislation/institutions

Implementation of existing legislation remains insufficient. During the reporting period, the Independent Media Commission (IMC) was largely dysfunctional due to the lack of quorum, including in the Media Appeals Board. The IMC Board has not been functional since March

2021, as the mandate of one of the members expired and the Assembly failed to appoint a new member until May 2023. The Press Council is effective in implementing the Press Code for online media.

Public service broadcaster

The Radio Television of Kosovo (RTK) Board is not involved in the legislative revision process for the draft law on RTK. The RTK's budget allocation remained below the legally specified amount in the Law on budget appropriations, prompting RTK to assess possibilities for participatory financing and a reorganisation of its internal structure. Civil society and opposition political parties criticised the appointment of the RTK Director of Albanian-language channels due to alleged ties with the ruling party. Additionally, the artistic community and civil society saw the signing of a contract between RTK and the Ministry of Culture, Youth and Sport as unfavourable to RTK's editorial independence.

Economic factors

The media sector in Kosovo suffers from a lack of transparency in ownership and financing and a lack of financial self-sustainability, making it vulnerable to political influence and financial pressure. The public broadcaster is financed through the public budget, while private media rely on advertising as their primary means of revenue. Government advertising on private media is no longer permitted. Media registered as NGOs continued to receive support from donors. The non-majority media in Kosovo rely on short-term projects and donor support. Lack of data on the advertising market and media ownership structures, especially for online media, remains a concern. There is lack of transparency on media market share, with some mainstream media publishing individual viewership surveys with significant discrepancies in the respective results. In June, the Kosovo Business Registration Agency suspended the business licence of Klan Kosovo, one of the main private media outlets. Such action may have a negative impact on the state of freedom of the media in Kosovo.

Internet

There is no restrictive legislation on the functioning of the media online or on freedom of expression online, and no restriction was noted during the reporting period. Kosovo should consider developing a strategy for a better internet for children, including facilitating the detection of and response to online child sexual abuse. Slight progress is noted with the approval of the Administrative Instruction that lays down measures to protect children from pornographic content and other inappropriate content. Online threats and sexual harassment against women and girls are widespread, with no prevention or redress mechanisms.

Professional organisations and working conditions

Journalists in private media continue to work on short-term contracts, or without contracts, unlike public service media journalists, who enjoy longer contracts. The lack of professional security and the relatively uncertain employment and economic situation of journalists creates conditions for abuse and restrictions. According to the AJK, although there is no indication of discriminatory contracts or salaries against women, those working in the private sector still face obstacles to enjoying their rights, including to maternity leave. Further, fewer women have access to managerial positions than men. There is no trade union representative body for journalists in the private sector, while the public broadcaster is the only media that has a trade union.

The AJK is a non-governmental organisation with the mission of promoting, encouraging and improving quality and open journalism in Kosovo, as well as improving the position of journalists in general in Kosovo society. The association contributed to the Journalists-in-

Residence in Kosovo programme, under which Kosovo offered a safe space for 20 Ukrainian journalists, most of them women. In December 2022, the programme was expanded following the government-approved decision to also host journalists from Afghanistan. Currently Kosovo is hosting 14 Ukrainian and six Afghani journalists.

Freedom of artistic expression

The freedom of artistic creativity is guaranteed by the Constitution. No limitation on any form of artistic expression was reported during the reporting period.

(See also Chapter 10 on digital transformation and media)

Freedom of assembly and association is guaranteed by the Constitution and generally respected. During the reporting period, the Law on public gathering entered into force, aiming to guarantee the right to organise and participate in public events. No case of inadequate use of force has been reported by the Police Inspectorate. Police officers received training on policing during gatherings and use of force. The LGBTIQ Pride Parade was held in June 2022 in Pristina with no recorded incidents.

Issues of **labour and trade union rights** are further covered in *Chapter 19 on social rights and employment*.

On **property rights**, in December 2022 the Assembly adopted amendments to the Law on the Kosovo Property Comparison and Verification Agency. The authorities should ensure swift implementation. Due to some shortcomings in the Kosovo property sector, including ambiguity in legislation and the inconsistent enforcement of rights, the implementation of judicial decisions (including by the Constitutional Court) remains an issue. This is the case in particular in conflict-related property cases. Prolonged court proceedings in civil cases, especially property related, remain an issue of concern.

Ownership of property by women increased. The affirmative measure that assists implementation of property legislation favouring women was extended by another year; this measure has led to an increase in the registration of women as property owners, from 1 505 registered properties in 2021 to 6 951 in 2022. Only 19.2% of properties are registered in the name of two spouses.

In 2022, institutions continued to take measures to protect the property rights of communities in vulnerable situations, displaced persons and women. The Property Comparison and Verification Agency performed 25 evictions, out of a total of 27 eviction requests. The legal remedy to demolish illegal structures was not used as there were no requests from interested parties. Out of 33 cases in mediation during 2022, 10 were completed successfully in the first quarter of 2023. In June 2023, the Agency's Director and Deputy Director were appointed by the Kosovo Assembly. Concerns remain about fraudulent property transactions and illegal transfers of ownership of properties, mainly belonging to displaced persons.

There was limited progress on the issue of more than 350 052 buildings constructed without a permit. The regularisation of large-scale informal settlements whose residents mainly belong to marginalised vulnerable communities continues to be hampered by lack of political will to address the issue. The government approved six expropriation decisions in Kosovo's northern municipalities. Kosovo Serbs raised concerns about how the expropriation procedures were conducted and their compliance with the requirements of the applicable Law on expropriation of immovable property. It is essential that the government make efforts to ensure that

expropriation activities comply with the law, that due process is followed, and that the property rights of concerned owners and interest holders are fully respected.

The Law on **protection from discrimination** is broadly in line with European and international standards but its implementation remains limited, including due to a lack of institutional capacity. This affected rights related to employment, education, access to social services and freedom of movement, among others. The uneven application of legislation on official languages continues to result in unequal access to public services, justice and employment. The Ombudsperson Institution is the equality body responsible for promoting, monitoring and supporting equal treatment without discrimination. During the reporting period, it received 164 individual complaints of alleged discrimination; 101 cases were referred for investigation. In February 2023, the Office of Legal Affairs, together with the Office of Good Governance, initiated an *ex post* evaluation of the Law on protection from discrimination. The aim is to identify institutional, legal and functional gaps related to its implementation. Additionally, the Office of Legal Affairs launched the National Platform for Protection against Discrimination for the Roma, Ashkali and Egyptian Communities, aiming to facilitate the reporting of discrimination cases. In its first year 23 cases were reported.

The collection of judicial statistics on discrimination cases is a challenge due to inappropriate identification and categorisation. During the reporting period, courts reached a verdict in several discrimination cases, including cases of discrimination based on gender and on disability. It is essential to further build legal professionals' capacities to litigate and adjudicate cases of discrimination. Implementation of the policy against sexual harassment in public administration is facing challenges due to lack of awareness among officials and the absence of complaint mechanisms. On hate crime, while the Kosovo Prosecutorial Council maintains a tracking mechanism, data collection remains insufficient. Hate speech against those in vulnerable situations, including the LGBTIQ and non-majority communities, persists, especially on social media.

With regard to cases of discrimination, hate crime or hate speech targeting persons belonging to non-majority communities, the Kosovo Police reported 12 potential inter-ethnic cases falling within the reporting period. In October 2022, a former government minister was sentenced to one year in prison for inciting ethnic hatred, discord or intolerance.

Legislation and institutional mechanisms on **gender equality** are broadly in line with international and European standards. Despite efforts to strengthen the application of these mechanisms, women continue to face discrimination in the public administration (*see public administration section*), the labour market (*see functioning of the economy*), access to finance, ownership of property (*see property section*) and treatment by the justice system (*see justice/rule of law section*).

Kosovo institutions made some efforts to place gender equality higher on their political agenda. The President organised the first Women Peace and Security Forum and set up a gender equality working group under the Council for Democracy and Human Rights to analyse the harmonisation of laws with the Law on gender equality. The government measures to improve women's economic empowerment have increased the number of women who have opened bank accounts to receive child allowances.

The Agency for Gender Equality continues to play a central role in advancing gender equality. It published the first monitoring report for the 2020-2021 action plan on gender equality with a long delay. Coordination with gender equality officers in the ministries and municipalities has improved, although their roles and responsibilities are yet to be harmonised. Capacity building on gender equality should be extended to ensure that all civil servants fulfil their

responsibilities in this regard, specifically those in managerial positions. Civil society continued to play a critical role in advancing gender equality. It contributes to the improvement of legislation, monitors policy implementation, provides services, assists victims of violence and raises awareness, reflecting the need for the authorities to further step up their engagement in these areas.

Domestic violence continues to be the most prominent form of gender-based violence in Kosovo. A police directorate for the prevention and investigation of domestic violence was established. Implementation remains insufficient despite institutional efforts, and despite the legal and institutional framework in this area being largely in line with European and international standards. Kosovo needs to prioritise implementing the Law on prevention and protection from domestic violence, violence against women and gender-based violence, including by adopting the relevant bylaws. There was limited progress on preventing and combating domestic violence, protecting and reintegrating victims and the rehabilitation of perpetrators. Reporting of domestic violence has increased, although cases are still not handled adequately (*see judiciary*). The total number of reported cases during the reporting period continued increasing (2 710 in 2022, against 2 456 in 2021). Prominent cases of rape and femicides caused public outrage.

Other forms of violence against women continued. Women in public life, including MPs, continue to be judged and stereotyped. Sexual harassment, body shaming and other verbal attacks continue, but reactions from public officials, institutions, civil society and women rights' organisations continue contributing to making sexism less acceptable. Implementation of the government's December 2020 policy against sexual harassment in public administration remains a challenge, with limited knowledge of the policy within the institutions.

The Ministry of Justice continued its efforts to give visibility to the phenomenon and to tackle institutional and legal shortcomings. The latest government action includes the proposal to amend the criminal legislation to protect victims and increase penalties for perpetrators. The position of Coordinator for Domestic Violence remains vacant since September 2022. This appointment is essential for overseeing and monitoring the 2022 strategy and action plan against domestic violence and violence against women. In December 2022, the Ministry of Justice adopted the State Protocol for handling cases of gender-based violence, which defines responsibilities for each institution. This should be swiftly implemented.

In 2023, the government increased the funds allocated to shelters for victims of domestic violence and trafficking in human beings and delivered the funds on time. Nevertheless, financial support is still inadequate. A multi-annual budget line under the Kosovo budget and funding commitments by municipalities are needed. The functioning of the municipal coordination mechanisms for domestic violence is still uneven.

On the **rights of the child**, Kosovo's legal framework is largely in line with international standards, but implementation remains limited. The Inter-ministerial Committee for Children's Rights provides advice and coordinates state policies to guarantee the rights and protection of children in all areas. The implementation of the Law on child protection is delayed. Out of the 17 pieces of implementing legislation planned, only 6 were published in the Official Gazette. As per the administrative instructions deriving from the law, the Council for Children's Rights was established, making it the highest professional mechanism at central level coordinating work on implementing the law. Child rights teams have been established in 14 municipalities. The systematic collection of reliable and comparable data disaggregated by age and sex will contribute to the development of evidence-based policy priorities and ensure effective protection of children.

The Ombudsperson Institution continued to strengthen its child protection department; to that end it finalised a programme on reporting, protecting and monitoring children's rights. During the reporting period, the Ombudsperson received 80 complaints, out of which 20 were assessed as inadmissible and 60 complaints were referred for investigation. The following legislation should be adopted: (i) the Civil Code, which includes among its aims the regulation of legal concepts and the clarification of provisions on the treatment of children in highly vulnerable situations; and (ii) the draft law on local government finances, which has a specific grant for social services that will allow for better implementation of the Law on child protection.

Children with disabilities lack proper access to education. In a significant effort to address this challenge, 100 assistants for children with special needs in regular schools and three sign language interpreters were hired during the reporting period. Eighty directors of vocational secondary schools, 25 teachers of vocational schools, and 18 teachers of primary and lower secondary schools were trained on inclusive education. Authorities should also make more efforts to reach out to children with disabilities that remain outside the education system and scale up community-based social and health services for children with disabilities, including by increasing financial support.

No steps were taken to adopt the Civil Code, which would enable support to persons in foster care up to 26 years of age, instead of 18. There remains a lack of quality services and dedicated programmes for the prevention and reintegration of children with drug problems. Official data is incomplete. Services for treatment of children using drugs in the public health system are non-existent. The new Law on early childhood education remains pending. Over the years, the authorities have failed to address problems related to street children, including child begging. Child, early and forced marriages remain an issue, particularly among Roma and Ashkali communities. While the Law on child protection aims to prevent physical violence against children, it remains a concern in society. Furthermore, there are no foster families established to provide care for children in conflict with the law, despite legal provisions in place to address this. A comprehensive strategy for child protection is necessary to accelerate de-institutionalisation and the transition towards quality, family- and community-based care services, including with an adequate focus on preparing children to leave care. While the Law on child protection aims to prevent physical violence against children, this remains a concern in society.

Persons with disabilities lack access to healthcare, rehabilitation, social services, education and assistive equipment and physical infrastructure. There remains a clear gap in harmonising legislation and policies with the relevant UN Conventions and the EU *acquis* on the rights of persons with disabilities. The Administrative Instruction for access by persons with disabilities is in force but not being applied. Direct discrimination against persons with disabilities was confirmed through a court judgment. Five persons with disabilities filed lawsuits against various institutions in Kosovo based on the Law on protection from discrimination. In 2022, the Pristina Basic Court decision confirmed discrimination in one case. Overall, health services for persons with disabilities need to improve, including for women and girls with disabilities. The employment of persons with disabilities remains a great challenge. Implementation of the Law on the status and rights of persons with disabilities is a challenge, while the new draft law remains pending. Civil society has expressed concerns about the medical evaluation commission for the status and rights of paraplegic and tetraplegic persons. The government declared 2022 as the year of persons with disabilities. In this context, it launched several initiatives to increase accessibility to central and local institutions and to legal and administrative documents. The government also issued a report on the progress of the action plan for the rights of persons with disabilities. In December 2022, the government asked the

Assembly to incorporate the Convention on the Rights of Persons with Disabilities into the directly applicable human rights instrument of the Constitution.

On the **rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ)** persons, the Constitution protects against discrimination based on sexual orientation or gender. No significant change can be reported regarding public awareness and acceptance of LGBTIQ persons. The draft Civil Code, which includes provisions for civil partnerships for same-sex partners, has still not been approved by the Assembly. There remain concerns that discussions surrounding same-sex unions instigate homophobic language by public figures, political figures and media outlets. The 2019-May 2022 working plan of the Advisory and Coordinating Group for Community Rights LGBTI has expired. Civil society reports a lack of improvement in attitudes towards LGBTIQ persons. Dedicated social services are exclusively offered by NGOs, which report an increased suicide rate among LGBTIQ persons and an increase in domestic violence cases. There was no progress on the planned building of a shelter for LGBTIQ victims of domestic violence or family rejection in the municipality of Pristina. As for legal gender recognition, the process of amending the Law on civil status remains pending. Further training for law enforcement agents is needed, especially on transgender rights, qualification of hate crimes and secondary victimisation.

The **procedural rights** of persons suspected of crime and rights of victims of crime are stipulated in the Constitution and the law. Amendments to the Criminal Procedure Code entered into force in February 2023, addressing shortcomings in criminal procedure. The reforms include a stricter test for the Court of Appeals in returning cases for retrial; permission for trials *in absentia* in relation to all types of criminal offences; and expansion of the *ex officio* appointment system. The effect of these reforms will depend on their interpretation and implementation. Some of the remaining issues of concern are delayed and excessively prolonged court proceedings jeopardising the right to a fair trial, including for cases of domestic and gender-based violence; lack of professional interpreters/translators and low-quality standards of interpretation; excessive use of pre-trial detention and insufficient consideration of other measures for securing the presence of defendants. On victims' rights, there remains insufficient provision of legal information to victims of crimes on their rights and on professional assistance and representation during criminal proceedings. Despite the extension of free legal aid to all women victims of gender-based violence, very few are represented in court proceedings. The level of legal aid (for both victims and suspects/accused), although improved, remains inadequate due to conflicting legislation, lack of public awareness and different systems for providing free legal aid. The budget allocated for legal aid in 2022 was EUR 1 877 134, up 9.4% on the previous year. However, the budget implemented in 2022 was EUR 1 692 393, similar to 2021 (EUR 1 686 056). The lack of a system of quality assurance of free legal aid remains an issue. Out of 1 595 complaints received by the Ombudsperson in 2022, 472 concerned the right to a fair trial within a reasonable time. Protection and assistance officers need to provide a better- quality service to victims. The number of requests for a compensation programme for victims of crime was the same as in 2021. In 2022, the total number of requests for compensation was 53, with one carried over from 2021. The Committee for Crime Victims Compensation approved 27 of these requests, for a total value of EUR 99 106. A positive development to be highlighted is the increase of the 2023 budget to EUR 148 000, up from EUR 78 000 in 2022.

Kosovo has a well-established legal framework for the protection of **non-majority community rights** at the central and local level. The Communities Consultative Council in the President's Office, the Office of the Language Commissioner and the Adviser on Communities to the Prime Minister continued their work to address their most urgent concerns. These include

equal access to education, employment, lack of language compliance, their representation in local and central level institutions, the promotion of cultural identity and access to social welfare. As of November 2022, the Communities Consultative Council has new members appointed for the next two-year term: the government appointed three members to the Council, which is a positive step. During the reporting period, representatives from the central institutions conducted a series of visits to non-majority communities, focusing on outreach to civil society and the business sector. At the same time, challenges remain over institutional coordination between different levels of government and the lasting underfunding of mechanisms to protect the rights of communities. Initiatives aimed at addressing concrete problems lack political commitment and are mostly donor-driven. Furthermore, security concerns, unequal access to education, employment and social welfare, access to illegally occupied property and non-compliance with the Law on languages remain widely unaddressed. Further efforts are needed to ensure inclusiveness for all communities residing in Kosovo.

The 2023-2027 strategy for the protection and promotion of the rights of communities and their members is pending. Furthermore, the appointment of a new Kosovo Serb Minister for Communities and Return on 1 December 2022 raised questions regarding its compliance with the Constitution. If the appointee is not an elected member of the Assembly, the Constitution requires formal endorsement by a majority of Kosovo Serb MPs.

Steps have been taken to appoint a new director of the Office for Community Affairs within the Office of the Prime Minister; despite this, the post has been vacant since February 2021. For the first time since 2019, in May the government reconvened the Technical Working Group for the implementation of the recommendations of the Council of Europe's Framework Convention on National Minorities.

Kosovo institutions still lack the capacity to ensure adequate implementation of the Law on the use of languages. The lack of translation of official websites of central and local level institutions in both official languages hinders equal access to information. Inconsistency between Albanian and Serbian translations of legislation and the limited number of translators, including in courts, limits equal access to justice for members of non-majority communities. The working group, composed of representatives of the Office of the Prime Minister as well as international partners, was put in place to lead the preparatory work to set up a unit for translation, harmonisation and linguistic control. As of the end of May 2023, the working group had held three meetings.

The Balkan Studies programme of the Philology Faculty of the University of Pristina is the only educational programme offered by the Kosovo educational system in both official languages. The programme lacks concrete support and promotion from the Kosovo institutions to address its rather low enrolment rates (below 15 students).

Discontinuation in 2021 of the work of the Commission verifying university diplomas obtained from the (Serbia-run) University in Mitrovica North continued to affect graduates from this university and hinder their access to employment. Additionally, the lack of recognition of high school diplomas obtained from the Serbia-run educational system, combined with limited access to employment and a poor economic situation, exacerbates the migration of young people from non-majority communities out of Kosovo. In February 2023, the government of Kosovo issued a decision to re-establish the Commission, which by mid-May held eight procedural meetings. By 21 June, the Ministry of Education, Science, Technology and Innovation had received 44 applications, out of which none had been verified yet.

Inter-ethnic and potentially ethnically motivated security incidents continue to negatively impact the perception of security and safety among non-majority communities. Although the

number of potentially ethnically motivated incidents affecting non-majority communities in 2022 continued its long-term downward trend, the perception of security among some non-majority communities has deteriorated, especially in the Kosovo Serb community.

Overall, relations between the government and the **Kosovo Serb community** have deteriorated significantly. Following a series of crises, Kosovo Serbs resigned from their positions in Kosovo institutions in November 2022 and subsequently many of them signed employment contracts with the Serbian government. Kosovo and Serbia should prioritise enabling the expedient return of Kosovo Serbs to institutions in Kosovo. Furthermore Kosovo should engage additional efforts to build trust with this community. Expropriations of privately-owned land in the north of Kosovo and the increased presence of special police units in the north have created widespread discontent among the local Kosovo Serb population, negatively affected the confidence of the Kosovo Serb population in Kosovo institutions and negatively affected the Dialogue.

In 2022, the voluntary return and reintegration of **refugees and displaced persons** continued to witness a decreasing trend. According to the United Nations High Commissioner for Refugees, 204 individuals returned, compared to 368 in 2021. Some progress was achieved, with the Ministry for Communities and Return finalising and putting into operation a returns case management system consisting of a returns database and an appeals commission.

In 2022, Kosovo adopted the 2022-2026 strategy for the advancement of the rights of the **Roma and Ashkali** communities and the 2022-2024 action plan. The Municipal Assembly in Prizren unanimously voted in favour of granting the Romani language the status of language in official use at municipal level, meaning that Romani is a language in official use at municipal level in two municipalities in Kosovo. Furthermore, the Office for Good Governance within the Office of the Prime Minister, in cooperation with the Social Justice for Roma, Ashkali and Egyptian project, launched the National Platform for Protection against Discrimination for the Roma, Ashkali and Egyptian Communities, which members of this community can use to denounce acts of discrimination. However, the Anti-discrimination law remains largely ineffective in combating anti-gypsyism. The housing situation remains a challenge due to poor living conditions and lack of property documents. Municipalities in Kosovo have made progress in including settlements whose residents mainly belong to marginalised communities in their urban development plans. However, more political will is required to increase the level of investment and infrastructure building in these settlements. Further efforts are needed to transform undeclared work among Roma to implement the Poznan Declaration's objective on employment. The government created an inter-institutional team to promote the employment of Roma, Ashkali and Egyptians, led by the Office of Good Governance.

On **cultural rights**, there have been no developments concerning the adoption of the new Law on cultural heritage. Relations between the government and the Serbian Orthodox Church witnessed a further souring following the incident on 26 December 2022 when the Patriarch was denied entry to Kosovo. The mutual distrust and compounding factors due to political tensions between Kosovo and Serbia have not provided an enabling environment for the Implementation and Monitoring Council to resume its work, which has been suspended since November 2021. Furthermore, there has been no implementation of the 'arrangement' previously agreed in order to find a solution to the roadworks in the special protective zone of the Visoki Dečani Monastery. Efforts towards reconvening the Implementation and Monitoring Council should be taken as a matter of priority. Kosovo should complete legislation in the field of cultural heritage by finalising and adopting the relevant Law on cultural heritage.

2.2.2 Chapter 24: Justice, freedom and security

Kosovo is **in between an early stage and some level of preparation** in this area. **Limited progress** was made. Previous improvements in the legislation on the fight against organised crime have not yet delivered tangible results. Sustained efforts are needed to ensure more proactive investigations, final court decisions and the final confiscation of assets. Kosovo advanced in the area of counter-terrorism and prevention of violent extremism with progress in the implementation of the bilateral arrangement on counter terrorism with the European Commission. Progress was also made on migration management as accommodation capacity for migrants increased. Kosovo has spare capacity to accommodate a migration influx of up to 2 000 people. With regards to its asylum policy, Kosovo should ensure that refugees are included in social protection schemes. Kosovo should roll out an information campaign on rights and obligations linked to the visa free travel status, to prevent possible misuse. In the area of drugs, Kosovo is yet to adopt a new drug strategy and action plan, to take the necessary steps to ensure the operational capacity of its National drug observatory and to establish an early warning system. As last year's recommendations are only partly implemented, they remain valid. In the coming year, Kosovo should in particular:

- continue to reinforce the capacity of the Special Prosecution Office and further improve the investigation and prosecution of high-profile organised crime cases;
- establish a National Centre for Countering Terrorism and Violent Extremism, or reinforce the Office of the National Coordinator for CT/CVE with adequate financial and human resources and ensure the regular practice of conducting joint threat assessments;
- implement the EU Action Plan on the Western Balkans by: further improving migration governance, coordination and monitoring of policies; reinforcing capacities for data collection and analysis; further strengthening the asylum system; amending the Law on foreigners in line with EU standards.

Fight against organised crime

Kosovo is at **an early stage** in the fight against organised crime, and made **limited progress** in investigating and prosecuting organised crime cases. Kosovo should make better use of the existing powerful tools envisaged by the Criminal Code and the Law on extended powers of confiscation. Law enforcement operations against organised crime continued; nevertheless, efforts to map and target organised criminal structures should be further intensified. Sustained efforts are needed to ensure proactive investigations, final court decisions and the final confiscation of assets. The operational independence of law enforcement agencies must be ensured. Fighting organised crime in the north of Kosovo continues to be challenging, including because of the resignation of Kosovo Serb officials from public institutions in 2022. In addressing this, the authorities must continue to strictly uphold all relevant rule of law standards.

Kosovo has partly implemented the 2022 recommendations, mostly regarding training and awareness raising on new legislation. It adopted a new police organisational structure and upgraded intelligence and analysis capacity. Cooperation with Europol and Eurojust further advanced. The new Law on implementation of targeted international financial sanctions should be an effective tool in combating organised crime. In addition to recommendations on confiscation of criminal assets (see section on fight against corruption), in the coming year, Kosovo should:

- effectively implement the new police organisational structure, and continue implementing intelligence-led and community policing approaches as core police business models;
- proactively and jointly target and map organised criminal groups and continue to systematically conduct financial investigations at all stages of the criminal investigations

into all serious, organised crime and corruption cases and initiate stand-alone investigations for money laundering;

→ enhance efforts to prevent and combat criminal networks involved in migrant smuggling and trafficking in human beings, as well as on the identification and referral of victims to assistance services; ensure financial sustainability of shelters and assistance for victims of trafficking.

Institutional set-up and legal alignment

The Kosovo Police has 437 police officers per 100 000 inhabitants, compared with an EU average of 335.3 per 100 000 inhabitants (Eurostat, 2019-2021); 85% of officers are men and 15% are women. A total of 446 cadets, including 53 women, graduated from the Kosovo Academy for Public Safety. During the reporting period, 578 Kosovo Serb officers from the north of Kosovo resigned from the Kosovo Police following the decision of Kosovo Serb political representatives to abandon Kosovo institutions in four northern municipalities. This created a security vacuum and conditions favourable for organised crime in the north of Kosovo. To address the situation, the Kosovo Police temporarily relocated Kosovo Albanian officers from South Mitrovica to occupy vacant positions. In addition, the Kosovo Police launched two separate calls to recruit non-majority officers at the North Mitrovica Regional Police Directorate. In the first recruitment process, out of 145 (116 males and 29 females) received applications, 73 (57 male and 16 female) non-majority candidates were enrolled, including 43 Kosovo Serbs (36 male and 7 female). In the second recruitment process, which closed on 30 May 2023, out of 205 applications received (167 males and 38 females), 87 (69 males and 18 females) were from Kosovo Serbs. The police's composition needs to reflect the four municipalities' ethnic composition. The resignation of several newly deployed police cadets from non-majority communities following intimidation is of concern.

The Special Prosecution Office, the Special Department of the Basic Court and the Court of Appeals in Pristina are the key institutions involved in the fight against organised crime. Some 15 additional support staff were hired in the Special Prosecution Office in 2022. The increase in staff has thus far not had a significant impact on the investigation and prosecution of high-profile organised crime cases.

In March 2023, the Prime Minister appointed the new General Director of the Kosovo Police, following a transparent and competitive recruitment process. In the same month, the Minister for Internal Affairs and the General Director of the Kosovo Police approved a new organisational structure for the police and established a working group to oversee implementation of the new structure. In order to appoint qualified officers, the process needs to be transparent, impartial and meritocratic, and requires commitment from the police's management. The new police structure is organised around three main pillars: operations, investigations and border police, and promotes two key concepts: community policing and intelligence-led policing. The police's Investigation Department, responsible for preventing, detecting and investigating organised crime and corruption-related offences, has also been restructured. The Intelligence and Analysis Directorate has become a stand-alone department, with separate offices. In addition, the Crime Investigation Division includes directorates for cybercrime and war crimes.

Working groups continued monitoring the implementation of police strategic documents, including the 2021-2025 strategic development plan, the integrated intelligence-led policing approach, the community policing strategy and the action plan 2021-2025. In July 2023, the second Strategic Level Tasking and Coordination Group drafted new priorities based on an annual strategic crime assessment report. The Ministry of Internal Affairs should take into account the findings of the police risk assessment analysis of the government buildings and accordingly

refrain from utilising police officers for tasks that are not core police service tasks.

The Kosovo Border Police, Kosovo Customs administration, Financial Intelligence Unit and Tax administration remain responsible for monitoring and controlling the internal and cross-border/boundary flow of goods, materials and capital that might be involved in any form of organised crime. The Kosovo Customs administration and the Financial Intelligence Unit continued to perform well. The Asset Recovery Office (the 'Unit for Asset Investigations' under the new police organisational structure), which remains operational, continued to receive limited requests for asset recovery. The authorities should support and accelerate the transfer of the Asset Recovery Office to the State Prosecution Office, and assign dedicated staff from the Prosecution Service, the police, the Financial Intelligence Unit and the Customs and Tax administrations. The Police Information System is advanced and linked to other law enforcement databases. Implementing legislation regulates access levels to the Police Information System and ensures full harmonisation between the various databases.

The process of internal reorganisation of the Civil Registration Agency continued to stall during the reporting period. There were delays in the revision of the Law of the Civil Registration Agency, which remains pending. The Agency functions without a strategic plan to guide its vision for development and modernisation, or to align with the public administration reform process. For over 2 years now, an acting General Director leads the Civil Registration Agency. The National Audit Office found that the Civil Registration Agency has still not put in place an IT governance risk and compliance framework to ensure continuity in the operation of its information systems. Current systems do not sufficiently guarantee data confidentiality, integrity and availability. Due to supply chain issues, for over 4 months in the second half of 2022 personal documents/passports could be issued only in emergency cases. Urgent steps need to be taken to ensure continuous provision of essential services to citizens.

The **main strategic framework**, the rule of law sector strategy, consists of the Kosovo Judicial Council's strategic plan for the efficient solving of cases of corruption and organised crime, and other relevant strategies on arms control, the informal economy, money laundering and terrorist financing, counterterrorism, trafficking in human beings, and cybersecurity. All relevant institutions must cooperate to implement these strategic documents effectively. The 2018-2022 strategies and action plans against narcotics and organised crime in Kosovo have expired. The authorities should assess the implementation of the previous expired strategies and adopt strategic documents and their respective action plans for the following period. In addition to the annual strategic crime assessment report, Kosovo police prepares a serious and organised crime assessment report every 3 years.

The **legal framework** on the fight against organised crime is broadly aligned with the EU *acquis*. For status-related reasons, Kosovo is not party to international conventions on the fight against organised crime, such as the UN Convention on Transnational and Organised Crime (the Palermo convention), but still applies these international principles in its **criminal legislation**.

The Law on **money laundering and terrorism financing** should be amended to bring it fully in line with the 4th and 5th EU Directives on anti-money laundering and countering financing of terrorism and with evolving international standards. The government should review the legislation to ensure its full compliance with these directives and the Financial Action Task Force (FATF) recommendations. The Assembly adopted the Law on implementation of targeted international financial sanctions. Kosovo made progress in strengthening its asset recovery regime, having adopted a concept document on establishing a confiscation fund. In 2022, the Assembly adopted the Law on the State Bureau for Verification and Confiscation of Unjustified Assets, introducing the concept of illicit enrichment into the domestic legal system and providing the basis for establishing the Bureau for Verification and Confiscation of Assets. The opposition Democratic

Party of Kosovo (PDK) filed an action for Constitutional Court constitutional review of the law. To increase the transparency of legal persons and arrangements, the government adopted a concept document on the beneficial ownership register, addressing shortcomings identified by the 2018 Council of Europe anti-money laundering and countering the financing of terrorism (AML/CFT) assessment and paving the way for legislative changes.

On the implementation of the Law on interception of electronic communications, upgraded interception capacities and the procurement of technical equipment resulted in the decentralisation of monitoring centres to other regional police directorates. Legislation on **cybercrime** is generally in line with the EU *acquis*. The Kosovo Police upgraded its cybercrime unit to a cybercrime directorate and will allow to increase the number of cybercrime investigators in accordance with its newly adopted organisational structure. Legislation on **trafficking in human beings** is broadly aligned with the relevant EU *acquis*, but implementation remains limited. In May 2023, the Ministry of Internal Affairs adopted the Administrative Instruction on the Database for Victims of Human Trafficking. The new Criminal Procedure Code, which entered into force in February 2023, further aligned Kosovo legislation with the relevant EU *acquis* on the procedural aspects of trafficking offences. The 2022-2026 strategy and action plan against trafficking in human beings is being smoothly implemented. In November 2022, the Ministry of Justice adopted the State Protocol for handling cases of **sexual violence**, setting out the responsibilities of each relevant institution.

Implementation and enforcement capacity

The Kosovo authorities continue to report on the total number of indictments and convictions for the charge of ‘organised crime’ as defined in the UN Convention on Transnational and Organised Crime. During 2022, 25 new cases were initiated (19 cases in 2021), and 16 individuals were convicted.

For the visa liberalisation-related **track record** in the fight against high-level corruption and organised crime, see the section on the fight against corruption.

As for **organised crime-related cases and serious crime cases** currently not included in the aforementioned track record, during 2022, 50 cases were initiated regarding trafficking in human beings involving 70 persons (70 in 2021), and prosecution presented indictments against 42 individuals (45 indictments were presented in 2021). In 2022, 14 people were convicted (3 in 2021). In addition, in 2021, 3 people were indicted (23 in 2020) for illicit trafficking of firearms; there were no court decisions (3 people convicted in 2021). For money laundering, 2 people were indicted in 2022 (9 in 2021) and 3 were convicted (1 in 2021). Police and prosecution should continue to actively use all powers at their disposal to target criminal networks and their economic support base. Sentencing policy remains erratic (see the section on the judiciary). The low number of confiscated criminal assets is still a key concern (see the section on the fight against corruption). The institutions involved in the fight against organised crime need to set up and use multidisciplinary joint investigation teams, wherever possible.

The Kosovo Police has basic capacity and capability to combat organised crime. However, organised crime investigations remain vulnerable to corruption and undue interference. This issue should be tackled with more corruption prevention measures such as robust integrity and ethics training, as well as disciplinary and criminal investigations. The changes in the organisational structure of the Kosovo Police aim to enforce the police’s integrity plans by introducing a new Integrity Section under the new Deputy Director General. The Ministry of Internal Affairs, as envisaged by the Law on the Police Inspectorate, should adopt a plan to implement Police Inspectorate recommendations. So far this has still not been done. During 2022, the Police Inspectorate investigated 257 officers which resulted in the suspension of 164 police officers; the

filling of the resulting vacancies is slow. The trend of successful **police operations targeting organised crime** continued during the reporting period, also involving international and cross-border cooperation. In 2022, the police dismantled 34 organised crime groups (49 in 2021), a decrease of 30% on 2021. The main reasons for the decrease are twofold: increased operational reassignment of police in the north, especially during the second part of 2022, and the focus of investigations on more complex cases. Operations against organised crime groups resulted in a number of arrests and the preliminary confiscation of assets, which need to be followed up by prosecution and the judiciary. The fight against organised criminal structures should be intensified. Investigations should be more proactive and criminal groups should be adequately mapped. The police should target criminal groups and structures as opposed to single types of crime. The new police organisational structure is an improvement in this regard.

The Kosovo Police Special Investigation Unit continued to play an essential role in the investigation of high-profile corruption cases. In 2022, the Special Investigation Unit handled 98 corruption cases, 46 of which were high-profile. Prosecution received 6 criminal reports. Four indictments were filed, and 13 cases were closed. The government should ensure that the police's Special Investigation Unit, the successor of the abolished Anti-Corruption Task Force, has a sound legal and organisational structure (see section on the fight against corruption).

Kosovo made some steps to improve implementation of the **intelligence-led policing and community policing** approaches. In the new organisational structure, the Kosovo Police has strengthened its intelligence structures, both at central and regional levels. To that end, it upgraded the Intelligence and Analysis Directorate into a stand-alone police department and added a new division for community policing. During 2022, the Directorate for Intelligence and Analysis received 11 250 information reports (37.55% increase on 2021) and distributed 3 965 intelligence reports (27.16% increase on 2021). Dedicated community officers within sectors have been integrated into the organisational structure. Outreach activities are planned to build trust with communities. During 2022, the police carried out a pilot project entitled 'Get to know your police', which will be implemented throughout Kosovo. However, the implementation of intelligence-led policing remains overall weak as structures and systems are not yet fully in place. Under the new police organisational structure, the police should take the following actions: further establish intelligence structures at regional and central levels; continue the recruitment and training of dedicated analysts; and fully operationalise the strategic tasking coordinating group at the top management level and the tactical tasking coordinating group at the regional level. There is a need for more specialised and on-the-job training for all institutions involved in fighting the more complex organised crime cases. The police and Special Prosecution Office should cooperate closely to develop strategies to better conduct investigations and have a clear division of responsibilities. The police should establish a verification office for special investigative measures to review investigators' requests for special measures from the prosecution. This would enable a joint target-based approach to improve the proactive detection of illicit and ill-gained wealth.

There is well-established cooperation with Interpol and Europol. Kosovo regularly exchanges information with Interpol via the United Nations Interim Administration Mission in Kosovo (UNMIK). In March 2023, cooperation between Europol and Kosovo Police improved further with the deployment of a Kosovo Liaison Officer at Europol's headquarters in The Hague. The Secure Information Exchange Network Application (SIENA) is operational. The Kosovo Police cooperates well with police services in EU Member States, including through joint investigation teams and exchanges of information on civil and criminal cases. During the reporting period, as part of its international cooperation, the Kosovo Police recorded 19 investigations and 2 joint operations. The police has signed 103 international police cooperation agreements, including with

11 EU Member States, five EU agencies and other countries and international organisations. The Kosovo Police mutually exchanges liaison officers with seven partner countries. Since December 2020, Kosovo and Eurojust have cooperation in place through the appointment of the two contact points. Kosovo has joined the Eurojust WB CRIM JUST project to enhance the level of interaction and integration between the EU and the Western Balkans in the criminal justice field.

The Kosovo Police is working to improve the handling of cases of **domestic violence and other forms of gender-based violence**. It has updated the standard operating procedure on addressing domestic violence cases and improved police officers' capacities to handle cases, produce risk assessments and set up victim-friendly interview rooms. However, the handling of cases is still deficient. The failure to protect victims, including the dismissal of reports, disclosure of identity, inadequate interviewing and non-enforced protection orders was reported in some severe cases of rape and killing by intimate partners. More needs to be done to ensure that Kosovo police officers understand their role in cases of domestic violence. in accordance with existing laws, strategies and the new State Protocol for the handling of cases of gender-based violence.

Effective implementation of **witness protection mechanisms** continues to face challenges, as few potential witnesses have sufficient trust in Kosovo institutions' ability to keep them safe. The Kosovo Police participate in Europol's platform for witness protection. Prosecutors and judges need training on how to protect witnesses effectively.

The fight against **money laundering and terrorist financing** is not producing the expected results. In 2022, there was one final conviction for money laundering. More efforts are needed to achieve a substantial level of proactive investigations, final court decisions and final confiscation of assets. The capacities of the police and prosecution should be strengthened. Money laundering and terrorist financing are often not prosecuted as a stand-alone crime. There is a pressing need to foster prosecutors' and judges' enhanced understanding of the concept of money laundering and terrorist financing and to increase their specialisation in this field. Financial investigations are still not systematically launched in cases of organised crime and corruption and are not used in the context of a broader approach to fighting organised crime and high-level corruption. Recent or ongoing sectoral risk assessments enable the competent authorities to develop their understanding of the high-risk areas in several sectors, including real estate, non-profit organisations, construction and games of chance. The level of understanding of different types of financial institutions and designated non-financial businesses and professions in this area varies significantly. Reaching a substantial level of effectiveness will require targeted training and outreach. In 2022, the Financial Intelligence Unit received 947 suspicious transaction reports (up 3% on 2021). In total, EUR 2 077 995 of assets were confiscated. Overall, although the efficacy of financial investigations has improved at the police level, they are still not systematically conducted in parallel with criminal investigations/proceedings. Inter-agency cooperation and coordination needs to improve significantly. The adoption of police standard operating procedure to centralise all aspects of financial investigations in line with Financial Action Task Force (FATF) recommendations is yet to produce concrete results.

Despite progress, the involvement of organised and armed groups in **arms trafficking** remains a serious concern. Kosovo is implementing its strategy in this area and the Law on the legalisation and surrender of weapons, ammunition and explosive devices. During 2022, the Kosovo Police seized 1 473 firearms (1 280 in 2021) and 29 903 pieces of ammunition of various calibres (42 031 in 2021). The authorities should accelerate efforts towards drafting amendments to the key laws, by-laws and strategy on firearms, ammunition and explosives, with a view to achieving harmonisation with the main EU firearms directives and regulations. Kosovo's firearms focal point continues to function as good practice in the region, and its ballistics laboratory is well equipped. Kosovo continues to have the highest level of harmonisation in the region with the

provisions of the UN Firearms Protocol.

Kosovo remains a country of origin, transit and destination for victims of **trafficking in human beings**, notably for sexual exploitation. During 2022, the Kosovo Police identified 22 victims of trafficking, out of which 21 were girls and women and one man, with 14 victims under the age of 18 and 8 over the age of 18. Victims were offered protection and support services by relevant police units, licensed NGOs and social protection services. The authorities have taken coordinated efforts to prevent and raise awareness on this issue. Actions include enhancing the identification procedure, starting from victim identification to long-term reintegration, and increasing efficiency in prosecuting those leading the trafficking in human beings. However, there is still much room for development to gain a better understanding of the scope of and conditions under which trafficking in human beings is taking place, including how it inter-relates with labour exploitation. A strong focus is needed on data collection and monitoring of workplaces, especially in the private sector. In addition, more work is needed to strengthen institutional capacity to enforce existing legislation (including prosecution), structures and mechanisms to counter trafficking in human beings.

Cigarette and tobacco smuggling is of growing concern. Kosovo is a key transit country for the smuggling of counterfeit cigarettes and for legally produced tobacco products shipped illicitly via neighbouring countries in the Western Balkans.

During 2022, there were 54 cases (37 in 2021) of **cybercrime**. An indictment was filed against one person but there was no final judgment, and one investigation was terminated. The Kosovo Police Sector for the Investigation of Cybercrime initiated 8 cases over child abuse in pornography, and 8 criminal charges were filed against 8 people. Kosovo needs to address several issues, such as the limited availability of cybercrime training for newly appointed judges and prosecutors and those handling electronic evidence.

Under the 2017 working arrangement with the EU Agency for Law Enforcement Training (CEPOL), Kosovo plays an active role in a number of the Agency's activities. Kosovo has full access to the CEPOL exchange programme and its electronic learning system. It is recommended that the authorities of Kosovo, with the assistance of CEPOL, design, prepare and organise targeted training to address counter terrorism from the protection, prevention and responding angles, as a priority training topic.

Kosovo participates in the European Multidisciplinary Platform Against Criminal Threats (EMPACT). In 2022, Kosovo participated in 22 operational actions in 3 of the 15 EMPACT operational action plans, in the first half of 2023, Kosovo has participated in 9 operational actions. In 2022, Kosovo appointed a National EMPACT Coordinator, the Police Director for International Cooperation, and continued to participate in EMPACT Joint Action Days. It also continued to cooperate with EU police services through the European Network of Fugitive Active Search Teams, in which it has observer status.

Cooperation in the field of drugs

Institutional set-up and legal alignment

A national strategy on drugs spanning the period 2018-2022 has expired and so far no new strategy or action plan has been adopted. The legislative framework to combat illicit handling of and trafficking in narcotic drugs is based on the 2007 Law on narcotic drugs, psychotropic substances and precursors and on the Criminal Code. A more comprehensive revised draft law aligned with the most recent EU legislation is yet to be adopted.

A coordination mechanism is in place to prevent and combat drug trafficking and the illicit use of

precursors. While a National Drug Observatory has been in place since August 2018, it has been without a head since December 2018. With only one full-time staff member, the Observatory lacks the necessary human resources to fulfil its role and remains ineffective. In March 2023, the Ministry of Internal Affairs adopted the new Regulation on the internal organisation and systematisation of jobs, which makes provision for a Drug Observatory within the Secretariat of Strategies. The early warning system on new psychoactive substances is not yet established. The Ministry approved an internal regulation on the organisation of the National Drug Observatory and the early warning system, which ensures adequate human and financial support, but additional staff are yet to be recruited. Despite general progress on data collection, difficulties remain regarding the sustainable and routine collection of drug-related data. In the absence of a functional health information system, establishing a drug treatment register is not a priority.

Implementation and enforcement capacity

Kosovo continues to be both a storage and transit country for narcotic drugs and their derivatives. Drug seizures continued to increase: around 662 kg of marijuana, 246 kg of heroin, 4 kg of cocaine and 24 500 cannabis plants were seized in 2022. During 2022, the Kosovo Police registered 808 new drug-related cases (726 in 2021), arrested 1 039 suspects, and filed 532 criminal charges against 791 suspects. Out of all the cases, 271 were charged for drug trafficking, 505 for illegal possession of drugs, and 32 for cultivation. Provisions are in place for the secure storage of seized drugs awaiting destruction.

Organised crime groups continue to play a dominant role in large-scale drug trafficking and subsequent distribution to the EU. The Western Balkan drug trafficking routes constitute a major challenge. Kosovo law enforcement agencies continue to engage in successful drug targeting operations, in cooperation with EU Member States. Industrial-scale indoor and outdoor cannabis cultivation facilities have been identified in several countries in the region, including in Kosovo. During the reporting period, several successful operations against drug cultivation laboratories were carried out, including in northern Kosovo. Law enforcement agencies and prosecution need to further increase their understanding of the drug market through analytical work. Inter-agency cooperation and exchange of information in the fight against drug trafficking in the chain of justice sector should further improve. The Prosecution Service continues to be understaffed and insufficiently trained to deal efficiently with drug-related offences. Increased cooperation, coordination and exchange of information among law enforcement agencies in the Western Balkan region is paramount and should improve. Kosovo has a 24-hour drug abuse hotline and offers addiction treatment and methadone therapy. Cooperation with the European Monitoring Centre for Drugs and Drug Addiction remains satisfactory.

Fight against terrorism

Institutional set-up and legal alignment

A range of **institutions** remains active in combating terrorism and violent extremism, and in dealing with reintegration of returning foreign terrorist fighters and their families. The Minister for Internal Affairs acts as the National Coordinator for the Prevention of Violent Extremism and the Fight against Terrorism. This position is intended to improve interinstitutional coordination, monitor and report on the implementation of policies, activities and other actions, and serve as a point of contact. However, given the nature of the Minister's other tasks, the focus on this issue is limited.

Kosovo's **legal framework** on anti-terrorism is partly aligned with the EU *acquis* and international instruments. The Law on combating money laundering and the financing of terrorism needs to be amended to be fully in line with EU and international standards (see section

on the fight against organised crime and on the free movement of capital). Kosovo adopted the important Law on implementation of targeted international financial sanctions. Legislation on critical infrastructure protection remains in place; the adoption of implementing legislation is pending, there is also need for appropriate capacity to implement the legislation.

Kosovo has a strategy and action plan against terrorism (2018-2023) in line with the EU's counterterrorism strategy. A strategy and action plan against violent extremism (2015-2020) expired at the end of 2020 and the National Coordinator decided to merge the two strategies into one. The new 2023-2028 national strategy and action plan on the prevention and countering of terrorism were adopted in June 2023. The EU supported Kosovo in the revision process through the Radicalisation Awareness Network Policy Support. The Joint Threat Assessment Centre, including a threat-level grading system, is yet to be established. In the second half of 2022, Kosovo Police and the Kosovo Intelligence Agency produced the second joint threat assessment analysis as part of the situation analysis for the new strategy on the prevention and countering of terrorism. There is a need to improve donor coordination and to establish a more structured mechanism. The Kosovo authorities continue to implement the bilateral Implementing Arrangement with the EU for the Joint Action Plan on Counter-Terrorism for the Western Balkans. Kosovo submitted its fifth implementation report in February 2023.

Implementation and enforcement capacity

Kosovo continued to fight the threat of terrorism. In 2022, 7 indictments were filed and 6 people were convicted. Investigations were completed in 12 cases against 43 suspects. Greater consistency in sentencing practices for offences related to terrorism and violent extremism is necessary. The functioning of the Special Department in the Basic Court of Pristina and the Court of Appeals has contributed to effective handling of terrorism cases. At present, 19 inmates for terrorism-related crimes are in prisons in Kosovo, with 5 inmates sentenced, 5 in detention at the high-security prison and 9 sentenced at the Dubravë/Dubrava correctional centre. During 2022, 11 people were released, of which 4 on parole, 3 on early release and 3 after having served their sentences. Between January and June 2023, 5 prisoners sentenced for terrorism-related crimes were released. Sentences for terrorism crimes for foreign terrorist fighters have been relatively lenient (average sentence 3.6 years). The Ministry of Internal Affairs took measures related to conditional release to ensure that the conditional release panel pays more attention to security aspects when dealing with inmates leaving prison with higher level of radicalisation. So far, there have been a few cases of recidivism among those convicted of terrorist-related offences.

Despite significant efforts, some challenges remain in the countering of terrorism and the prevention and countering of **violent extremism and radicalisation**. The increase in violent incidents of domestic religious extremism and the impact of other forms of extremism is concerning. Militant Salafist ideology, growing ethnonational and far-right movements in the region⁵, including Kosovo, remain a threat. False bomb threats against public institutions emerged during the reporting period, including at the airport. Despite the efforts of the Kosovo authorities to improve the situation, there are a number of push and pull factors for radicalisation, including poverty, the perception of corruption, lack of institutional capacity, and the political situation. The Kosovo authorities need to balance efforts to prevent and counter violent extremism in all its forms with rehabilitation and reintegration measures. It is important to continuously revise the existing strategies, action plans and reintegration and rehabilitation programmes.

Kosovo authorities have taken a leading role in the **rehabilitation and reintegration** of

returnees from foreign conflicts; to that end, they repatriated a large number of Kosovans and provided them with psychosocial support and economic reintegration initiatives. Since the start of the civil war in Syria in 2012, 257 Kosovans have returned (133 men, 39 women, 85 children), 106 have died, and 83 allegedly remain in the Middle East (35 men, 8 women, 40 children). After the return operation in May 2022, there has been no further developments to repatriate the remaining individuals from the region. The Reintegration Division of the Ministry of Internal Affairs needs appropriate financial and human resources. The authorities need to continue to de-securitise the rehabilitation and reintegration process and prevention of violent extremism work, while ensuring risk mitigation. In terms of planning and implementation of rehabilitation and reintegration processes, Kosovo should establish multidisciplinary mechanisms at local level. There is a need to focus more on education, training and preparedness of local practitioners dealing with returnees. The National Coordinator for the Prevention of Violent Extremism and the Fight against Terrorism should play an enhanced role in overseeing the rehabilitation and reintegration process, including by linking up with municipalities. During the reporting period, the Ministry of Internal Affairs piloted multidisciplinary mechanisms in the municipality of Hani I Elezit handling cases of returned foreign terrorist fighters, their families and other individuals at risk of radicalisation. These mechanisms should be further strengthened. Civil society plays an important role in rehabilitation and reintegration efforts in local communities. The Law on the Kosovo Correctional Service formally established an Intelligence Unit and Unit for Extremism Management within the Correctional Service, thus contributing to improved coordination when dealing with extremist and terrorist inmates. However, de-radicalisation and disengagement programmes within the correctional system need to be significantly intensified. Authorities need to intensify specific training, including for the Kosovo Probation Service, which must develop programmes for convicted terrorist who are released after serving their sentence.

The Kosovo authorities should improve their capacity to address terrorist content online, including increasing their efforts to refer terrorist content to internet providers, as well as enhancing efforts to empower civil society to develop effective counter-narratives.

Judicial cooperation in civil and criminal matters

For status-related reasons, Kosovo is not party to most multilateral treaties governing mutual judicial cooperation but unilaterally applies internationally recognised treaty standards. Cooperation between Kosovo and Eurojust further advanced. During the reporting period, Kosovo did not apply to become party to any multilateral treaty or organisation in the field of judicial cooperation. Two new bilateral treaties on judicial cooperation in civil matters entered into force and Kosovo has taken steps to conclude additional bilateral treaties.

The legal framework for judicial cooperation in civil matters is consolidated and fully aligned with the EU *acquis*. Cooperation with countries with which Kosovo does not have bilateral agreements is based on the principle of reciprocity and comity. During the reporting period, Kosovo addressed 269 requests on civil matters to EU Member States and received 344 responses. It received 372 requests from EU Member States and provided 382 responses.

Kosovo's international legal cooperation in criminal matters is based on the Law on legal cooperation in criminal matters and on 40 bilateral treaties. During the reporting period, Kosovo issued 142 requests in criminal matters and received 178 responses. Over the same period, it received 365 requests and provided 325 responses. In addition, 11 people were extradited from the EU Member States to Kosovo, and 7 people from Kosovo to EU Member States.

In 2022, the Kosovo authorities did not undertake any action to cooperate with the European Public Prosecutor's Office.

The 2015 procedures on mutual legal assistance agreed between Belgrade and Pristina form the basis for judicial cooperation between their judicial authorities. Most countries that do not recognise Kosovo have voluntarily accepted the facilitating role of the EU Special Representative (EUSR) in the transmission of judicial requests (including those concerning extradition). However, the lack of cooperation by some non-recognising states has resulted in cases of impunity. Since the end of August 2022, Kosovo has not received any request for mutual legal assistance or related responses from Serbia.

Legal and irregular migration

Kosovo has mobilised additional resources to adjust the existing contingency plan to manage mixed migration flows. Stranded migrants outside reception centres faced particular challenges, as they remain unregistered.

Kosovo has engaged with the EU on the implementation of the EU Action Plan on Migration presented by the Commission in December 2022. Delivery should continue on all the strands of the Action Plan.

Kosovo participates in the regional Anti-Smuggling Operational Partnership with the Western Balkans launched in the EU-Western Balkans Justice and Home Affairs Ministerial meeting on 3 November 2022 to support law enforcement and judicial cooperation against criminal smuggling networks, and to increase border management capacities.

Institutional set-up and legal alignment

The **institutions** dealing with migration in the Ministry of Internal Affairs and the Border Police remain effective. The capacity of the Department for Citizenship, Asylum and Migration in the Ministry of Internal Affairs should be increased. Currently, the Department employs 34 staff members, while the organisational chart makes provision for a staff of 52. One of the deputy ministers is the National Anti-Trafficking Coordinator and National Migration Coordinator. The authorities should reflect on creating a permanent position to bring more stability to this role.

In September 2022, the government restructured the Government Authority on Migration. The Multistakeholder Forum remains an important platform where all relevant stakeholders cooperate on migration-related issues.

The **legal framework** is largely in line with the EU *acquis*. Steps should be undertaken to further align legislation, including the Law on foreigners, with the EU *acquis* and international standards. It is recommended that Kosovo align legislation with Directive 2008/115/EC (the Return Directive), include a humanitarian protection category, and extend the voluntary return period.

Kosovo has **readmission agreements** with 24 countries, including 20 EU Member States and members of the Schengen area. During the reporting period, Kosovo did not sign any new readmission agreements. There is no readmission agreement with the EU as a whole. During 2022, the government approved initiatives to conclude new readmission agreements with 14 countries: Latvia, Lithuania, Portugal, Poland, Ireland, the United Kingdom, Pakistan, Côte d'Ivoire, the United States, Jordan, Egypt, Libya, Chad and Australia.

The 2021-2025 **migration strategy** and action plan reflect the priorities in the government programme for the same period. The strategy and action plan take into account obligations deriving from the Stabilisation and Association Agreement as well as European and global initiatives such as the EU Pact on Migration and Asylum and the Global Compact on Safe, Regular and Orderly Migration. The strategy meets all requirements, including on defining

baselines, clear budgeting and setting target values. Issues related to the **diaspora** are not included in the migration strategy; instead, it will form a part of the future diaspora strategy. This is a first step towards developing a comprehensive strategy covering all relevant policy areas, coordination and implementation. The Department of Citizenship, Asylum and Migration prepared the first six-month report on the implementation of the migration strategy.

Implementation and enforcement capacity

In 2022, the number of registered migrants decreased from 1 487 to 957. There were 469 non-registered migrants in the period January-December 2022. Most migrants are single men, with a limited number of single women, families and children.

During the first half of 2023, 308 new migrant arrivals were registered in Kosovo: 222 of them applied for 15 days of international protection and have been accommodated in the temporary reception centre in Vranidoll, while 86 applied for asylum and have been accommodated in the asylum centre in Magure. 134 evacuees from Afghanistan are still present in the US facility in Kosovo. There are 71 unregistered migrants inside Kosovo residing outside regular reception centres.

The International Organization for Migration (IOM)'s displacement tracking matrix remains an important mechanism to monitor movements in and out of Kosovo, and as such helps the authorities to develop evidence-based policies and provide migrants with adequate protection services. Kosovo has limited capacity to manage labour mobility to and from Kosovo. There is a need to establish and ensure access to safe and regular migration pathways, and to work with skills mobility partnerships. This would also foster an environment conducive for circular migration.

Migrants who enter Kosovo can either apply for asylum or make use of 15 days to decide whether to apply for asylum or leave. After 15 days, if they did not apply for asylum and leave, or apply for voluntary return assistance, they may be subjected to forced return. As no alternatives to detention are in place, they may be subject to detention.

The authorities expanded accommodation capacities, which are currently sufficient. There are three reception centres, with a current capacity of up to 600 (Magure, 100 people; Vranidoll, 200 people; Belvedere Camp, 300 people, which can be expanded up to 2 200). The refurbished temporary reception centre in Vranidoll, which can host up to 70 people, opened in June 2022. The average stay of a migrant in the Magure asylum centre is 20 days, 6 days at the Vranidoll temporary reception centre for migrants, and 90-120 days at the Vranidoll detention centre for foreigners.

While fundamental rights are generally upheld, services provided at the centres should improve, including medical assistance, psychological support and interpretation services. Measures should be taken to increase safety for asylum seekers in facilities, in particular to prevent gender-based violence. Providing proper care and security for the most vulnerable groups of migrants remains a challenge. Kosovo needs to further increase and strengthen authorities' capacities to evidence irregular migration and offer protective quality services. In 2022, the government adopted the guidelines on the prevention, risk management and response to gender-based violence in the context of mixed migration.

In 2022, 20 migrants were detained in the detention centre for foreigners. Detention should only be applied as a last resort, in line with the EU *acquis*. Establishing sustainable alternatives to detention for irregular migrants remains a priority. The IOM, funded by the EU, provided essential support to migrants at the detention centre for foreigners. Conditions need to improve to align with international and human rights standards. In the first 5 months of 2023 9

foreigners present in Kosovo were returned to their place of origin under the readmission agreements, one third each by force, voluntarily or through IOM voluntary channels respectively.

Despite the government's efforts, transnational smuggling networks continued to facilitate secondary movements of irregular migrants from entry points along the Western Balkan route. During the reporting period, the Kosovo Border Police intercepted 869 migrants entering in an irregular manner. They also initiated 24 cases of migrant smuggling (compared to 27 in the previous reporting period) involving 44 people (57 in the previous reporting period). 26 indictments and 13 guilty verdicts were issued. During the first half of 2023, 4 individuals were arrested for involvement in migrant smuggling.

Gaps remain in enforcement of the laws, mostly due to a lack of coordination between government agencies. The Border Police's capacity in the area of protection-sensitive migration needs to be further strengthened. Qualified interpreters are needed to service the asylum and detention centres and the Border Police. The lack of biometric equipment and interoperability of data affects the efficiency of initial registration and further processing. Overall, there is a need for better interinstitutional coordination, including with municipalities. Further efforts are needed to put in place a gender-responsive system.

Kosovo has strengthened its inter- and intra-institutional systems for migration management, including on migration statistics. This should allow comparative and regional analyses of migration trends. The Migration, Asylum, Refugees Regional Initiative (MARRI) established a Permanent Working Group on Migration Statistics to collect, process and disseminate migration data through the regional platform for migration data exchange in the region.

According to Eurostat, the number of Kosovo citizens refused entry at the external borders of the EU was 1 795 in 2022 (1 650 in 2021), and those found to be illegally present was 3 960 in 2022 (3 545 in 2021). The number of Kosovo citizens ordered to leave the EU increased slightly from 3 740 in 2021 to 3 930 in 2022. 1 380 returned to a third country in 2022.

The readmission agreements with EU Member States and Schengen associated countries are being implemented satisfactorily. The total number of readmitted persons in 2022 was 613, out of which 536 were by force (87%), 13 voluntarily (2%) and 64 through IOM voluntary channels (10%), marking a decrease compared with 2021. The majority of those readmitted are in the age groups 35-64 (266 or 43.4%) and 18-34 (242 or 39.5%). Among those readmitted by force in 2022, 470 (87.6%) were male, while 66 (12.3%) were female. According to data from the IOM, out of the voluntarily readmitted persons in 2022, 41 (64%) were male and 23 (36%) were female. For 2023, by May a total of 209 persons had been readmitted to Kosovo, 174 (83.25%) by force, 15 (7.18%) voluntarily and 20 (9.57%) voluntarily through IOM channels.

The return rate of Kosovo citizens ordered to leave EU territory was 58% in 2018, 41% in 2019, 29% in 2020 and 39% in 2021. While statistics show a drop in the return rate between 2018 and 2020, EU Member States have confirmed that the Kosovo authorities continue to cooperate well on readmission. The number of Kosovans ordered to leave the EU increased from 3 740 in 2021 to 3 930 in 2022, according to Eurostat. 1 380 returned after the order to leave in 2022 (35.1%).

The number of asylum applications made by Kosovo citizens in both EU and Schengen associated countries has fallen steadily, from the peak of 73 210 in 2015 to 1 515 in 2020 and 1 600 in 2021, rising to 2 445 in 2022. The overall number of Kosovo citizens readmitted dropped from 18 789 in 2015 to 625 (512 forced and 113 voluntary) in 2020, and 849 (710 forced and 139 voluntary) in 2021.

Overall, there is a need for better interinstitutional coordination, including with municipalities, as well as improved systemic monitoring and evaluation. A referral mechanism was established and functions through the reception centre for repatriated persons. A manual identifying and advancing the referral of vulnerable cases and training on needs assessment were provided to central and local reintegration officials.

In August 2021, Kosovo began temporarily hosting US-linked and NATO-related evacuees/refugees from Afghanistan, based on the Kosovo government's decision to grant them temporary protection for one year. They are hosted in two open facilities in Kosovo on the understanding they will be further resettled in the United States under a specific visa regime or in NATO Member States committing to taking them in. Since January 2023, 158 departures have been registered and 134 people are present in Bondsteel Camp.

Asylum

Institutional set-up and legal alignment

In March 2022, the EU Agency for Asylum (EUAA) and Kosovo adopted and started to implement a bilateral roadmap for cooperation (2022-2024).

Kosovo's legal and institutional framework on asylum is mostly in line with the EU *acquis*. The Kosovo legal framework provides for access to the territory and respects the principle of non-refoulement. Refugees should be included in social protection schemes. Certain sectors of the system require further strengthening in line with the Roadmap agreed with the EUAA.

The establishment of a fully effective and protection-sensitive entry system requires clear legal provisions. These should include identification, screening and referrals of people seeking international protection and those with specific needs. The new Law on foreigners is an opportunity to provide clear definitions; it should also lay down provisions on facilitated integration.

Implementation and enforcement capacity

Kosovo continues to be a transit route for most people arriving in mixed movements. Limited capacity in terms of biometric devices and lack of data interoperability affect the efficiency of the registration and further processing of asylum claims. To comply with its mandate, the Border Police needs adequate equipment and more expertise.

The Ministry of Internal Affairs Asylum Division / Department for Citizenship Asylum and Migration consists of 3 officials who handle asylum cases. Authorities should consider accelerating the process of hiring new staff.

In 2022, Kosovo recorded 550 asylum applications, a trend similar to 2021 (578). By May 2023, 73 asylum claims had been registered. During 2022, Kosovo granted protection to 25 people. By May 2023, protection had been granted to 13 people.

Most asylum requests are suspended, as applicants disappear without completing the procedure (52 out of 73 as of May 2023). Cases of gender-based violence remained institutionally unattended due to the lack of appropriate response systems. The current practice of issuing a "Certificate for accommodation at the Temporary Reception Center for Migrants" allowing for accommodation rights for 15 days, without granting any legal status during this period is not in line with the EU *acquis* in the field.

The **integration system** is at an early stage of development. Kosovo made some progress to increase staffing and build capacity through training and new procedural guidance. On child protection, it remains crucial to strengthen procedures concerning unaccompanied minors, including age determination, legal guardianship and communication.

The Ministry of Internal Affairs has contracted companies to provide translation services; in addition, the United Nations High Commissioner for Refugees provides translation support. Under the Migration, Asylum, Refugees regional initiative, the Department of Citizenship, Asylum and Migration benefits from the exchange of translators of rare languages among the MARRI member states. Investment in further strengthening the quality of refugee status determination is required to ensure that asylum officials are able to carry out quality assessment of asylum claims. In August 2022, the Ministry of Internal Affairs concluded a memorandum of understanding with the Free Legal Aid Agency on the provision of free legal aid to foreigners.

In August 2022, the temporary reception centre for migrants, which also hosts asylum seekers, improved its reception conditions in terms of accommodation capacities. The right to be accommodated at the centre and access to services are granted for 15 days, which can be extended at the authorities' discretion. In addition, asylum seeker registration is still conducted outside the centre without proper profiling and referrals.

The budget for the integration of refugees in Kosovo is planned under the annual budget law for the Ministry of Internal Affairs' Department for Reintegration of Repatriated Persons and Integration of Foreigners. In 2023, the budget is EUR 1 381 395.

In October 2022, Kosovo approved the guidelines for foreigners' access to vocational training and employment. The authorities continue to provide effective support to those granted international protection by offering rent for accommodation, language courses and integration courses for 2 years. This period may be extended on a case-by-case basis.

Since August 2021, Kosovo began temporarily hosting US-linked and NATO-related evacuees/refugees from Afghanistan, based on the Kosovo government's decision to grant them temporary protection for one year. They are hosted in two open facilities in Kosovo on the understanding they will be further resettled in the United States under a specific visa regime or in NATO Member States committing to taking them in. Since January 2023, 158 departures have been registered and 134 evacuees/refugees are still present in Bondsteel Camp.

The authorities have confirmed their readiness to host up to 5 000 Ukrainian citizens, providing temporary residence for humanitarian reasons. Kosovo also hosts 14 Ukrainian journalists with temporary status, including accommodation and employment with the Association of Journalists. Six Ukrainian nationals were granted subsidiary protection.

Visa policy

Kosovo has yet to fully align its legislation with EU visa policy. Kosovo grants visa-free travel to travellers of 110 countries with ordinary passports for 90 days within a six-month period, including 22 countries that do not have a visa-free regime with the Schengen area. Passport holders of 89 countries need to obtain a visa prior to entering, 4 of which enjoy visa-free travel to the Schengen area. The visa-issuing authorities have the capacity to digitally collect biometric identifiers from visa applicants, although the equipment needs upgrading. All granted visas and rejections are registered in the visa information system. 16 Kosovo consulates around the world can issue visas.

Kosovo continues to fulfil the visa liberalisation roadmap benchmarks. On 18 April 2023, the European Parliament endorsed the agreement with the Council on a Commission proposal enabling Kosovo passport holders to travel to the EU without a visa. Based on this, as of 1 January 2024, passport holders from Kosovo will be able to travel to the EU without a visa for up to 90 days in any 180-day period. During the process, Kosovo authorities demonstrated commitment to addressing all questions raised by the EU.

Kosovo should roll-out an information campaign on rights and obligations linked to the visa free travel status to prevent possible misuse.

Schengen and external borders

Institutional set-up and legal alignment

The National Centre for Border Management is an important tool to effectively manage the security of Kosovo's borders. The Centre hosts an operational and coordination room. The latter monitors all activities at the border and common crossing points through closed-circuit television, coordinates the real-time exchange of information between the border authorities at all levels, and handles calls from the public. The Centre has a Joint Intelligence, Risk and Threat Analysis Unit, which collects, analyses and disseminates information from and to the border authorities. Since 1 June 2022, the Centre is also hosting the Passenger Information Unit, which scans advance passenger information and passenger name records. Standard operational procedures need to be further developed.

The legislative framework for managing Kosovo's borders is mostly in line with the EU *acquis* and international standards. The Law on state border control and surveillance and the Law on cooperation between authorities involved in integrated border management are the main regulations in this field. Kosovo has a 2020-2025 integrated border management (IBM) strategy and 2020-2023 action plan in place; these were reviewed in February 2023. The relevant executive board reviews implementation on a quarterly basis.

Implementation and enforcement capacity

The Kosovo Police Border Department is able to conduct its daily tasks and obligations despite the current operational situation, especially in the northern parts of Kosovo, and the constantly changing human resources challenges due to the resignation of Kosovo Serb officers. Operational tasks have been facilitated by internal transfers and other compensatory measures. Staffing numbers in all Border Police units in the north of Kosovo do not reflect the composition of the local population, in accordance with Brussels Agreement. Responsibilities for border security tasks are divided between three regional border directorates (West, East and North) and the Pristina airport police. All regional directorates have quick reaction units responsible for supporting border surveillance stations. The Kosovo Border Police does not have special units or capacities, even though quick reaction teams are well trained and equipped to address challenging situations in the border area. Based on risk analysis, the Border Police established four additional bases in the north of Kosovo.

The Border Police's performance and its knowledge of border procedures have improved. Statistics indicate increasing effectiveness in several areas of cross-border crime. As an example, in 2022 Kosovo arrested 61 people engaged in the trafficking of human beings in 37 cases and disbanded 4 organised groups. Development of infrastructure, equipment and tactical methods, especially at the green border areas, would enhance the whole border security system's capacity and bring it closer to EU standards. The Kosovo Police Information System is linked to all border crossing points. The infrastructure at border crossing points has improved and the border management system continues to operate satisfactorily. However, some of the facilities need renovation. The lack of direct online access to some international databases is a hindrance to effective crime prevention work.

The Ministry of Internal Affairs of Kosovo's working arrangement with the European Border and Coast Guard Agency (Frontex) enables close cooperation on irregular migration, cross-border crimes, border security and overall border management. Cooperation between Kosovo and Frontex is good and improving. Frontex is deploying officers to several border crossing

points in Kosovo, based on mutually agreed operational plans (e.g. project coordination points). The Agency provides other border management-related support, such as guidance to establish a national coordination centre, in accordance with the EU *acquis*. Kosovo participates in the Western Balkan risk analysis network (WB RAN) and in several other regional exercises organised by Frontex.

Cooperation with all neighbours is good, except with Serbia. The Border Police has appointed focal points in charge of international cooperation. Joint patrolling agreements with Albania, North Macedonia and Montenegro are in force, and joint activities are conducted regularly. Based on police cooperation agreements in force, there are joint police cooperation centres with Albania and North Macedonia. Kosovo participates in the trilateral (Kosovo, Albania, Montenegro) Joint Police Cooperation Centre based in Plav, Montenegro.

The Interim Common Crossing-Points (CCPs) between Kosovo and Serbia continue to be operational. Only two of the six permanent CCPs have been established (Merdare and Mutivodë/Mutivode). Serbia still has not established permanent CCPs to be hosted by their side (Jarinje/Rudnica, Končulj/Dheu i Bardhë and Depce/Muçibabë), which led to a suspension of EU funds for this project in July 2018. In addition, Serbia needs to engage constructively to enable the construction of the third CCP hosted by Kosovo in the north of Kosovo at Tabavijs/Bërnjak-Tabalije/Brnjak. Additional efforts are required from Serbia to close illegal roads and bypasses to ensure exclusive use of official crossing points for goods and persons entering into or leaving Kosovo.

In 2022, two specific corruption-related operations took place, resulting in the investigation of 70 people on suspicions of bribery. According to the Kosovo Police Inspectorate, these operations had a preventive affect. Such preventive actions, in cooperation with IBM authorities, in connection with possible corruption cases, continue to take place.

Kosovo made progress on implementing the revised 2020-2025 National Centre for Border Management development plan. However, there is still need for better strategic assessment and analyses of border-related risks, and for better cooperation with other border authorities. The effectiveness of such cooperation is affected by the lack of connection, for status-related issues, to important international networks such as Interpol's I-24/7.

Counterfeiting of the euro (criminal law aspects)

The 2019 Kosovo Criminal Code is broadly in line with the EU *acquis* on the suppression of counterfeit currency. Kosovo has competent authorities and procedures in place to deal with counterfeit money. However, the Criminal Code would need to be further aligned with the EU Directive on the Protection of the Euro and Other Currencies against Counterfeiting.

The Forensics Agency within the Ministry of Internal Affairs carries out technical analysis of counterfeit money (including euro banknotes and coins), in line with international standards. The Agency has concluded an agreement with the European Commission on exchange, assistance and training for the protection of the euro against counterfeiting (the Pericles 2020 programme).

Between June and December 2022, the police initiated 433 cases for a total value of EUR 54 333, and 10 people were detained. Between January and March 2023, the police initiated 275 cases valued at EUR 44 731. Two individuals were detained.

(See Chapter 32 on financial control).

2.3. ECONOMIC DEVELOPMENT AND COMPETITIVENESS

<i>Table 7.1:</i>	2014-19	2020	2021	2022
Kosovo - Key economic figures	average			
GDP per capita (% of EU-27 in PPS)	24	25	27	27
Real GDP growth	4.6	-5.3	10.7	3.5
Economic activity rate of the population aged 15-64 (%) , total	40.4	38.3	39.3	38.6
<i>female</i>	19.6	20.8	22.0	22.0
<i>male</i>	60.9	56.0	56.6	55.5
Unemployment rate of the population aged 15-64 (%) , total	30.3	25.9	20.7	12.6
<i>female</i>	30.6	32.3	25.0	16.5
<i>male</i>	24.4	23.5	19.0	11.0
Employment of the population aged 15-64 (annual growth %)	1.4	-4.4	10.4	5.4
Nominal wages (annual growth %)	3.6	-2.3	3.9	7.6
Consumer price index (annual growth %)	0.9	0.2	3.3	11.6
Exchange rate against EUR*	1.0	1.0	1.0	1.0
Current account balance (% of GDP)	-7.1	-7.0	-8.7	-10.5
Net foreign direct investment, FDI (% of GDP)	3.2	4.2	4.0	6.7
General government balance (% of GDP)	-2.0	-7.6	-1.2	-0.5
General government debt (% of GDP)	14.9	22.4	21.5	19.9

* The euro is used as a de facto domestic currency

Source: Kosovo statistics, World Bank and IMF

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

2.3.1. The existence of a functioning market economy

Kosovo is **between an early stage and some level of preparation** and has made **some progress** in developing a functioning market economy.

Kosovo's economic rebound moderated significantly in 2022 as investment contracted and household consumption growth slowed owing to high inflation, which surged to double-digits in the wake of rising energy, food and transport prices. Russia's war of aggression against Ukraine had mainly indirect effects, through higher import prices and uncertainty. Supported by high revenue growth and a significant under-execution of public capital spending, the headline budget was close to balance in 2022 and the public debt ratio fell. However, the investor base for government debt remains narrow. Social benefits remain poorly targeted. The Assembly passed the new law on the minimum wage, which decoupled the level of war veterans' pensions from the minimum wage. The financial performance of publicly owned enterprises represents a fiscal risk. The current account deficit rose significantly on the back of strong increases in energy import prices. The financial sector remained well capitalised and stable, and bank lending continued to expand in nominal terms. However, sustained supervisory vigilance is required in the context of slowing economic growth, tightening financial conditions and the rapid rise in mortgage lending to households. The economy remained resilient during recent crises, but the private sector continues to be hindered by long-standing structural challenges such as a widespread informal economy, a high prevalence of corruption and the overall weak rule of law. The business environment improved somewhat. Labour market formalisation continued, but

labour market participation and employment rates, especially among woman and young people, remain very low, while unemployment remains high.

Last year's recommendations were partly addressed and remain mostly valid. In order to improve the functioning of the market economy, Kosovo should in particular:

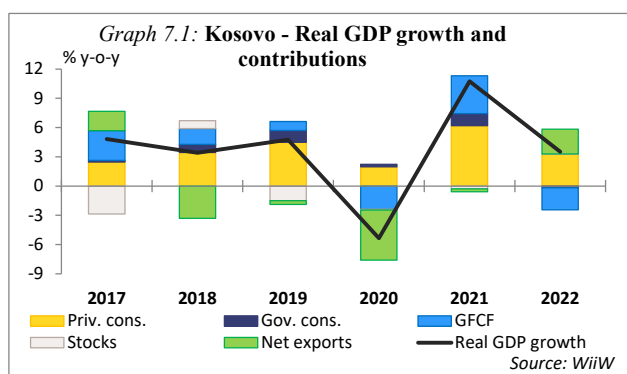
- continue to mitigate the impact of the energy crisis by well-targeted and temporary support measures if needed, while complying with the fiscal rule's deficit ceiling of 2% of GDP;
- ensure compliance with the legal ceiling on war veteran pensions and with the wage bill rule, and undertake a review of tax expenditure, quantifying the size of the revenue forgone from all exemptions, preferential rates and special regimes;
- improve the quality of public spending by reforming the social security system and addressing weaknesses in public investment management;
- implement relevant business environment measures, in particular on the fight against the informal economy and the simplification and digitisation of licences and permits.

Economic governance

Kosovo's economic policies focused on providing policy support to cushion the impact of higher energy prices and on re-establishing fiscal buffers. In 2022, the government allocated and implemented around EUR 316 million (3.5% of GDP) in temporary support to vulnerable households and firms, and wage and pension bonuses and subsidies to the energy and agricultural sectors. The 2023 budget includes an allocation for contingencies of 3.5% of GDP, of which 2.7% of GDP is a blanket allocation, which undermines fiscal transparency. There was limited progress in improving the planning, selection and management of public investment, and the public capital budget was significantly under-executed. The government took fiscally prudent decisions by rejecting a proposal to withdraw more funds from the Kosovo Pension Savings Trust (KPST). The Assembly passed the new law on the minimum wage, which decoupled the level of war veterans' pensions from the minimum wage. The new Law on public-sector salaries, combined with a suitable value of the wage coefficient set by the government, ensures that the public wage bill does not exceed its legal ceiling. On 25 May, the IMF Executive Board approved a 24-month precautionary Stand-By-Arrangement in the amount of EUR 100 million for Kosovo and a EUR 78 million support from the IMF's newly established Resilience and Sustainability Facility, to be used for investments in renewable energy and energy efficiency.

The policy guidance jointly agreed at the May 2022 Economic and Financial Dialogue between the EU and the Western Balkans and Türkiye has been partially implemented. Tax revenue grew strongly on the back of high inflation and a reduction in the informal economy, but there was little progress on reviewing tax exemptions. The financial oversight of publicly owned enterprises (POEs) has improved but work to set up a fiscal oversight body has not advanced. For 2023-2025, Kosovo's Economic Reform Programme (ERP) aims to maintain stable public finances and comply with fiscal rules, while supporting the economic recovery mainly through higher capital spending.

Macroeconomic stability

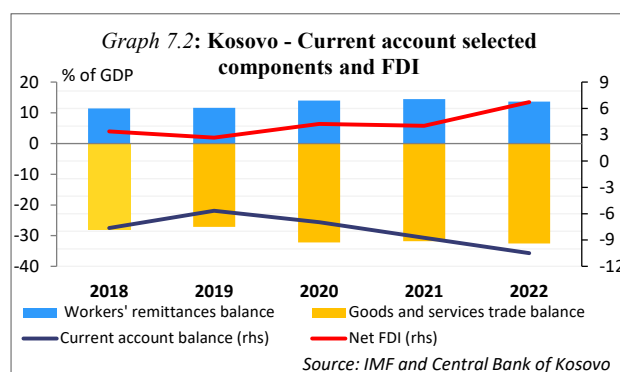


Kosovo's economic rebound moderated significantly in 2022 due to the fallout from Russia's war of aggression against Ukraine. Real GDP growth eased markedly from 10.7% in 2021 to 3.5% in 2022, which is below the pre-pandemic (2015-2019) average rate of GDP growth of about 5%. The key factors behind the economic slowdown were a decline in gross fixed capital formation and a deceleration in private consumption

growth. The slower growth in private consumption was due to high inflation and the resulting fall in real disposable income as well as a moderate drop in net inflows of remittances as a share of GDP. Still, household consumption remained one of the main drivers of growth on the back of government support measures and higher bank lending. Moreover, a strong increase in exports of goods and services, together with a sharp slowdown in real imports growth, resulted in a positive contribution of net exports to GDP growth. Economic growth accelerated slightly to 3.9% year-on-year in the first quarter of 2023, up from 3.6% in the previous 3 months. Despite some gradual improvement, the lack of economic diversification, high import dependency and an unreliable energy supply render Kosovo vulnerable to adverse external shocks. Kosovo's per capita GDP remains the lowest in the Western Balkan region, standing at 27% of the EU average in 2022. Income inequality is high due to a large informal sector and high inactivity rates, especially among women.

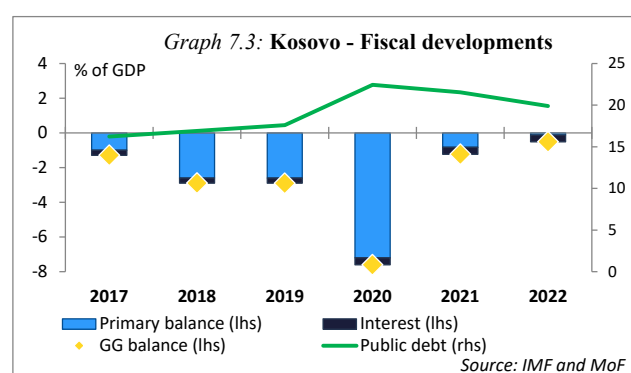
The negative terms-of-trade shock led to a substantial deterioration in the current account balance. The current account deficit widened significantly to 10.5% of GDP in 2022, up from 8.7% in 2021. A key factor was the energy-balance-induced surge in the merchandise trade deficit, which outpaced the continued rebound of services exports, resulting in an increase in the overall trade deficit to 32.5% of GDP, up from 31.8% a year before. Affected by the economic slowdown in the EU, remittances decreased to 13.7% of GDP in 2022, down from 14.5% in 2021, while the primary income surplus fell to 1% of GDP, down from 1.9% a year earlier. Further unofficial services exports and remittances were reflected by large errors and omissions in the balance of payments (equivalent to 2.7% of GDP) in 2022. The four-quarter moving average current account deficit narrowed to 9.2% of GDP in the first quarter of 2023.

Net foreign direct investment (FDI) inflows increased strongly to 6.7% of GDP in 2022, covering around two thirds of the current account deficit. The key drivers for the 88% year-on-year increase were continued investment by the diaspora in the real estate sector, as well as higher inflows in mining and quarrying, financial and insurance activities, and manufacturing. In 2021, Kosovo issued its first diaspora bonds totalling EUR 10.4 million, most of them 5-year bonds, in an effort to tap additional sources of financing. Otherwise, Kosovo remains absent from international debt markets. The four-quarter moving average of net FDI inflows increased slightly to 7% of GDP in the first quarter of 2023, while official reserve assets amounted to 2.3 months of imports of goods and services.



After peaking in 2022, annual inflation started to gradually decline since the last quarter of that year. Annual average consumer price inflation accelerated significantly to 11.6% in 2022, up from 3.3% in 2021. The main drivers were rising energy, food and transport prices. However, in the last months of the year inflation started to moderate, reaching an average of 10.1% year-on-year in the first quarter of 2023 and decreasing further to 2.4% in July on the back of gradually decelerating global commodity prices. Most energy prices are regulated in Kosovo. Following a request by KEDS, Kosovo's energy distribution company, in early December 2022, the Energy Regulatory Office increased electricity tariffs by 15.4% for all consumer categories in late March 2023. The government continued subsidising tariffs for households and businesses consuming up to 800 Kwh.

Fiscal consolidation continued in 2022 with a further reduction of the headline deficit on the back of high revenue growth and underexecution of the capital investment programme.



The headline budget deficit fell to 0.5% of GDP in 2022 (from 1.2% of GDP in 2021), which corresponds to a surplus of 0.2% of GDP under the fiscal rule's definition⁶. Government deposits fell slightly to 3.5% of GDP, down from nearly 4% in 2021. The fall in the government deficit resulted primarily from a higher-than-projected increase in budgetary revenue, which rose by nearly 14% year-on-year, on the back of high inflation and

some formalisation gains. Tax revenue increased by 14.3%, with direct and indirect tax income growing healthily by 21% and 12% respectively in 2022. Public expenditure grew by 10.5% year-on-year. The largest increase took place in the category of transfers and subsidies (26.3% year-on-year), mainly driven by energy subsidies. The execution of overall current expenditure was roughly in line with the revised budget plan. Wages and allowances recorded an annual decrease of 2.2%, while spending on goods and services rose by 9.4%. Capital spending practically stagnated compared to 2021, and only reached around 60% of the revised budget allocation, affected by weak public investment management capacity and higher input prices, which have led to a surge in project costs.

On the back of the improved budget balance and high nominal GDP growth in 2022, the public debt-to-GDP ratio declined, but the domestic investor base for government debt remains narrow. The public debt ratio fell to a revised 19.9% at the end of 2022 and further to 17.3% in June 2023. These figures do not include the liability for the State from COVID-19-related tax-free withdrawals of 10% of pension savings from the Kosovo Pension Savings Trust, which the government promised to reimburse from 2023⁷. Domestic debt, which is held by a narrow investor base, increased only by 0.5% in nominal terms in 2022. In March 2023, the share of domestic debt held by the KPST rose to 49%, up from 44% in 2021, while the Central Bank of Kosovo and commercial banks hold a further 20% and 24% of domestic debt respectively. In the absence of a sovereign credit rating and very limited access to international

⁶ The fiscal rule places a cap on the fiscal deficit of 2% of forecast GDP, excluding capital projects financed by privatisation proceeds and donors ('investment clause'). This exemption for donor-financed investments can be invoked until 2025, provided the public debt ratio remains below 30% of GDP. A further rule stipulates that the increase in the public wage bill cannot exceed nominal GDP growth. Government deposits used as fiscal buffers are legally required to stay at 4.5% of GDP as long as the government uses privatisation proceeds. The debt rule provides that public and publicly guaranteed debt cannot exceed 40% of GDP.

⁷ The IMF estimates the liability to the Kosovo Pension Savings Trust at 1.8% of 2020 GDP.

bond markets, foreign financing has been provided by international donors. Foreign debt rose by 11.2% in 2022. This includes loans from the World Bank (EUR 60.1 million), the European Investment Bank (EUR 23.8 million), the European Bank for Reconstruction and Development (EUR 14.5 million) and the Council of Europe Bank (EUR 10.8 million). The new Law on public debt and state guarantees, aligning the legal framework with EU standards and international practices, was adopted at the end of 2022, and the secondary legislation will be reviewed and approved by the end of 2023. Under this new law, the definition of public debt will also include debt issued on behalf of municipalities. The law regulates municipality borrowing (including the power to borrow), reporting requirements and debt limits.

Progress with public investment management and addressing fiscal risks has been mixed.

Budgeted public capital spending is expected to increase by 3.6% of GDP compared to the 2022 outturn, despite weak planning and implementation capacities and recurring under-execution of the capital budget in the previous years. Some steps were taken to unlock project implementation, including through paid land expropriations and making the Procurement Review Body board operational again in the second quarter of 2022. Furthermore, the Law on public works support, adopted at the end of 2022, compensates contractors up until mid-2023 for higher project costs resulting from very high inflation. The implementation of the Law on salaries of public officials is expected to increase the wage bill by 11.1% in 2023. This is lower than the nominal GDP growth in 2021, meaning that the wage bill rule is being respected. The issue of recurring spending overrun on war veteran pensions has not been resolved due to the absence of a reclassification of beneficiaries. The 2023 budget again includes a large blanket allocation, which undermines fiscal transparency and budget planning unless it is justified as part of a concrete risk assessment framework. The fiscal risk analysis of the main central publicly owned enterprises in the medium-term expenditure framework (MTEF), annual budget and the ERP has been expanded beyond the POEs overseen by the Ministry of Economy. However, the analysis is limited to high-risk POEs, excluding other companies. Implementation of the Energy Roadmap reached on 21 June 2022 between Kosovo and Serbia in the EU-facilitated dialogue to address electricity billing issues in four municipalities in the north of Kosovo is yet to move forward. Fiscal risks related to billing and payment of invoices remain. In 2022, the financial obligations of KOSTT, the Kosovo transmission operator, for the losses caused by the energy consumed (but not paid for) in that part of Kosovo reached EUR 63 million.

After 2 years of substantial fiscal consolidation, the planned strong fiscal impulse in 2023 is appropriate.

In 2022, the government adopted temporary support packages that helped to mitigate the impact of the energy crisis, including energy subsidies and transfers to vulnerable households and firms. However, the measures could have been better targeted and more transparent. Budget revenue relies on a narrow tax base, mainly from indirect taxes, weakened by numerous tax exemptions, preferential tax rates and special regimes, while public spending is burdened by category-based specific transfers, leaving little space for means-tested benefits and employment policies. The 2023 budget provides for a strong fiscal stimulus, which is largely appropriate after 2 years of substantial fiscal consolidation. This would mainly be implemented through an increase in public spending on wages and investment. However, there is a risk of the latter facing constraints due to weak public investment management.

Functioning of product markets

Business environment

The gap between newly registered and terminated firms has widened over the last 5 years.

The difference between new (11 049) and terminated firms (1 775) widened to 9 274 in 2022, up from 8 066 in 2018, mainly due to a higher number of newly registered companies.

Some progress was made in improving the business environment. In July 2022, the government approved the concept document for the Register of Beneficial Owners. The Commercial Court became fully operational in August 2022, which is expected to increase the efficiency of the judicial system in settling commercial disputes, but the court still faces a large backlog of cases. In September 2022, the government adopted an improved programme to reduce and prevent the administrative burden on citizens and businesses. The e-Kosova platform has increased the number of services available through the platform from 21 in 2021 to 140 in 2023. In October 2022, the government approved the concept document for business organisations and the secondary legislation on the Business Registration Agency. In November 2022, an assessment of the agency's database compatibility with the requirements of the Business Register Interconnection System (BRIS) was finalised. The Kosovo Investment and Enterprise Support Agency (KIESA), whose task is to support foreign and domestic businesses including SMEs, promote exports and attract foreign direct investment, lacks capacity and resources to execute its broad mandate, while its restructuring and reform are long overdue. For this reason, in January the government approved the Law on sustainable investments, which is awaiting the Assembly's approval. Its purpose is to regulate the protection, promotion and encouragement of sustainable investments. The law also envisages to replace the KIESA by a new agency, which would facilitate foreign investment and report directly to the prime minister's office.

Despite some progress in reducing the informal economy, it still accounts for more than 30% of GDP. Formalisation efforts by the government, Kosovo's Agency of Statistics, and the Customs administration have borne fruit, contributing around 35% of the cumulative change in tax revenues in 2020-2022⁸. The government subsidies for registered employees to mitigate the negative impact of the COVID-19 pandemic on households and firms helped shift more employees from the informal to the formal sector. Increased labour demand at the time of the economic rebound contributed to an increased number of formal employees. During the reporting period, the Secretariat of the Government Working Group for the implementation of the 2019-2023 National Strategy for the Prevention and Combating of Informal Economy, Money Laundering, Terrorist Financing and Financial Crimes, published a report covering the first half of 2022, which showed that only 50% of the planned actions were implemented. A second action plan covering the period 2022-2023 was adopted in 2022, while the Secretariat has started drafting the new national strategy for 2024-2028. To tackle corruption, a set of new anti-corruption laws was adopted in 2022. These aim at strengthening criminal proceedings, the anti-corruption agency, and asset declaration. According to Transparency International's corruption perceptions index, Kosovo improved its index score in 2022, ranking 84 out of 180 countries, 3 positions higher than in 2021.

State influence on product markets

The State aid policy framework is at an early stage of development. The current framework lacks a coherent approach to State aid or a comprehensive strategy and cost-benefit evaluations for aid and subsidies granted. In the reporting period, the State Aid Department developed an online monitoring system for State aid. Training of the competent staff on recording and monitoring State aid in the system is in progress. The State Aid Commission has still not been appointed by the Assembly and remains without a decision-making quorum. In 2022, in the context of higher energy and crop prices amid Russia's war of aggression against Ukraine, about 1% of GDP was allocated for subsidies to firms operating in the agricultural and energy sectors.

⁸ IMF Country Report No. 23/55, January 2023.

Privatisation and restructuring

Kosovo took further steps to set up a sovereign fund. In June 2022, the government adopted a concept document on the sovereign fund, and a public consultation was launched in March 2023 on the draft law on its establishment. The sovereign fund is expected to take over socially owned enterprises⁹ and assets managed by the Privatisation Agency of Kosovo (PAK), as well as some publicly owned enterprises managed by the Ministry of Economy after these improve their financial performance. However, setting up the fund will not be sufficient to address the long-standing issues of poor financial performance and management, which reflect weaknesses in corporate governance and oversight of publicly owned enterprises. In June 2023, the government approved the draft law on the sovereign fund, which will be discussed in the Assembly. During the reporting period, the PAK initiated liquidation procedures for 3 socially owned enterprises. In total, 582 socially owned enterprises are under liquidation procedures. The process of dismissing and appointing new board members of publicly owned enterprises continued, with more women being appointed.

Functioning of the financial market

Financial stability

The financial sector showed resilience amid continued challenges. The predominantly foreign-owned banking sector accounts for 68.4% of financial system assets, followed by pension funds, micro-financial institutions and insurance companies, with 24.5%, 4.1% and 2.7% respectively. The banking sector's profitability improved in nominal terms, with the average return-on-equity ratio rising to 20.6% in 2022, up from 17.6% in 2021, and increasing further to 21.1% in July. At the end of 2022, the non-performing loans ratio stood at a historically low 2% and remained unchanged at end-March 2023, partially supported by the denominator effect of high nominal credit growth. The banking sector has to be closely monitored due to non-negligible risks from a weaker economic outlook, higher commodity prices and lower-than-projected remittances. Furthermore, as new mortgage lending to households has been growing relatively strongly, it appears appropriate to strengthen surveillance of the housing market. The ratio of banks' regulatory capital to risk-weighted assets stood at 14% in 2022 and increased to 15.3% in July, comfortably exceeding the regulatory minimum of 12%. Banks continued to be financed by deposits, predominantly from households. The loan-to-deposit ratio increased to 78.3% in 2022, up from 76.5% in 2021, and rose further to 81.1% in March. In 2022, the net profit of micro-financial institutions increased to EUR 17.2 million, up from 14.1 in 2021. The insurance sector's net profit fell by 44% on an annual basis, reflecting the increase in operating expenses, namely the cost of purchasing goods and services, administrative expenses and claims incurred.

Access to finance

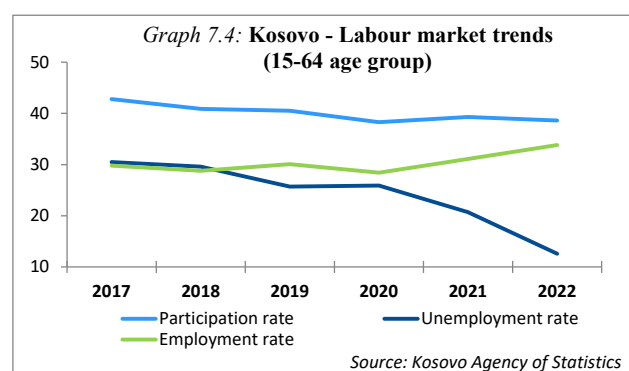
Lending to the private sector continued to expand in 2022. Driven by both business and household lending, bank loan growth accelerated to an average of 17.4% in 2022 up from 11.2% in the previous year, before slowing to 15% year-on-year in the first quarter of 2023. The average interest rate on loans increased to 6.3% in 2022, up from 5.8% in 2021, and remained at 6.3% in March, reflecting tighter financing conditions in the euro area. Deposits' average growth eased to 10.8% in 2022, down from 13.8% a year earlier, before picking up to 16.3% year-on-year in the first quarter of 2023. New loans issued to businesses with a focus on investment grew by 9.6% in 2022. Despite some new initiatives undertaken by the Kosovo Credit Guarantee Fund, the lack of easily accessible and affordable credit continues to be a

⁹ The ownership of socially owned enterprises was considered as shared social property in the former Yugoslavia.

barrier to SME growth. This is partly due to the existing disparity between the market value of collaterals and their legally assigned value taken into account by banks. The capital market remains at an early stage of development. Microfinance has gained momentum in recent years¹⁰, but shortcomings in the legal framework regulating micro-financial institutions hinder the industry's long-term growth and sustainability.

Functioning of the labour market

Despite some progress, the labour market continues to suffer from very low participation, high unemployment and large gender gaps.



Labour Force Survey results continue to be published with large delays. The latest available data refer to the last quarter of 2022. In line with the continued rebound of economic activity, the employment rate increased to 34%, up from 31.7% in the last quarter of 2021. Meanwhile, the unemployment rate declined markedly from 19% to 11.8%, while the labour force participation rate decreased from 39.2% to

38.5% in the same period. The wide gap between male and female employment rates (50.8% and 17.1% respectively) persisted. In the last 3 months of 2022, the share of young people (aged 15-24) not in employment, education or training decreased somewhat to 33.7%, down from 34.8% in the same period a year before. To improve the situation, the government adopted a multiannual youth guarantee implementation plan, and there are ongoing reforms to public employment services. Tax administration data suggest that official employment in the private and public sector increased by 4.9% in 2022. In December 2022, the number of registered job seekers decreased by 1.5% compared to the same period a year before.

Despite some recent formalisation gains, an overall poorly targeted system of social assistance creates disincentives to joining formal employment. In 2022, spending on transfers and subsidies reached nearly 12% of GDP, of which expenditure on poverty-targeting social assistance was less than 0.5%. Category-based social transfers, such as the war veteran pension scheme, undermine the soundness and fairness of the social benefit system. The lack of social and other benefits in formal employment – given the lack of structures to provide

¹⁰ Despite the expansion of the microfinance sector, the interest rate on loans was around 18%, which is nearly three higher than the rate on bank loans.

them – discourages many informal employers and employees from formalising working arrangements. According to estimates, 40% of the workforce is not declared or is under-declared. Relatively high public-sector wages and remittances increase reservation wages, restricting labour supply, while the lack of jobs fuels the emigration of young people. Increasing private-sector productivity would improve export competitiveness, increase job opportunities and allow for higher wages. The lack of childcare and elderly care facilities hinders female employment.

2.3.2. The capacity to cope with competitive pressure and market forces within the Union

Kosovo is at an **early stage** and has made **limited progress** in terms of its capacity to cope with competitive pressure and market forces in the EU. The education system does not sufficiently teach the necessary key skills and is not adequately aligned with labour market needs. Limited progress was made in improving transport infrastructure. The energy sector remains a major bottleneck for Kosovo’s economic development, and the ongoing energy crisis underlined the urgency of ensuring a reliable and clean energy supply and diversifying energy sources. Kosovo made some progress on digitalising the economy. Structural changes are advancing slowly, as the economy remains highly reliant on small and micro firms, which cannot compete internationally. At the same time, the export structure has somewhat diversified, although it is still dominated by base metals. Trade openness increased as both exports and imports grew robustly. The recommendations from 2022 were not fully implemented and remain mostly valid.

In order to improve competitiveness and sustain long-term growth, Kosovo should in particular:

- improve the quality of education at all levels, and align education, particularly higher education programmes and vocational education and training, with labour market needs by closely cooperating with the business community;
- strengthen energy security and increase energy efficiency incentives in the residential and private sectors and increase the share of renewables in power generation in a cost-efficient way;
- advance tailored financial and non-financial support for SMEs to improve their competitiveness and export capacity.

Education and innovation

Little progress has been achieved on reforming the education system and aligning it with labour market needs. Public spending on education amounted to 4.1% of GDP in 2021 (down from 4.6% in 2020 and 4.3% in 2019), which is broadly in line with the EU average. However, in terms of outcomes, Kosovo performs worse. The enrolment rate of children in early childhood education stands at 6.7%, the lowest in the region, while for primary and secondary education the combined enrolment rate of 88.1% is very similar to those of regional peers. To address an insufficient participation in early childhood education, the government has approved the draft Law on early childhood education, which is with the Assembly for adoption. The absence of quality learning materials (including a lack of digital resources) in schools and the lack of teachers’ initial training and continuous professional development have a negative impact on the quality of education. Learning materials were adapted in the light of the Programme for International Student Assessment (PISA) 2022¹¹ test, after Kosovo registered its lowest-ever ranking in 2018. Kosovo students’ scores were lower than the OECD average in reading by the equivalent of 5 years of schooling, and in mathematics by a little over 4 years. The education system is not geared to developing the necessary key skills and is not adequately

¹¹ PISA 2022 test results will be published in December 2023.

aligned with labour market needs. The 2022-2026 education strategy, adopted in October 2022, aims to raise the quality of pre-university education and, in particular, to harmonise education and professional training. It also fully recognises the need to develop a real-time information system and forecasting on labour market needs, as well as a standardised methodology for labour market research. This commitment has yet to be translated into action. In September 2022, the Kosovo Accreditation Agency (KAA) was granted the status of affiliated member of the European Association for Quality Assurance in Higher Education (ENQA). The agency is currently in the process of applying for membership in the ENQA and the European Quality Assurance Register. Kosovo adopted the Law on KAA, which aims to increase the agency's operational independence and transparency of management appointments.

Kosovo's performance lags behind in research and innovation. This is true for policy governance, the public research system, public-private linkages, innovation in firms and human resources for innovation; overall Kosovo has one of the lowest scores in the Western Balkan region¹². Budget allocation for research and development, at 0.1% of GDP, is far below the 0.7% of GDP required by law (compared to an average of 2.2% in the EU), in particular for business innovation. There is chronic fragmentation in implementing innovation policy and no overall coordination among line ministries and the SME support agency, KIESA. In 2022, the Kosovo National Science Council managed successfully to develop the National Science Programme as the main strategic document on science and research. Kosovo has successfully completed negotiation with the EU to become a fully associated member of the Horizon Europe programme, although there is a need to improve performance in accessing grants.

Physical capital and quality of infrastructure

Foreign direct investment (FDI) has not led to an increase in domestic productivity. Kosovo has primarily attracted investment in areas with limited scope for productivity spillovers, such as construction and real estate, which represent 80% of FDI¹³. In 2022, 67% and 7% of all FDI inflows were directed to real estate and financial and insurance activities respectively. Additionally, FDI is limited to a handful of countries, namely states where a sizeable, well-established Kosovo diaspora exists. Export-oriented FDI has been very scarce, and overall figures are relatively low, passing the EUR 300 million figure only once in the past 7 years.

Kosovo made limited progress in improving road and railway infrastructure, delaying the implementation of major projects. The government submitted a loan request to the EBRD and EIB for Route 7 *Peace Highway*. The rehabilitation works for Railway Route 10 continued at a slow pace, with the first segment expected to be completed in the first quarter of 2024. The works on the second segment started at the end of 2022, while the related signalling and telecom works have yet to start. The transport system still faces several challenges in terms of safety, inadequate maintenance, and weak administrative capacity of regulatory institutions.

An unreliable and undiversified energy supply and an extremely fragile energy sector remain major bottlenecks for Kosovo's economic development. The reliability of energy supply is still below the average for Europe and Central Asia. Despite some improvements, Kosovo ranks 90th in the world for ease of getting electricity¹⁴. The lack of energy security gives rise to significant costs for business and represents one of the biggest obstacles to attracting high-quality foreign direct investment. Energy demand and consumption continue to

¹² OECD (2021), *Competitiveness in Southeast Europe – a policy outlook 2021*.

¹³ IMF (2023), *Republic of Kosovo, Selected Issues Paper*.

¹⁴ World Bank (2020b), *Doing Business 2020: Comparing Business Regulation in 190 economies*.

grow quickly, and have doubled since 2000. Kosovo also suffers from high technical and commercial losses in the distribution and transmission grids due to poor infrastructure (around 20%).

Kosovo's electricity generation relies heavily on coal-fired plants. More than 90% of electricity is produced by two outdated, unreliable and highly polluting lignite power plants, which the government plans to refurbish. Renewable energy sources account for just over 5% of electricity supply. The roll-out of renewables is expected to accelerate through the newly adopted 2022-2031 national energy strategy and the law on renewable energies due to be adopted by the Assembly in Q3-2023. The draft law provides for a competitive bidding process to support renewable energy projects, replacing the previous system of feed-in tariffs. In May 2023, Kosovo launched a pilot auction for 100 MW of solar power. There has been an increase in renewable energy investments, and several projects to develop significant wind and solar energy sources are already planned. (*See also Chapter 15 – Energy*).

The digital transformation of the economy is gradually advancing, but the digitalisation of public services is still at an early stage. 100% of households nationwide now have access to fixed broadband electronic communications infrastructure. Fixed access internet penetration is estimated to be 125% of households, compared to 89% in the EU, and mobile telephony penetration is around 95% of the population. Kosovo has a small but rapidly growing ICT sector, particularly in the export of software development, smart phone application development and web design. More needs to be done to train skilled workers in this sector, where demand for employees outstrips supply. Since 1 July 2021, Kosovo has constructively engaged in high-level regional dialogue on digital transformation and the implementation of the Regional Roaming Agreement. Despite some improvements in implementing e-commerce programmes, there seems to be little progress in increasing the adoption of e-commerce practices among SMEs. The Digital Agenda strategy covering the period up to 2030 has been submitted for public consultation. The policy document is expected to provide a comprehensive framework for digital transformation, including 5G technologies and the digital transformation of businesses and public services.

Sectoral and enterprise structure

The services sector continues to dominate the economy in terms of GDP and employment.

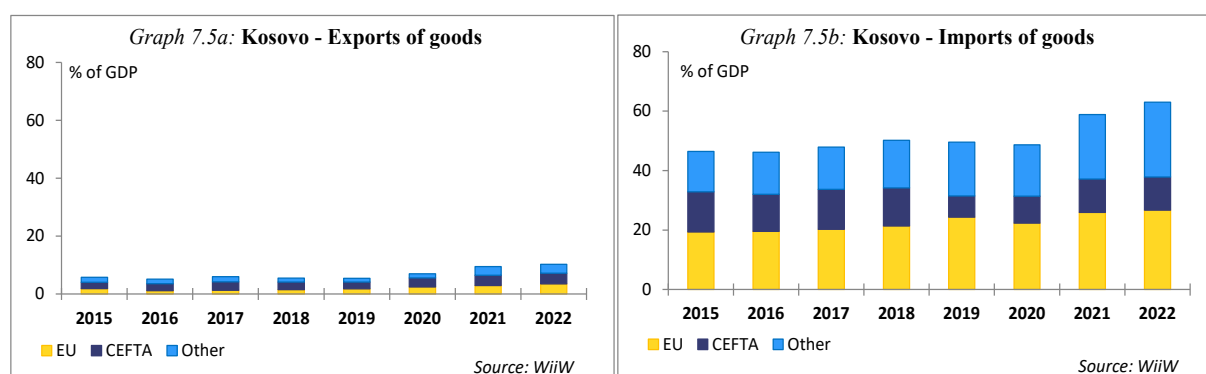
The sectoral structure of gross value added (GVA) shows a steady increase in the share of wholesale and retail trade to nearly 14% in 2022, up from 12.5% in 2018. This has been followed by slight growth in the share held by agriculture (7.4% in 2022, up from 6.5% in 2018). At the same time, the share of real estate activities in GVA fell by 1.2 pps to 5.9% compared to 2018, followed by shrinking contributions from public administration and education. Despite its slight decline compared to 2018, the services sector continued to dominate economic activity in 2022, providing around 45% of GVA. The contribution of construction remained virtually unchanged at around 8% compared to 5 years before, while employment in the sector fell to 11% in 2022, down from 11.9% in 2018. For the same period, the proportion of employees in the services sector increased slightly from 70% to 73%.

Kosovo's private sector is dominated by very small firms with difficult access to finance.

Although SMEs represent over 99% of registered enterprises, almost all of them are micro firms employing 1-9 employees, while the proportion of larger companies (10-249 employees) is less than 1%. SMEs and family-run businesses account for 80.4% (2020) of employment in non-financial businesses (significantly above the EU average of 65.2%) and generate 81% of the country's total value added. Access to finance remains an obstacle to growth due to banks' stringent loan requirements, affecting mostly smaller enterprises. Within almost 7 years, the Kosovo Credit Guarantee Fund (KCGF) portfolio has reached the cumulative value of

approved loans of around EUR 550 million, while the value guaranteed by the Fund has reached EUR 290 million, distributed in almost 13,000 loans.

Economic integration with the EU and price competitiveness



Over the last 5 years the EU remained Kosovo's largest trading partner, while the share of CEFTA countries declined. In 2022, the EU accounted for 42.4% of Kosovo's total imports of goods, marginally lower than in 2018, while the CEFTA partners' share fell by around 8 pps to 17.7%. On the other hand, the proportion of goods imported from Türkiye increased to nearly 15%, up 5 pps on 2018. The EU's share in Kosovo's merchandise exports increased to 33.9% in 2022, up from 27.5% in 2018, while the proportion of CEFTA countries decreased to 36.2% from 47.2%. Among CEFTA partners, North Macedonia and Albania are the main destinations for Kosovo's exports of goods. The share of base metals¹⁵ in goods exports fell to 23.1% in 2022, down from 34.1% in 2018, but they still account for the largest part of merchandise exports. The proportion of various manufactured articles increased significantly to around 20% in 2022, up from 4% in 2018.

Trade openness improved significantly in 2022, in line with the robust performance of trade in goods and services. Overall, trade openness (i.e. the total value of exports and imports) increased to 109.2% of GDP in 2022, up from 98.6% in 2021 and 86.3% in 2018. The improvement took place for both merchandise and services trade. The increase in goods exports (21.8%) in 2022 was mainly driven by mineral products as well as plastic, rubber and their manufactured articles. Services exports continued to grow robustly, by 31.3% in nominal terms, mainly driven by diaspora tourism from Western Europe. In addition to travel services, which currently account for the largest share of service exports (74.4%), there were positive developments in exports of telecommunications and computer and information services. Imports of goods rose quickly (20.4%) mainly due to higher energy imports.

The EU Member States remain the main investors in Kosovo. Net FDI inflows surged by

¹⁵ This is partly because Ferronikeli (Kosovo's largest exporter) halted production in the last quarter of 2021 on the back of higher energy prices.

88% in 2022, mainly on the back of significant diaspora investment in real estate, followed by financial and insurance activities. Heavy concentration in these sectors (around 75% of FDI inflows) contributes little to improving export capacity. The EU's share in Kosovo's net FDI stock reached 40.5% in 2022, up from 32.1% in 2018. The shares of Germany and Switzerland (two countries with large diasporas from Kosovo), increased to 17.5% and 16.4% respectively in 2022, up from 11.8% and 11.4% in 2018.

2.4. PUBLIC PROCUREMENT, STATISTICS, FINANCIAL CONTROL

Chapter 5: Public procurement

EU rules ensure that the public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.

Kosovo is **in between some and moderate level of preparation** in the area of public procurement. It made **limited progress** in this area. Public procurement remains prone to irregularities and vulnerable to corruption during both the procurement process itself and in the subsequent implementation of the contract. No progress was made in adopting a new public procurement law. Since last year's recommendations were not implemented, they remain valid.

In the coming year Kosovo should in particular:

- adopt a new law on public procurement and a new law on concessions in line with the EU *acquis*; prepare the corresponding implementing legislation and ensure their proper implementation;
- increase the capacity of – and cooperation between – all public-procurement institutions and contracting authorities;
- ensure that the Procurement Review Body is fully operational and remains functionally independent; it should also strengthen the Body's capacity and ensure that its review process is timely, effective and transparent.

Institutional set-up and legal alignment

The **legal framework** on public procurement is partially aligned with the EU's 2014 public-procurement *acquis*. A new public procurement law is still awaiting adoption by the government for over two years. The authorities have not yet started to draft the implementing legislation. A new law on public private partnerships is also awaiting governmental approval.

Strategic priorities in the area of public procurement, including activities in this area, are now part of the new 2022-2026 public finance management strategy and its 2022-2024 action plan, both of which were approved at the end of December 2022.

The Central Procurement Agency, under the Ministry of Finance, Labour and Transfers, carries out centralised purchases on behalf of the central government. The Public Procurement Regulatory Commission is responsible for the overall coordination and supervision of the public procurement system. The Procurement Review Body examines all allegations of breaches of public procurement law and reviews bidders' complaints. The Body's functional independence should be reflected in the new law. It is also important to ensure better cooperation among these and other institutions, such as the Kosovo National Audit Office and

the Kosovo Competition Authority. Cooperation in this area would help to detect any bid-rigging and reduce risks through careful planning and design of the tenders.

Implementation and enforcement capacity

Kosovo's **public-procurement market** was estimated as being worth 6.5% of GDP in 2022, compared with 5.6% of GDP in 2021. By June 2023, the country's e-procurement system had registered approximately 14 400 businesses and around 16 300 active users. In 2022, 10 290 public contracts were signed, compared with 9 892 in 2021. In terms of value, contracts worth EUR 559 million were signed in 2022, compared with contracts worth close to EUR 430 million in 2021. A significant amount of public procurement activities (21.80%) were carried out via negotiated procedure without formal procurement and bidding process. The value of contracts signed under negotiated procedure without being published represents EUR 78.56 million or 14.05%.

On the **monitoring of contract awards and implementation**, in 2022, 78.2% of contracts were awarded through open procedure and 94.34% of public contracts were awarded according to a lowest-price criterion, with only 5.66% (or EUR 31.6 million worth) using the best-price-quality ratio. The use of best-price-quality ratios should be further encouraged in line with the EU directives on public procurement. Interoperability has still not been ensured between the e-procurement system and other relevant government IT systems to increase transparency (such as with the Kosovo Financial Management and Information System) to track payments.

The **capacity of the contracting authorities to manage public-procurement processes** varies. Improvements are needed in market research, in the tender evaluation process as well as in the implementation and the monitoring of contracts. Further improvements are needed in the drafting of technical specifications to better support the quality, efficiency and transparency of procurement. There is a risk of mismanagement and corruption due to limited enforcement, insufficient managerial accountability, insufficient quality control and limited contract management capacity. The Public Procurement Regulatory Commission organised trainings to improve the capacities of contracting authorities to use the best-price quality ratio as award criterion. Furthermore, it held seminars on the use of the modules on contract management and on the performance evaluation of contractors. The e-procurement system needs to be updated to ensure full functionality.

Centralised procurement is mandatory for agencies with fewer than 50 employees and for 14 listed categories of goods and services. The Central Procurement Agency continues to be understaffed. Kosovo should improve its planning of procurement, and reduce the use of negotiated procurement procedures. To mitigate the risks of misuse and fraud, it is important to ensure full transparency, ensure robust reasoning to explain the award decision and maintain audit trails.

The Procurement Review Body would benefit from more qualified staff, particularly with respect to review and legal experts, to ensure timely and quality decisions on complaints.

There were no developments in the area of **integrity and the fight against conflicts of interest**. Kosovo has a code of ethics for public procurement, but it does not monitor compliance with this code. Specialised professional and ethics training should be delivered to all contracting authorities. Further efforts are underway to both the procurement systems and audit oversight of local governments. More and more municipalities are now publishing their procurement contracts.

Efficient remedy system

Kosovo's legislation on the **right to legal remedy** is broadly in line with the EU *acquis*. Appeals to contest procurement awards can be lodged through the e-procurement platform. Following the resignation of one board member, the Procurement Review Body board is once again incomplete, although it continues to operate. Kosovo needs to ensure that the Procurement Review Body becomes fully operational and remains functionally independent. The Body's capacity needs to be strengthened and its review process managed in a timely, effective and transparent manner. A total of 820 appeals were lodged and the board handled 732 cases in 2022 and 88 cases in 2023.

Chapter 18: Statistics

EU rules require Member States to produce statistics based on professional independence, impartiality, reliability, transparency, and confidentiality. Common rules are in place for the methodology, production and dissemination of statistical information.

Kosovo **has some level of preparation** in the area of statistics. **Some progress** was made in the reporting period, notably in improving: the data-collection methodology; data transmission to Eurostat; and implementation of the Eurostat peer-review recommendations. Communication between the different statistical institutions has improved, but coordination at the technical level and the use of available administrative data are insufficient. Kosovo has also improved the frequency of its statistical outputs. Some statistics on energy, social statistics and short-term statistics in the services sector are now being sent to Eurostat on a monthly basis, whereas they used to be sent on a quarterly basis. The delayed population and housing census is now planned to take place between 1 November and 31 December.

Last year's recommendations were partially met and remain valid. In the coming year, Kosovo should in particular:

- finalise preparations for the population and housing census and its implementation by ensuring operational details and full coverage of the territory;
- increase the number of statistical products and send these products more frequently to Eurostat;
- fill existing vacancies and increase the capacities of the Kosovo Agency of Statistics.

On **statistical infrastructure**, the legal framework is broadly in line with the European Statistics Code of Practice. However, the implementation of this framework needs to be strengthened. To that end, Kosovo should: (i) preserve a leading role for the Kosovo Agency of Statistics (KAS); (ii) improve statistical governance and coordination between the main statistical institutions; (iii) and ensure better access to administrative data sources. The KAS should continue to implement Eurostat's peer-review recommendations, particularly in relation to increasing the Agency's cost-effectiveness, strengthening quality management, and strengthening relations with data users. KAS should also fill vacant positions. The efficiency of internal systems, processes and delegated management remains a challenge. Data transmission to Eurostat continues to improve. Despite improvements to its web-based dissemination of statistics, the Agency should seek to strengthen its relations with data users and academia. Kosovo continues to use the European classification of economic activities (NACE Rev.2). The existing registers (agriculture, business and households) are updated regularly, but the population register needs to be improved. KAS has improved access for the public to some existing administrative data, such as data from the Civil Registry Agency, and the Food and Veterinary Agency. In March 2023, the Agency signed a memorandum of understanding with the Czech Statistical Office setting a framework for cooperation and procedures for the exchange of information and expertise in the field of official statistics. The

Agency does not systematically compile gender-disaggregated data. Kosovo still does not yet have a Gender Equality Index.

On **macroeconomic statistics**, Kosovo has made some slight improvements, and further alignment with the European System of Accounts (ESA) 2010 is ongoing. Although the Agency compiles annual and quarterly national accounts, methodological inconsistencies in these accounts need to be addressed. The reporting period has seen some improvements: (i) the experimental compilation of GDP by income approach (for 2011-2019); (ii) the compilation of Non-Financial Sector Accounts (2015-2021) to be transmitted to Eurostat in September 2023; and (iii) Supply and Use Tables (2013-2016) expected to be sent to Eurostat in October 2023.

Quarterly sector accounts and regional accounts are not regularly compiled. The number of ESA 2010 transmission tables sent to Eurostat has increased and improved. As regards government finance statistics (GFS) and excessive deficit procedure (EDP), further methodological work is expected to fully adhere to ESA 2010. Kosovo should continue efforts to improve the coverage and timeliness of the EDP tables as well as to start completing the questionnaire relating to the EDP tables. After the tables for quarterly financial account for general government and quarterly debt for general government were transmitted to Eurostat for the first time in 2023, Kosovo now provides the currently full set of required GFS tables. However, efforts are still needed to improve various qualitative aspects of the tables.

Monthly statistics for international trade in goods are submitted to Eurostat. Balance of payments data are compiled by the Central Bank and are broadly in line with the EU *acquis*; annual and quarterly data on the balance of payments are submitted to Eurostat. KAS publishes quarterly government finance statistics. The Harmonised Index of Consumer Prices is regularly published on the KAS webpage and transmitted to Eurostat. There has been no progress in broadening the work by adding data on Purchasing Power Parities (PPP).

Structural **business statistics** and some short-term statistics are partially in line with the EU *acquis*. However, the availability of both these types of statistics is limited and they lack distinction between public and private investments or by sectors. Only one set of short-term statistics (on building permits) has been sent to Eurostat. Industry statistics are produced broadly in line with the relevant EU regulation. Short-term service-sector statistics are produced quarterly. Construction-sector statistics are largely not available; only the construction cost index is produced on a quarterly basis. Industry statistics on manufactured goods (PRODCOM survey) for the year 2021 were published in December 2022. Foreign affiliates statistics are not available. Tourism statistics and transport statistics are not aligned with the EU *acquis*, while statistics on development and innovation are not produced on a regular basis. The statistics on information and communication technologies (ICT) for households started in 2018, and are now published regularly (the results for 2022 were published in October 2022). The 2021 ICT statistics for enterprises were published in November 2022.

In the area of **social statistics**, only demographic statistics are broadly in line with the EU *acquis*. The preparations for the forthcoming population census are ongoing: in July 2022, the Assembly adopted the Law on population and the housing census. In August 2023, the government decided that the census will take place from 1 November to 31 December 2023, and allocated EUR 10 million for this.. Statistics on income and living conditions (regular EU-SILC survey) are produced annually. The last set of SILC statistics for Kosovo was for the year 2020 and was published in December 2022. Social-protection and labour-market statistics are only partially produced. Kosovo carries out an annual and quarterly labour-force survey and the timeliness of publication of the results of this survey has improved. Kosovo still does not produced statistics on the labour cost index, the structure of earnings data, and job vacancies.

Education statistics for 2022/2023 are aligned with the international education classification standards (ISCED 2011) Public health and crime statistics are not yet in line with EU standards.

For **agricultural statistics**, KAS publishes data on annual agricultural crops, livestock production, and orchards statistics. The agricultural holding survey is regularly produced and aligned with *acquis* standards. The next farm-structure survey is not planned until 2025. Agricultural price indices and economic accounts for agriculture are produced on a regular basis. Supply balance sheets and the agriculture labour index are not yet produced on regular basis. Agriculture statistics are sent to Eurostat through the EU IT system for statistics, the Electronic Data Files Administration and Management Information System (EDAMIS).

Energy and environment statistics are partially in line with the *acquis*. During the reporting period, KAS reduced the timeframe for publishing energy balance results (publishing on a monthly rather than quarterly basis since mid-2022). Thus, it increased the number of statistical products sent to Eurostat. In April 2023, the share of renewable energy sources in the overall electricity consumption stood at 17.32%. Energy-consumption statistics are collected for the residential, services and transport sectors, but the results are not published regularly. The lack of energy-efficiency indicators is an obstacle to reporting on energy savings. Waste and water statistics are produced regularly. Statistics on greenhouse-gas emissions are not published regularly. Other environmental statistics, such as air-emissions accounts, environmental taxes, environmental-protection expenditure. and material flow balances, are not yet produced.

Chapter 32: Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audits of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and protect the euro against counterfeiting.

There is **some level of preparation** in this area. Kosovo made **limited progress** during the reporting period by adopting the new 2022-2026 PFM strategy and its action plan. The implementation of both needs to speed up. Kosovo needs to further harmonise its public internal financial control (PIFC) legislation with EU best practices. Additionally, implementation of managerial accountability, including delegation of decision-making responsibilities; (ii) addressing effective internal control measures; and (iii) systematic follow-up of internal and external audit recommendations remain key priorities. The parliamentary oversight of management of public funds is not efficient. Because the recommendations from the previous year were not fully implemented, Kosovo should in the coming year:

- implement efficiently the new 2022-2026 PFM strategy, and its actions relevant to PIFC and external audit;
- develop and adopt the new Law on public financial management and accountability based on best EU practices and harmonise this new Law with PIFC law;
- improve the managerial accountability of budget users at both central and local level;
- improve cooperation between the Kosovo National Audit Office (KNAO) and Parliament by: (i) improving parliamentary scrutiny of budget implementation; and (ii) continuously and efficiently implementing and following-up on the KNAO audit recommendations.

Public internal financial control

Kosovo has made some progress in improving its **strategic framework for PIFC**, as it adopted the new 2022-2026 PFM strategy and its action plan. Kosovo needs to make further efforts to ensure inter-institutional coordination and to improve its framework for monitoring and

reporting. Making improvements to this framework will lead to a more consistent and coherent approach in implementing the internal control standards. The work on the development of the new law on PFM and accountability has started. This new law should be harmonised with the PIFC legislation.

The efficient implementation of **managerial accountability** remains a challenge for budget users at both central and local level. Kosovo needs to ensure the consistent application of international internal audit standards and better delegate management powers in public entities. The process to rationalise government agencies is moving slowly, and is insufficient to bring about any improvements. The implementation of the Regulation on financial management and control remains inefficient, and the lines of delegation and accountability are not yet embedded in the administrative culture of the budget users. The Law on the organisation and functioning of the administration and independent agencies, which sets out the lines of accountability between first-level spending units and subordinate bodies, is not applied in a consistent manner (*See section on PAR*).

The legal framework on **internal control** is largely harmonised with the international standards, but is not being sufficiently implemented. Financial management and control and budget supervision should both be improved, following best EU practices. In 2022, the process of development and adoption of risk-management registers continued at central and local-government level. However, the incorporation of these measures into financial control and management processes remains insufficient.

On **internal audit practices**, further efforts are needed to efficiently implement internal audit standards in the public sector. Most internal audit units lack experienced and skilled staff. Internal audit committees are not efficient nor properly functioning and it is recommended that their role and legal basis be reconsidered. Further efforts are needed in building up the skills of budget users so they can use internal audit methodological tools in a consistent and coherent way. The implementation of internal audit recommendations is limited in practice. The quality-assurance methodology is not yet systematically implemented. The Administrative Instruction on the training programme and certification of internal auditors in the public sector has been updated, but not yet adopted. There are therefore delays to the start of the national programme for certification of internal auditors in the public sector. Further efforts are needed to provide continuous training to internal auditors, at both central and local level.

The **Central Harmonisation Unit** provides methodological guidance and coordinates the development in the public sector of internal audit and financial management and control. However, its capacities remain insufficient, especially in monitoring and reporting on the functioning of the overall system for internal control. The government adopted the 2022 PIFC annual report, but its structure and scope could be further improved and its recommendations could be more systematically implemented.

There is no legal basis in the PIFC law with regard to anti-corruption and there is no mechanism in place to monitor the number of cases investigated, prosecuted and subject to court resolutions as a result of internal audits or inspections.

External audit

The Law on the Auditor General and the **National Audit Office** of Kosovo (KNAO) is largely harmonised with the standards set by the International Organisation of Supreme Audit Institutions. Nevertheless, further review of the legal framework is needed to improve the external audit function in the public sector for example to increase the KNAO's financial and operational independence and to remove its obligation to conduct annual financial audits of all organisations that receive a budget from the state. These legal changes are of crucial importance

for improving the capacities and the quality and impact of the KNAO's audit work. KNAO has the **institutional capacity** to carry out its tasks, with 164 employees of which 82% are audit staff, and 18% are employees providing other professional support services. Kosovo continued to implement the 2022-2025 strategic development plan.

In 2022, some progress was noted as the annual audit plan was fully met, with 133 audits carried out, including 3 compliance audits and 15 performance audits. On the **impact of the audit work**, auditees do not effectively implement the KNAO's recommendations. Out of 606 audit recommendations provided by the KNAO in 2020, 50% were fully implemented, 5% were partially implemented, and 45% were not implemented. Although cooperation between the KNAO and Parliament has improved, parliamentary scrutiny of the preparation and implementation of the budget preparation should be improved. In 2022, the Commission for the Supervision of Public Finances reviewed 23 reports, two less than during the previous reporting period. The transparency and accountability of the management of public funds must be ensured through efficient monitoring mechanisms by the executive and the Parliament, including through follow-up on the KNAO's audit recommendations.

Protection of the EU's financial interests

On **alignment with the acquis**, national legislation is not yet harmonised with the Convention on the protection of the EU's financial interests, and this harmonisation will require amendments to the Criminal Law. Kosovo has also not yet set up an **anti-fraud coordination service** (AFCOS) and a national anti-fraud strategy for protecting the EU's financial interests has not yet been developed. Since the Kosovo authorities do not directly manage the EU funds, irregularities are not reported to the Commission through the Irregularity Management System. While there is not yet a solid track-record on cooperation with the Commission during investigations, Kosovo Police ensures cooperation on an ad-hoc basis.

Protection of the euro against counterfeiting

On **alignment with the acquis**, there is to some extent harmonisation with the EU regulations on the system for the fight against counterfeiting of the euro. The Criminal Code considers the counterfeiting of currency a criminal act and the Law on the Central Bank regulates the fight against counterfeiting. Kosovo has a Regulation for cash operation that obliges financial institutions to treat and withdraw from circulation all euro banknotes and coins suspected as counterfeit, and to submit them to the police. The Agency for Forensics is responsible for the technical analysis of suspected counterfeit banknotes and coins. It has concluded an agreement with the European Commission on coins, but not yet on banknotes with the European Central Bank. In 2022, out of 2 162 suspected banknotes assessed by the agency 718 were confirmed as counterfeit, and out of 12 028 coins, 10 979 were confirmed as counterfeit. There is no shared electronic system for the exchange, processing, analysis and reporting of cases with the Central Bank and the agency. Kosovo needs to build capacities of key institutions to use methodological tools and exchange data with national and international authorities. All relevant institutions for fighting counterfeit currency participate in EU's Pericles IV programme.

3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Good neighbourly relations and regional cooperation form an essential part of Kosovo's European integration process. They contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past.

Kosovo maintained its engagement in a number of regional cooperation initiatives, such as the Central European Free Trade Agreement (CEFTA), the Energy Community, the Transport

Community, the South-East European Cooperation Process (SEECP) and the Regional Cooperation Council (RCC)¹⁶.

The **EU-Western Balkans Summit** in December 2022 took place for the first time in the region, in Tirana. The summit focused on support to the region in the fields of energy and migration, as well as on youth cooperation, roaming, green lanes and overall progress on implementing the Economic and Investment Plan.

On the **Common Regional Market**, a political breakthrough was achieved at the Berlin Process Summit in Berlin in November 2022, where leaders adopted the three mobility agreements on higher education qualifications, on professional qualifications and on free movement with identity cards. Kosovo has ratified all three mobility agreements and deposited the related notification instruments. A number of important decisions agreed at the technical level within CEFTA remain blocked.

Kosovo generally maintains good bilateral relations with other enlargement countries and neighbouring EU Member States.

Kosovo's bilateral relations with **Albania** remain good overall. In July 2022, Albanian President Meta chose Kosovo as the destination of his last official visit before completing his term as president. In August 2022, President Begaj paid his first official visit to Kosovo, and Kosovo President Osmani hosted President Begaj in Pristina again in February 2023. The assemblies of Albania and Kosovo held their first joint meeting in November 2022.

There has been no change in Kosovo's formal relations with **Bosnia and Herzegovina**, which does not recognise Kosovo's independence. The two maintain a strict visa regime. Bilateral meetings took place occasionally on the margins of regional and multilateral summits. An initiative to simplify the visa procedure for all citizens of Kosovo is still pending.

Kosovo maintained close relations with **Montenegro**. Throughout the reporting period, several meetings took place at the level of prime ministers and foreign ministers on the margins of international and regional events. Bilateral relations were improved by the official visit of Kosovo's President to Montenegro in February 2023, and the visit of Montenegro's Prime Minister to Kosovo in April 2023.

Kosovo continued to enjoy overall good relations with **North Macedonia**, with Kosovo President Osmani paying an official visit in April 2023. Other contacts between political leaders took place on the margins of international and regional events.

Kosovo continued to maintain good relations with **Türkiye**, including in the political, economic and cultural sectors. Kosovo PM Kurti visited Türkiye in February 2023. Kosovo provided 36 Kosovo Security Force troops to an international humanitarian operation in response to the devastating earthquake on 6 February 2023.

Georgia, the **Republic of Moldova** and **Ukraine** have no formal relations with Kosovo, as they do not recognise Kosovo's independence. The Moldovan Parliament, however, ahead of the European Political Community Summit on 1 June 2023, amended the law on visitors from third countries allowing Kosovo representatives to obtain visas for participation in international meetings held in Moldova.

¹⁶ Kosovo is a member of CEFTA. Kosovo has free trade agreements (FTAs) with Albania, North Macedonia, Croatia, Bosnia-Herzegovina and Türkiye. Kosovo has several Generalized System of Preferences (GSP) programmes with the US, Japan and Norway.

4. NORMALISATION OF RELATIONS BETWEEN KOSOVO AND SERBIA

The EU-facilitated Dialogue on normalisation of relations between Kosovo and Serbia continued in the reporting period with regular meetings at the level of Leaders and Chief Negotiators. After months of intense negotiations and with the support of key partners, the Parties reached an Agreement on the Path to Normalisation in Brussels on 27 February 2023, and agreed on its Implementation Annex in Ohrid, North Macedonia, on 18 March 2023. As part of the Agreement, the Parties took note that the Agreement and the Implementation Annex will become integral parts of the respective EU accession processes of Kosovo and Serbia.¹⁷

Both Kosovo and Serbia are yet to start implementation of their respective obligations stemming from the Agreement, which are valid and binding for the Parties and part of their European paths. The Parties are urged to start engaging more constructively and start implementation without further delay or precondition. This includes the establishment of the Association/Community of Serb Majority Municipalities (A/CSM). Kosovo is expected to start the process leading to the establishment of the A/CSM based on the European proposal presented to the Parties on 21 October 2023 and Serbia is expected to support this process and start delivering on their key obligations from the Agreement in parallel. Formalities, including related to adoption, should not stand in the way of making progress in implementation. The Parties also have an obligation to fully implement all past Dialogue Agreements. The constructiveness of the Parties will be assessed based on their implementation performance. The European Council on 26 October 2023 regretted the lack of implementation by both Parties of the Agreement on the path to normalisation and its Implementation Annex as well as other agreements reached in the EU facilitated dialogue, led by the High Representative and supported by the EU Special Representative. Normalisation of relations is an essential condition on the European path of both Parties and both risk losing important opportunities in the absence of progress.¹⁸

Despite the conclusion of the Agreement on the Path to Normalisation, the Dialogue has been hampered throughout the reporting period by a number of negative developments and crises in the north of Kosovo triggered by actions of one or both Parties. Kosovo has executed a number of such actions in the north of Kosovo, including the increased presence of Kosovo's special police and expropriation of land, which have created widespread discontent among the local Kosovo Serb population and negatively affected the Dialogue. The mass resignation of Kosovo Serbs from Kosovo institutions – police, judiciary and administration – in November 2022, roadblocks in the north of Kosovo in reaction to arrests of Kosovo Serbs in December 2022, as well as the boycott of early local by-elections in April 2023 by Kosovo Serbs further damaged the Dialogue and exacerbated the negative atmosphere around it. As a result of the Kosovo

¹⁷ Implementation Annex to the Agreement on the Path to Normalisation of Relations between Kosovo and Serbia: This Annex constitutes an integral part of the Agreement. Kosovo and Serbia fully commit to honour all Articles of the Agreement and this Annex, and implement all their respective obligations stemming from the Agreement and this Annex expeditiously and in good faith.

The Parties take note that the Agreement and the Implementation Annex will become integral parts of the respective EU accession processes of Kosovo and Serbia. The Parties note that immediately after the adoption of the Agreement and this Annex, the EU Facilitator will start the process to amend the Chapter 35 benchmarks for Serbia to reflect Serbia's new obligations stemming from the Agreement and this Annex. The agenda of Kosovo's Special Group on Normalisation will equally reflect Kosovo's new obligations stemming from the Agreement and this Annex.

The Parties agree to endorse the Declaration on Missing Persons, as negotiated under the EU-facilitated Dialogue, as a matter of urgency.

To implement Article 7, Kosovo launches immediately negotiations within the EU-facilitated Dialogue on establishing specific arrangements and guarantees to ensure an appropriate level of self-management for the Serbian community in Kosovo, in compliance with relevant previous Dialogue agreements as determined by the EU Facilitator.

The Parties agree to set up a Joint Monitoring Committee, chaired by the EU, within 30 days. The implementation of all provisions shall be ensured and supervised by the Joint Monitoring Committee.

To implement Article 9, the EU will organise a donor conference within 150 days to set up an investment and financial aid package for Kosovo and Serbia. No disbursement will happen before the EU determines that all provisions of the Agreement have been fully implemented.

Kosovo and Serbia agree that all Articles will be implemented independently of each other.

The order of the paragraphs of this Annex is without prejudice to the order of their implementation.

Kosovo and Serbia agree not to block implementation of any of the Articles.

All discussions related to implementation of the Agreement will take place under the EU-facilitated Dialogue.

Kosovo and Serbia recognise that any failure to honour their obligations from the Agreement, this Annex or the past Dialogue Agreements may have direct negative consequences for their respective EU accession processes and the financial aid they receive from the EU.

¹⁸ <https://www.consilium.europa.eu/media/67627/20241027-european-council-conclusions.pdf>

Serbs leaving all Kosovo institutions in November 2022, by-elections took place in the four Kosovo Serb majority municipalities in the north of Kosovo on 23 April 2023. While the elections were held in line with the legal framework of Kosovo, not all parties and communities made use of their democratic right to participate and vote in the elections, resulting in a record low turnout, which does not offer a long-term political solution for these municipalities.

While there had been no progress in the implementation of the Energy Roadmap adopted in June 2022, the tentative agreement in August 2023 between the commercial companies KEDS and Elektrosever on the scope of functions potentially marks a significant step forward in the implementation of the Roadmap. The Parties are now expected to quickly enable the signing of the outstanding commercial and technical agreements between the two companies to ensure that people living in the four Kosovo Serb-majority municipalities in the north start paying for the electricity they consume.

During the reporting period, the Parties agreed on and endorsed the political declaration on Missing Persons in May 2023. The Parties are encouraged to start implementation of the declaration immediately and, as the first step, agree to the Terms of Reference for the Joint Commission that is to be established as per the declaration.

When it comes to the state of play on implementation of past Dialogue agreements:

- The withdrawal of Kosovo Serbs from Kosovo institutions in November 2022 and the boycott of local elections in the north of Kosovo in April 2023 violate Serbia's Dialogue obligations and they constitute severe backsliding in Serbia's compliance to the April 2013 "First agreement of principles governing the normalisation of relations" and direct violation of the Justice Agreement of 2015. Serbia is urged to encourage Kosovo Serbs to return to the institutions immediately and Kosovo to enable this return to happen. Since November 2022, neither Party has taken any steps in this regard. The recruitment of new Kosovo Serb police cadets undertaken by the Kosovo Police while welcomed, did not follow the procedures in line with Dialogue agreements.
- There has still been no further progress on the implementation of the August 2015 Agreement. While the EU welcomes the presentation of a first draft Statute of the A/CSM to the High-level Dialogue in May 2023, the draft presented is not in line with the relevant Dialogue Agreements. A European proposal for the establishment of the A/CSM in Kosovo was presented to the Parties on 21 October 2023. Formalities, including related to adoption should not stand in the way of making progress in implementation. Kosovo and Serbia are now urged to engage constructively on the establishment of the A/CSM with no further delay, conditions or obstructions. This obligation forms a part of the implementation of the Agreement on the Path to Normalisation of Relations, which the Parties are expected to advance on, without delay or precondition, as recalled by the European Council in October 2023. The issue of Serbia-run structures needs to be addressed in this same context.
- The works on the Mitrovica Bridge have long been completed and Serbia is expected to engage constructively to allow the bridge to be opened to vehicle traffic without obstruction. Any decision on opening of the Bridge has to be agreed and coordinated in the Dialogue.
- As regards the technical Dialogue agreements (2011-2012), some are not or only partially being implemented. Until sustainable solutions are found, both Parties need to remain committed to the continued implementation of the agreement on representation and participation of Kosovo in regional forums and not block the work of regional forums over bilateral disputes. The implementation of the cadastre and acceptance of university diplomas agreements is still pending due to non-implementation by Serbia. Serbia also has

yet to address the issue of re-located Serbian administrative customs structures with Kosovo denomination that operate from within Serbia, and to cease the issuance of documentation or affixing of stamps with denomination that contravenes the related agreement.

- On IBM, the Interim Common Crossing-Points (CCPs) between Kosovo and Serbia continue to be operational. Only two of the six permanent CCPs have been established (Merdare and Mutivodë/Mutivode). Serbia still has not established permanent CCPs to be hosted by their side (Jarinje/Rudnica, Končulj/Dheu i Bardhë and Depce/Muçibabë), which led to a suspension of EU funds for this project in July 2018. In addition, Serbia needs to engage constructively to enable the construction of the third CCP hosted by Kosovo in the north of Kosovo at Tabavije/Bërnjak-Tabaliqe/Brnjak. Additional efforts are required from Serbia to close illegal roads and bypasses to ensure exclusive use of official crossing points for goods and persons entering into or leaving Kosovo. Serbia also must allow resumption of the joint technical IBM meetings at all levels.
- On Freedom of Movement, after months of tensions, Kosovo and Serbia agreed in November 2022 that Serbia will stop issuing new licence plates with Kosovo cities' denominations, and that Kosovo will suspend any further actions related to re-registration of vehicles. The full implementation of the Freedom of Movement agreements is still pending. This also requires the Parties to find a permanent solution to the issue of licence plates in compliance with the relevant Dialogue agreements. Lack of such solution has continued to cause tensions in the north of Kosovo during the reporting period.
- Both Parties need to fully respect the Telecoms Agreement and not put its hitherto successful implementation at risk. Kosovo needs to ensure that MTS d.o.o has a business licence for the functions that have been agreed as part of the Agreement to enable the company to continue providing mobile and landline telephony services. MTS d.o.o needs to engage constructively and in line with the Kosovo law to enable this to happen.
- The processing of Mutual legal assistance requests has been stopped by Serbia. Serbia needs to resume the processing immediately, in line with the relevant Dialogue Agreement.
- Both Parties need to respect the Arrangements for Official Visits more consistently. Kosovo needs to allow the visits of the Serbian Chief Negotiator and other Serbian government officials when they are announced and conducted in line with the Arrangements, which has not always been the case during the reporting period.

Overall, Kosovo has remained engaged in the Dialogue, but it needs to demonstrate more serious commitment, invest more efforts and make compromises to take the normalisation process forward. Kosovo needs to uphold its Dialogue commitments and commit to the full implementation of all past Dialogue agreements and the Agreement on the Path to Normalisation of Relations. Moving forward, Kosovo also needs to make further substantial efforts to avoid actions that undermine stability and rhetoric that is not conducive to dialogue. Kosovo also needs to create a conducive environment for the conclusion of the legally-binding normalisation Agreement with Serbia. Kosovo is expected to engage more constructively to enable negotiations on the comprehensive legally-binding normalisation Agreement to start and show flexibility in order to make rapid and concrete progress. Reaching such an Agreement is urgent and crucial so that Kosovo and Serbia can advance on their respective European paths. An important requirement for negotiations on the comprehensive legally-binding Agreement is for the Parties to implement the Agreement on the Path to Normalisation swiftly and efficiently and without any conditions or obstructions.

The reporting period was marked by multiple crises and violent incidents in the north of Kosovo. The most serious crisis during the reporting period occurred on 24 September 2023, when Kosovo Police was attacked by heavily armed individuals, who were surprised in the midst of a major weapons' smuggling operation, leaving one police officer dead and three wounded. During the operation the attackers had taken several pilgrims hostage while barricading themselves in the Serbian Orthodox Monastery of Banjska/Banjskë, which they left behind when fleeing. During the ongoing investigation into the events, large amounts of military-grade weapons were seized. In the following days the Deputy Leader of Srpska Lista through his lawyer, announced that he prepared and coordinated the attack. He was questioned by Serbian authorities, shortly detained and released with his passport confiscated. In the days following the attack Serbia increased its military presence in the vicinity of Kosovo, which was subsequently reduced. The perpetrators of the attack need to be apprehended and swiftly brought to justice and Serbia is expected to fully cooperate and take all the necessary steps in this regard. The attack should not serve as an excuse for either side to divert attention from the EU-facilitated Dialogue. Kosovo and Serbia must pursue sustained de-escalation efforts, as well as ensure the holding of new elections in the north of Kosovo as soon as possible, with the active participation of Kosovo Serbs.

Prior to it, another serious escalation took place in May 2023 when the newly elected Kosovo Albanian mayors were installed in the municipal buildings in the north of Kosovo, against the clear recommendation of the international community, which triggered protests by Kosovo Serbs. Some turned violent and led to unacceptable and unprovoked attacks against citizens, KFOR soldiers, law enforcement and representatives of media, which are yet to be condemned and acted upon by Serbia. Several arrests of Kosovo Serbs by Kosovo Police in relation to their alleged involvement in the violence of 29 May in Zvečan/Zvečan, which did not systematically and fully adhere to the legal requirements, are of concern.

To find a way out of the cycle of crises, the Parties are expected to meet the requests of EU, as per the statements by the High Representative on behalf of the EU from 3 June 2023¹⁹ and 19 September²⁰ related to de-escalation on the situation on the ground, enabling new early elections with unconditional participation of Kosovo Serbs and return to the Dialogue and implementation of all Agreements. The European Council expressed on 26 October 2023 that failure to de-escalate the tensions will have consequences²¹.

5. EUROPEAN STANDARDS

CLUSTER 2: INTERNAL MARKET

This cluster covers: the free movement of goods (Chapter 1); freedom of movement for workers (Chapter 2); right of establishment and freedom to provide services (Chapter 3); free movement of capital (Chapter 4); company law (Chapter 6); intellectual property law (Chapter 7); competition policy (Chapter 8); financial services (Chapter 9), and consumer and health protection (Chapter 28).

¹⁹ <https://www.consilium.europa.eu/en/press/press-releases/2023/06/03/statement-by-the-high-representative-on-behalf-of-the-eu-on-kosovo-and-latest-developments/>

²⁰ <https://www.consilium.europa.eu/en/press/press-releases/2023/09/19/belgrade-pristina-dialogue-statement-by-the-high-representative-on-behalf-of-the-european-union-on-expectations-from-serbia-and-kosovo/>

²¹ <https://www.consilium.europa.eu/media/67627/20241027-european-council-conclusions.pdf>

This cluster is key for Kosovo's preparations for the requirements of the EU's internal market and is of high relevance for accelerated integration and growth, including the development of the Common Regional Market. Kosovo has some level of preparation in most of the areas of the internal market, namely in the areas of the free movement of workers, company law and competition. It is in between some and moderate level of preparation in the area of free movement of goods. Kosovo is moderately prepared in the right of establishment and freedom to provide services, free movement of capital, intellectual property law and financial services. It is at an early stage of preparation on consumer policy and health protection. During the reporting period, Kosovo made some progress in all areas, except on the free movement of workers, company law, competition policy, financial services and consumer policy and health protection, where only limited progress was made.

Chapter 1: Free movement of goods

The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.

Kosovo is **in between some and moderate level of preparation** in the area of the free movement of goods. **Some progress** was made with the adoption of the Law on general product safety and by further aligning Kosovo's legislation with the EU *acquis* on market surveillance and on mutual recognition. Further alignment with the EU *acquis* is needed in this area and Kosovo must increase staff numbers and improve staff skills in the area of quality infrastructure (especially conformity assessment and market surveillance).

As some recommendations of last year remain valid, Kosovo should, in particular:

- increase the enforcement capacity on conformity assessment and market surveillance bodies;
- start implementing the new Law on general product safety and Law on inspections and adopt relevant secondary legislation;
- start implementing requirements of the European Regulation on the registration, evaluation, authorisation and restriction of chemicals (REACH).

General principles

Kosovo has started drafting a legal framework for the **production, distribution and marketing of industrial products**. It adopted the Law on general product safety, which harmonises rules in the area of market surveillance. It has also adopted the Law on general inspections. However, this only partly aligns Kosovo with the relevant EU *acquis*, and the relevant implementing legislation still needs to be adopted.

Non-harmonised area

Kosovo has started screening its legislation to comply with requirements to eliminate barriers to trade and to ensure alignment with the obligations under **Articles 34-36** of the Treaty on the Functioning of the European Union (TFEU). Kosovo is working to further align legislation on the mutual recognition of goods. There is a specific Contact Point for Notification in place that monitors ministries and other bodies on their obligation to notify. Kosovo still requires products to be labelled with the flag of their country of origin, which is not in line with the EU *acquis*.

Harmonised area: quality infrastructure

The Kosovo **Standardisation** Agency is still not a member of any of the European or international standardisation organisations. Its application for affiliate membership with the European Committee for Standardisation (CEN) and the European Committee for Electro-technical Standardisation (CENELEC) is still pending. The Kosovo government's standard management information system is an online platform partly compatible with that of CEN/CENELEC and other international standardisation bodies. This system needs to be developed to be compatible with the CEN/CENELEC system and allow Kosovo to adopt new standards more quickly, making it user-friendly for businesses.

The **Accreditation** Directorate of Kosovo (DAK) needs to adopt implementing legislation to help it to be more effective in its work. The Directorate completed accreditation for 9 testing laboratories and 9 inspection bodies during the reporting period. At present, there are 53 accredited conformity-assessment bodies in Kosovo (34 test laboratories and 19 inspection bodies). There is still a need to improve the technical capacity and skills-testing ability of these accredited conformity assessment bodies.

The Kosovo **Metrology** Agency helps ensure further EU *acquis* alignment and to implement and develop quality-management systems and standards for calibration laboratories. Kosovo is currently pursuing associated membership of the European Association of National Metrology Institutes (EURAMET).

On **market surveillance**, the Market Inspectorate's responsibilities have increased since inspection rules were harmonised in 2022. The reorganisation of the Inspectorate and set-up of an e-inspection system is still ongoing. Kosovo also started preparing a new Law on market surveillance and compliance of products that harmonises with the most recent EU *acquis* by adopting an action plan. The new Law on general product safety has been adopted in April 2023 and is being implemented, taking into account the technical requirements for products and conformity assessment.

During the reporting period, the Market Inspectorate conducted 2 830 product safety inspections, imposed 311 fines, processed 195 cases, and confiscated 5 705 pieces of harmful goods.

Harmonised area: sectoral legislation

On the '**new and global approach**' to product legislation, Kosovo adopted legislation designed to be aligned with the EU *acquis* on aerosol dispensers, pressure equipment, gas appliances, personal protective equipment and construction products. Further alignment is needed on the other new legislative framework legislation.

In the area of '**old approach**' product legislation, Kosovo needs to start implementing its Law on chemicals designed to align with EU Regulation on registration, evaluation, authorisation and restriction of chemicals (REACH) and the EU Regulation on classification, labelling and packaging (CLP). Further alignment is necessary on fertilisers and detergents. Kosovo is not aligned with the EU *acquis* on motor vehicles, two or three wheeled vehicles, tractors (agricultural, forestry) or non-road mobile machinery emissions.

Kosovo made no progress on **procedural measures** during the reporting period. Kosovo's legislation remains partly aligned with the EU *acquis* in the areas of firearms, textile labelling, the pricing of medical products, **cultural** objects unlawfully removed from an EU Member State and defence products.

Inspectorates responsible for market surveillance and product safety are prone to corruption. Their competences should be clearly identified and should not overlap. Staffing should be sufficient in terms of number and quality.

Chapter 2: Freedom of movement for workers

Citizens of one EU Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

Kosovo has **some level of preparation** in the field of free movement for workers and made **limited progress** during the reporting period, notably on social security coordination. Kosovo is in ongoing negotiations on bilateral agreements on social security with Slovenia and started negotiations with Croatia in 2022.

In the coming year, Kosovo should in particular:

- continue negotiating and concluding new bilateral agreements on social security, notably with EU Member States;
- start work to prepare for joining the European Network of Employment Services (EURES) upon accession.

On the **free movement of workers**, EU nationals and their family members are not eligible to work in Kosovo without a work permit. During the reporting period, Kosovo's Employment Agency issued 202 short-term work permits (in 2021, 209), of which 114 were for EU nationals (in 2021, 157).

On **social security coordination**, Kosovo has already in place bilateral social security agreements with Belgium and the Netherlands, as well as with Switzerland and Albania. These agreements ensure that periods of work in Kosovo by nationals of these countries (or periods of work in these countries by citizens of Kosovo) will be taken into account for entitlement to social-security benefits. Negotiations for a similar agreement are ongoing with Slovenia. In 2022, Kosovo started negotiations on a similar deal with Croatia.

There is no legislation in force to preserve the supplementary pension rights of mobile workers who have worked in other countries or EU Member States.

Chapter 3: Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.

Kosovo remains **moderately prepared** in this area and made **some progress**. Kosovo started implementing its five-year action plan to make its sectoral laws compliant with the EU Services Directive. The Point of Single contact is not fully functional. Kosovo's postal market has already been opened to competition in 2022 and the legal framework is being aligned with the EU postal *acquis*. More efforts are needed to align Kosovo with the EU *acquis* on recognition of professional qualifications.

As most of last report's recommendations have not been addressed, in the coming year Kosovo should:

- remove the identified barriers to the right of establishment and freedom to provide services and implement the action plan to make sectoral laws compliant with the EU Services Directive;

- complete Kosovo's alignment with the EU postal *acquis* as regards the Regulation on cross-border parcel delivery services and strengthen institutional capacity to monitor and ensure compliance with the new rules in the postal market;
- align with the EU *acquis* on mutual recognition of professional qualifications, including with the Directive on recognition of professional qualifications and with the Directive on a proportionality test before adoption of a new regulation of profession.

On the **right of establishment and freedom to provide services**, Kosovo is partially aligned with the EU *acquis* on services. During the reporting period, the authorities set up a working group to monitor and coordinate the implementation of the five-year action plan to make sectoral legislation compliant with the EU *acquis* on services. The working group adopted monitoring guidelines, discussed progress, and organised capacity building to assess the compliance of its government bodies with the Law on Services. A tracking mechanism is needed to monitor the progress in this area. To ensure that its rules are harmonised with the standards set out in the EU's Services Directive, Kosovo should increase inter-institutional coordination between the legal departments of line ministries, agencies and other public and professional bodies. If foreign companies wish to provide services in Kosovo, they are currently obliged to establish an office. This impedes their freedom to provide services. To remedy this and other problems in this sector, the authorities have conducted an analysis of three service areas: legal, health and ICT to identify potential barriers to the freedom to provide services.

Kosovo's Point of Single Contact is responsible for licensing auditors and audit companies and has now started to expand its role to licensing surveyors and accountants. The number of professions registered via the Point of Single Contact should increase in the coming years and the associated online platform needs to be transformed into a user-service delivery point, including for company registration. Although businesses and the public can already access the Point of Single Contact platform online, they receive only general information on starting a business, with no interoperability options and therefore no real utility for the end user.

In the area of **postal services**, Kosovo made good progress on the regulatory alignment with the Postal Services Directive, as the reserved area to the universal service provider was abolished in 2022. Bylaws on implementing accounting separation and net cost calculation of the universal service were adopted, in line with the Postal Services Directive. There is one universal service provider and 26 other postal operators active in the postal market. The national regulatory authority is legally separated and operationally independent from postal operators, but has limited resources and needs strengthening to monitor and ensure compliance with the new rules in the postal market. Kosovo still needs to align its legislation with the Regulation on cross-border parcel delivery services.

The Law on **regulated professions** broadly lays down the requirements, conditions, and criteria for the exercise of a regulated profession. The Division for Regulated Professions within the Ministry of Education needs to be strengthened and fully staffed to become operational. Kosovo needs to start identifying all regulated professions in the country and draw up a detailed list of regulated professions.

Chapter 4: Free movement of capital

In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.

Kosovo is **moderately prepared** in the area of free movement of capital. During the reporting period, Kosovo made **some progress** by adopting the Law on implementation of targeted international financial sanctions and the Law on the state bureau for verification and confiscation of unjustified assets. Some of the recommendations from the previous report remain to be addressed.

In the coming year, Kosovo should, in particular:

- increase efforts to further align its legal framework with the EU Payment Services Directive 2;
- increase efforts to fight economic and financial crime, and align the Law on the prevention of money laundering and terrorist financing with the EU *acquis*;
- strengthen inter-institutional cooperation in the fight against economic and financial crime and strengthen the effectiveness of confiscations of assets and proceeds of crime.

The Central Bank of Kosovo has licensed one electronic money institution. However, the execution of payments is predominantly carried out in cash, and money transfers are largely limited to traditional financial institutions. More work could be done in this area to reduce transaction costs and facilitate unbanked and underserved customers.

On **payment systems**, Kosovo needs to further align its legislation with the EU Payment Services Directive 2. The country's current framework on e-commerce suffers from regulatory shortcomings, such as a weak system for electronic payments. This work of aligning with the EU Payment Services Directive 2 should be backed by introducing and encouraging new electronic payment methods through innovative solutions that are more efficient and less costly. Kosovo is not a member of the International Telecommunication Union, and this could hinder the development of international payment systems in the country.

The law on the prevention of **money laundering and combating terrorism financing** (AML/CFT) needs to be further aligned with the fourth and fifth Anti Money Laundering Directives. In 2022, the Assembly adopted the Law on implementation of targeted international financial sanctions, which addresses shortcomings identified by the 2018 Council of Europe Assessment Report on Anti-Money Laundering and Countering Terrorist Financing. The Law sets out measures to be taken and also identifies the competent authorities and procedures for proposal, approval, supervision and implementation on targeted international financial sanctions. These sanctions relate to the prevention and combating of terrorism; terrorist financing; and the proliferation of weapons of mass destruction. The Law on the State Bureau for verification and confiscation of unjustified assets, currently in the Constitutional Court, introduces penalties for illicit enrichment in the domestic legal system and provides for civil confiscation of certain assets without prior convictions. In view of increasing the transparency of legal persons and arrangements, in July 2022 the government adopted a concept document on regulating the beneficial ownership register and upgraded guidance is adopted by Kosovo's Financial Intelligence Unit (FIU) on AML/CFT obligations of legal professionals.

The number of suspicious transaction reports in Kosovo increased to 947 in 2022, up 3% from 2021. Although Kosovo has made some progress in the fight against financial crime, there is still a need to strengthen inter-institutional cooperation in the fight against economic and financial crime (*See also Chapter 24 - Justice, freedom and security*).

Chapter 6: Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory

audit.

Kosovo has **some level of preparation** in the field of company law. Kosovo made **limited progress** in further aligning with the EU *acquis* on company law and is preparing a new law on business organisations to align more broadly with the EU *acquis*. Since the 2022 recommendations were only partially addressed, they remain largely valid.

In the coming year, Kosovo should in particular:

- adopt the draft law on business organisations to further align with the EU *acquis* on company law including with the most recent EU *acquis* (the encouragement of long-term shareholder engagement, the Directive on the use of digital tools and processes in company and the Directive on company cross-border operations);
- further align with the EU *acquis* on company reporting and strengthen both the institutional audit-oversight structures and the professional independence/objectivity of auditors and audit firms as well as their sufficient and sustainable funding.

On **company law and corporate governance**, Kosovo is preparing a new draft law on business organisations. This aims to further align the country's legal framework with the EU company law *acquis*, particularly on minimum capital requirement, shareholders' rights (including the encouragement of long-term shareholder engagement), company takeovers, aspects of disclosure of information about companies and their branches, Directive on the use of digital tools and Directive on cross-border operations (mergers, divisions, conversions), and Directive on gender equality on boards of directors. The Kosovo Corporate Governance Code adopted in June 2021 reflects international standards set out in the OECD Principles on Corporate Governance.

Kosovo completed an assessment of the technical infrastructure required to ensure the interoperability of the Kosovo Business Registration Agency with the EU Business Register Interconnection System (BRIS) and now needs to ensure that the conditions for this connection are met. Insufficient coordination and data sharing between the Kosovo Business Registration Agency and the Kosovo Council for Financial Reporting still affects the timely reporting and publication of accounting documents. The Agency does not publish information on companies in some legal situations (e.g. under insolvency proceedings) and there is still no legal obligation to publish accounting documents in the business register.

On **company reporting**, the Law on accounting, financial reporting and audit is only partially aligned with the EU *acquis*. Kosovo will need to align with the most recent EU rules covering corporate sustainability reporting. The law requires **statutory audits** to be carried out following relevant international standards on auditing. Large companies must submit and publish their audited financial statements with the Kosovo Council for Financial Reporting (KCFR), and non-compliance risks legal sanction. All submitted financial statements are published on the Council's website. Kosovo still needs to secure sufficient sustainable funding for the Public Audit Oversight Board which was appointed by the KCFR as its executive branch responsible for overseeing this sector. This has prevented it from fully exercising its supervisory powers and enforcement functions.

Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting

Kosovo is **moderately prepared** on intellectual property rights. **Some progress** was made to align the domestic legal framework with the EU *acquis*. The new laws on: patents, trade marks, industrial design, topographies of semiconductor products and trade secrets entered into force. The government adopted the new Law on copyright and related rights (and relevant legislation regarding a collective rights management system in the fields of copyright for literary and visual works). This new law also aims to align with the Directive on certain online transmission of broadcasting organisations and retransmissions of television and radio programmes to cover online transmissions as well as with the Directive on copyright and related rights in the Single Market. Kosovo also took steps to better enforce intellectual and industrial property rights by establishing the Commercial Court that is mandated to solve cases and disputes in this field. Last year's recommendations were partially implemented.

In the coming year, Kosovo should in particular:

- establish a functioning collective management system by strengthening the existing collective management organisations in the fields of music and audio-visual and by facilitating the creation of collective management organisation in the fields of literary and visual works;
- adopt implementing legislation as a result of the approval of industrial property laws (patents, trade marks, industrial design, topographies of semiconductor products and trade secrets).

Kosovo has made some progress in terms of legislative alignment, so it can start to guarantee some level of protection of intellectual, industrial, and commercial property rights equivalent to that applied in the EU and in line with the SAA.

In the area of **copyright and related rights**, the draft law on Copyright and Related Rights, which aims to align Kosovo's legislation with the Directives on collective management of copyright and related rights and on copyright and related rights in the Digital Single Market has been adopted. Kosovo has not yet established a functioning collective management system in the fields of literary and artistic works.

The main body responsible is the Office for Copyright and Related Rights (OCRR). It remains at a low level of administrative capacity, with only three officials. Kosovo's national strategy to strengthen the copyright system (2019-2023) contained plans to create two divisions within the Copyright Office, one for the promotion and education and one for the collective management and supervision of copyright. Neither of these bodies have been set up yet to support the enforcement of current rules and ensure the remuneration of right holders.

On **industrial property rights**, Kosovo's Industrial Property Agency needs restructuring and additional staff. Kosovo had legislation in place since 2022 on 'topographies' of semi-conductors, patents, designs, trade secrets and trade marks. During the reporting period, Kosovo also adopted relevant implementing legislation for the registration of patents, trade marks and industrial designs. In particular, in July 2022, Kosovo adopted the Law on trade marks and seven administrative instructions. Kosovo has not yet adopted a strategy on industrial property for 2022-2026.

The State Intellectual Property Council and the Task Force against Piracy are responsible for the **enforcement** of intellectual property rights in Kosovo. In this area, Kosovo needs to improve the capacity and coordination between policy-making institutions and law-enforcement institutions to effectively enforce intellectual property rights. Lengthy procedures for the treatment of applications and the lack of enforcement of decisions taken, are a major constraint to effectively implement the IPR legal framework.

In 2022, the Task Force confiscated around 800 pieces of pirated materials. At the initiative of the Market Inspectorate, 3 760 goods were confiscated. Also about 1 000 copies of materials that violated copyrights were seized, representing a 233% increase compared with the previous year. A total of 4 062 textiles pieces and 63 machine tools were prevented from entering the market, as they did not have any commercial name and were evaluated as potentially intended and falsifiable for the internal market. The Industrial Property Agency issued 7 269 official documents that include decisions on registration of rights, invitations to make payments and other notices for applicants to complete their IPR applications.

In 2022, Kosovo Custom's IPR Unit initiated 612 investigation cases, seizing 968 980 pieces of fake goods for a total value of EUR 10.6 million, which represents an increase on last year.

Kosovo established the Commercial Court specialised in commercial matters and the court is mandated to solve cases and disputes in the field of industrial property rights and copyright.

Chapter 8: Competition policy

EU rules protect free competition. These include antitrust rules against restrictive agreements between companies and abuse of dominant position, and also include rules on concentrations between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.

Kosovo **has some level of preparation** in competition policy and made **limited progress** in this chapter. It revised the legal framework on antitrust and mergers but made no progress on State aid. State aid control and enforcement is non-existent and put on hold as cases are neither handled nor enforced without the State Aid Commission's approval, whose mandate expired in March 2022. The urgent establishment of a functional State Aid Commission should be prioritised. Further efforts are needed to align and enforce legislation in both the antitrust and mergers and State aid areas. As recommendations from the previous report remain largely valid, Kosovo should:

- urgently fulfil SAA obligations, including by establishing a functional State Aid Commission;
- further align the legislative framework on anti-trust, mergers and State aid and ensure its enforcement;
- ensure the functional capacity and operational independence of the competition and State aid authorities; increase cooperation and coordination between all stakeholders, including ministries, regulators and the judiciary.

Antitrust and mergers

The **legislative framework** on antitrust and mergers is partly in line with the EU *acquis*. In 2022, Kosovo adopted the new Law on protection of competition; however, further amendments including to articles four and six are needed to ensure its alignment with the EU *acquis*. Implementing legislation needs to be aligned with the new law and with the EU *acquis*, as the present version is no longer valid and applicable.

On the **institutional framework**, the Kosovo Competition Authority (KCA) is responsible for implementing the legal framework and the Kosovo Competition Commission (KCC) acts as the decision-making body. The KCC became functional again upon appointment in June 2022. The cooperation between the KCA and other sector regulators was strengthened, and a Memorandum of Understanding was signed with the Public Procurement Regulatory Commission and the Procurement Review Body.

In its **capacity to enforce competition**, the KCA acts as an independent agency accountable to the Assembly of Kosovo, adopts enforcement decisions and is composed of 18 members. The KCC is also appointed by the Assembly, acts as a collegial body that manages the work of the KCA, is composed of five members with two positions vacant.

On **implementation**, in 2022, the KCA issued 10 decisions in the sectors of software development, insurance, medical services, telecommunication and financial markets. The KCA launched four market studies, including on the markets for wheat, flour, gas, cooking oil, gasoline, sugar, oil, transport products, cement and pellets.

Kosovo made no progress in enforcing competition rules by imposing fines or remedies following decisions taken by the KCA. Case numbers remain low and to date, the KCA has not carried out any dawn raids nor has the leniency programme been used. Disruptions to the KCC's functioning have led to a high number of unresolved cases.

Training for Kosovo judges and prosecutors on essential aspects of competition law continued in 2022. Raising awareness among judges on the enforcement of competition law remains key, to avoid contradictory judgements by different court instances.

State aid

The **legislative framework** on State aid is broadly aligned with the EU *acquis*. However, no progress was made during the reporting period to amend it further. The draft Regulations on horizontal aid, including block exemptions and regional aid, although prepared, are yet to be adopted. Similarly, the draft Law on State aid although prepared in draft has not been adopted either.

On the **institutional framework**, the State Aid Department, as part of the Ministry of Finance, is responsible for assessing proposals for State aid, drafting assessment reports for the State Aid Commission (SAC), and updating the State aid inventory. The SAC acts as a decision-making body and is composed of five members.

On **enforcement capacity**, no progress can be reported as the mandate of the State Aid Commission expired in March 2022 and no new Commission has been established by the government, putting all control on State aid on hold.

On **implementation**, the SAD began assessment of nine State support measures in 2022, of which only one was notified by the provider. As there is no State Aid Commission in place, no decisions were adopted in 2022. No annual report for the approval of State aid was submitted.

Liberalisation

Public undertakings in Kosovo are subject to the Law on competition and the Law on State aid. Kosovo has monopolies of a commercial nature within the meaning of Article 37 TFEU. There needs to be raised awareness to apply State aid rules to the activities of central institutions and publicly owned enterprises.

Chapter 9: Financial services

EU rules aim to ensure fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.

Kosovo is **moderately prepared** in the area of financial services. It made **limited progress** in implementing last year's recommendations due in large part to a lack of capacity. All past recommendations not fully implemented remain valid. The country should make further efforts to align with the financial services *acquis*, focusing on the priorities identified.

In the coming year, Kosovo should in particular:

- strengthen the governance framework of the Central Bank by appointing the two deputy-Governors of the Bank;
- step-up its efforts to implement Solvency II measures and continue with enhanced supervisory role on the insurance sector;
- further advance in aligning with the revised versions of Capital Requirements Directive and Capital Requirements Regulation (CRR/CRD), Bank Recovery and Resolution Directive (BRRD) and Deposit Guarantee Scheme Directive (DGSD).

On **banks and financial conglomerates**, the Central Bank continued to align its legal framework with Basel III requirements on capital and risk management. It has approved regulations in relation to liquidity coverage ratio, and bank liquidity risk assessment. Despite global economic challenges, the financial sector remains resilient due to the high capitalisation levels of the predominantly foreign-owned banking sector. Overall, banks' capitalisation ratio remained stable and well above the required minimum capital adequacy ratio of 12%. Although credit risk remains contained, focus should be paid to evaluating risks from the rapid credit expansion in the household segment in particular mortgage lending.

In relation to governance issues, during the reporting period the Central Bank of Kosovo faced challenges in performing its tasks and responsibilities. . The position of Governor of the Central Bank was left vacant for a number of months before being filled in July. Two positions of Deputy Governors remain vacant. Principles of transparency and merit-based selection should be upheld. Any political influence on the appointments within the Bank undermines the confidence of the public in this service. Kosovo has not yet established an independent recovery and resolution authority. The Central Bank is working on updating regulations to harmonise them with the Bank Recovery and Resolution Directive (BRRD) I and II, with which Kosovo has not fully aligned. Amendments to the Law on banks, to assign the function of the recovery and resolution to the Central Bank, must ensure that the authority has functional independence. The Kosovo Deposit Insurance Fund (DIFK) has set up the working group to amend the Law on deposit guarantee. Amendments should seek to approximate the Deposit Guarantee Scheme Directive. The Central Bank must ensure that consumers are protected to prevent unfair banking practices.

Regarding **Insurance and Occupational Pensions**, Kosovo continued to implement Solvency I measures and started gradual implementation of Solvency II. There are improvements to be noted with regard to capital and liquidity adequacy levels of the insurance sector and the increased supervisory role of the Central Bank in the insurance industry. Despite the opinion presented by the Kosovo Competition Authority, the prices on the compulsory motor liability insurance market remain fixed, as the Motor Third Party Liabilities price liberalisation process has yet to start and the new risk-based model for adjusting car insurance tariffs has not been introduced.

Despite some progress on the **uninsured and unregistered vehicles**, Kosovo continues to remain outside the green card system. As a result, insurance is required for foreign-registered vehicles entering Kosovo and vehicles with Kosovo plates leaving Kosovo. This continues to represent a financial burden.

During the reporting period, the Governing Board of the Kosovo Pension Savings Trust (KPST) was non-functional for five months, as the mandate of the members of the Board expired in February 2023, until new appointment of members was made in July 2023.

Securities markets and investment services remain at the early stages of development, as most activity centres on the market for government bonds, auctioned by the Central Bank. The Regulation on the repurchase of securities with the Central Bank enables securities trading between commercial banks on the secondary market. It aims to help eligible banks to manage their liquidity efficiently in the short term. In the reporting period, there were no developments as regards funds and asset management.

On **digital and sustainable finance**, Kosovo should conduct further work to incorporate sustainable considerations both in banking and non-banking strategic policies and objectives, and to implement a regulatory financial framework supporting private investments towards sustainable/green activities. The Kosovo Credit Guarantee Fund (KCGF) can guarantee up to 80% of loan portfolios of financial institutions to MSMEs in areas such as energy efficiency and sustainable agriculture. The KCGF has issued up to EUR 303 million in guarantees as of July 2023.

Chapter 28: Consumer and health protection

EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats, including communicable diseases.

Kosovo is at an **early stage of preparation** in this area. There was **limited progress** overall via the adoption of the Law on general product safety, however the law on consumer protection has not yet been adopted. Kosovo achieved compliance with the EU Digital COVID Certificate. As last year's recommendations were not fully addressed, they remain largely valid.

In the coming year, Kosovo should:

- adopt the law on consumer protection;
- increase human and financial resources and systems necessary to implement health sector reforms, especially by implementing the electronic public health information system, and improve access and health outcomes for those in the most vulnerable situations;
- ensure rigorous implementation of tobacco control, in line with the relevant EU *acquis* and international obligations.

Consumer protection

Kosovo's **legislative framework** is partly aligned with the EU *acquis*. In October 2022, the government approved the draft law on Consumer Protection, which amends the existing consumer law to the latest changes to EU consumer legislation introduced by Directive (EU) 2019/2161. However, final adoption is still pending. Enforcement of consumer rights protection remains limited. An integrated platform to harmonise the complaints process remains to be created. The Central Bank has a division that handles most consumer complaints on financial services, in 2022 they have dealt with 644 complaints, lower compared with 2021.

Regarding **product safety**, Kosovo adopted a new Law on general product safety designed to be fully aligned with the EU *acquis*. During the reporting period, the Market Inspectorate conducted 2 830 product safety inspections, imposed 311 fines, processed 195 cases, and confiscated 5 705 pieces of harmful goods.

As regards **non-safety issues**, the law on consumer protection addresses consumers' economic interests. The weakness of consumer rights organisations remains a challenge.

Public Health

On **public health** policy, the quality of healthcare remains of concern. The draft law on health and draft law on health insurance, which aim to steer health sector reforms, have not been amended. The new 2023-2030 Health Sector Strategy has been drafted, and is yet to be approved. Health expenditure amounts to around 3% of the GDP, which is second lowest in the region and more than three times lower than the EU average of around 11%. Kosovo allocated a record high level of health sector budget in 2023 (around EUR 300 million), an increase of around 15.6% compared to 2022. Health financing is predominantly based on historical expenditure and there are no performance-based indicators. Institutional accountability of public health providers' remains low. There are no incentives to improve productivity, efficiency and quality in the sector. Despite a relatively strong network of primary healthcare facilities that provide services free of charge, the out-of-pocket expenses remain very high. Kosovo has an **e-health** information system, based on the European core health indicators, that enables virtual communication between users/patients and general practitioners, provides counselling services, and captures data on patient admissions, discharges and transfers. However, it is not used by all health institutions and further functionalities (covering pathology, radiology, blood transfusion, vaccination and other interventions) remain to be added.

Life expectancy in Kosovo at birth remains the lowest in the region; **non-communicable diseases** are the leading cause of death, especially cardiovascular diseases and cancer. Some 33% causes of death are incorrectly reported or are not diagnosed. Health promotion and prevention programmes for non-communicable diseases is weak; screening for chronic conditions (such as diabetes and hypertension) is not systematically performed. There has been no progress with the implementation of the health promotion action plan, or the strategic plans on mother and child healthcare. Child mortality remains a serious issue, 16 children out of 1 000 live births die before they are five, three times higher than the EU average. In 2022, the government made efforts to improve maternal and child health. It expanded home visiting programmes to all municipalities and allocated additional resources to this (EUR 3.4 million). Although most indicators in the public health information system are aligned with the European Core Indicators, it is only partly functional. Its utility for policy development, research and decision-making is therefore limited.

On **mental health**, several clinical guidelines were approved. Mental health services continue to be integrated services. The 2013 Law on **tobacco control** is not being comprehensively enforced and implemented, though there was a notable increase in inspections on smoking in public places in Pristina during Q2 of 2023.

The legislation on **blood, tissues, cells and organs** is partly aligned with the EU *acquis*. Full alignment with the EU *acquis* remains a challenge, Kosovo continues to lack necessary administrative, infrastructure, financial and human resources capacities in this field.

On **serious communicable diseases** and serious **cross-border threats to health**, Kosovo made some progress in strengthening its capacities for surveillance and reporting data to the World Health Organization. The Assembly adopted the law on communicable diseases in line with ECDC recommendations and the EU *acquis* in August 2023. Routine immunisation is improving, however, coverage rates are still lower than pre-COVID-19 levels and currently stand between 87-89%.

During the reporting period, health authorities in Kosovo continued to manage the **COVID-19** pandemic, and made further progress on surveillance, case investigation, contact tracing and case management. In July 2022, Kosovo achieved compliance with the EU Digital COVID

Certificate. The number of positive cases progressively declined, following the increase during Q2 and Q3 2022. The rate of vaccination significantly declined during the reporting period. New cold-chain facilities and equipment to ensure proper storage of vaccines were finalised.

Legislation on **patients' rights in cross-border healthcare** is partially aligned with the EU *acquis*. For specialised health services that are not available in Kosovo, patients can benefit from the health insurance fund for health services abroad. However, the Fund is currently serving only as a payment agent, instead of developing standardised approval and monitoring processes. It does not engage in any contract negotiation with hospitals abroad. Such passive position has generated significant financial risk to the health insurance fund.

Kosovo has a **cancer screening** programme. However, despite some progress, cancer screening is not performed systematically. Main cancer diagnostic and treatment services are provided at the tertiary healthcare level at one clinical centre.

Kosovo has not made any progress in adopting the nutrition action plan on **nutrition and physical activity**. Legislation on **medicines for human use and medicines for veterinary use** remain partially aligned with the EU *acquis*. The list of essential medicines, for which the costs are covered by the government, has still not been updated. The level of the coverage of costs for medicinal products from the essential list remains around 70%, and above 90% for consumables in primary healthcare.

Health inequalities remain a serious issue. The continuous postponement of the introduction of universal health insurance scheme and out-of-pocket payments remain very high. This influences the access to essential health services for those in vulnerable situations, such as those living in poverty, in rural areas and persons belonging to Roma, Ashkali and Egyptian communities. It is estimated that almost a third of Kosovo population has only limited access to health care services. The rate of routine immunisation of Roma, Ashkali and Egyptian children in Kosovo are only half that of other children.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers: digital transformation and media (Chapter 10); taxation (Chapter 16); economic and monetary policy (Chapter 17); social policy and employment (Chapter 19); industrial policy (Chapter 20), science and research (Chapter 25); education and culture (Chapter 26); and the customs union (Chapter 29).

Kosovo is moderately prepared in the area of customs, as well as on enterprise and industrial policy. It has some level of preparation in the area of taxation, digital transformation and media, as well as education and culture, and is at an early stage of preparation in the areas of social policy and employment, and science and research. During the reporting period, some progress was achieved in most areas of this cluster, but only limited progress on digital transformation and media.

Chapter 10: Digital transformation and media

The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.

Kosovo has some level of preparation in the area of digital transformation and media. Kosovo made **limited progress by** further aligning its legislative framework with the EU *acquis*, particularly with the adoption of the cybersecurity law. However, further alignment and implementation are still needed in the area of audiovisual policy. Kosovo engaged constructively in high-level regional dialogue on digital transformation and on the

implementation of the Regional Roaming Agreement. In September 2022, Kosovo hosted the Western Balkans Digital Summit in Pristina. A sustainable solution for the funding of the public broadcaster and ensuring its editorial independence still needs to be found. The government adopted the Digital Agenda 2030. The budgetary resources for cybersecurity remain insufficient.

Last report's recommendations were mostly not addressed and remain valid. In the coming year, Kosovo should in particular:

- conclude the alignment of Kosovo's legislation with the European Electronic Communications Code, the EU Network and Information Security Directive (NIS 2) and the EU's Toolbox for 5G cybersecurity; revise the Law on the Independent Media Commission, in line with the Audio-visual Media Services Directive;
- ensure that telecoms and media regulators are given adequate resources to fulfil their mandates independently, and develop a solution for the sustainable funding of the public service broadcaster;
- implement number portability to ensure effective use of numbering resources and foster competition.

In the area of **electronic communications and information and communication technologies (ICT)**, according to the Kosovo Agency for Statistics, in 2022, 97.9% of households had access to the Internet (compared to 96.1% in 2021). Kosovo's broadband coverage is now 100%. In 2022, the share of individuals purchasing or ordering goods and services online (within the last three months) was 51%, compared to 23.1% in 2021. Kosovo's legislative framework on broadband cost reduction is aligned with the EU *acquis* and implementation is advancing, with the completion of the broadband atlas and the single information point. Further efforts are needed to align it with the European Electronic Communications Code to ensure freedom to provide electronic communications networks and services. Kosovo still needs to complete the drafting process of the Concept Document for the Electronic Communications Code.

The Regulatory Authority of Electronic and Postal Communication approved the Frequency Release Plan, including all frequency bands with important economic value. In autumn of 2022, Kosovo initiated pilot 5G access. The Regulatory Authority completed the process of assignment of 800MHz and 3.5GHz bands to enable the deployment of 5G technology. Kosovo adopted the regulation for number portability for public electronic communications services subscribers. The existing resources of the Electronic and Postal Communications Regulatory Authority remain limited and not proportionate to their responsibilities.

Alignment with the Digital Services Acts and Digital Markets Act needs to be stepped up, to provide predictability for the business community.

Kosovo made some progress in the area of **digital transformation**, as it adopted the 2030 Digital Agenda. The Law on cybersecurity, which is partially aligned with the NIS Directive, has been adopted on 2 February 2023. The strategy and action plan related to the Law on cybersecurity still need to be adopted. Kosovo developed basic capabilities in cybersecurity; it needs to step up efforts to ensure proper operational mechanisms, technical capacities and human resources to operate in the cyberspace context effectively. The e-government portal is operational: the platform offers over 150 fully digitalised services. Kosovo needs to make further efforts to finalise and adopt the e-Government Strategy. Kosovo still needs to align with the EU *acquis* on open data and the re-use of public sector information. Kosovo should also align with the European Interoperability Framework and the Interoperable Europe Act.

On **audiovisual policy**, the long-awaited amendment of the Law on Independent Media

Commission (IMC) has been further delayed. This process should be conducted in an inclusive and transparent manner, with meaningful consultation with key stakeholders. The IMC failed to make any progress on the digital switchover to align with EU standards. Currently, the IMC still lacks adequate human and financial resources to exercise its powers independently. It should also ensure it is transparent and inclusive in its decision-making, including through more consistent public consultation. Due to the lack of information on media ownership and the distribution of advertising funds, the IMC does not impose effective sanctions on broadcasters, and no significant enforcement interventions were undertaken. The current Law of the IMC provides sufficient regulatory, enforcement, and monitoring powers to ensure pluralism and competitiveness in the market. The amendment, currently underway, should further align the Law with the Audiovisual Media Services Directive to extend its powers to online audio-visual media.

A review of the current Law on radio television of Kosovo (RTK) launched in 2019 has stalled. The draft law includes a funding model for RTK, whose editorial independence is weak, as it still relies on direct government funding, with the Assembly determining its budget annually. The appointment of the new Director General through an open, merit-based process is a positive development. The Board should ensure that independent and professional individuals without links to political parties are appointed to managerial positions.

Chapter 16: Taxation

EU rules on taxation cover value-added tax, excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.

Kosovo **has some level of preparation** in the area of taxation. It made **some progress** with implementation of risk-based tax inspections on some high-risk sectors and service digitalisation. Increased compliance and formalisation measures have led to increased tax revenues.

The recommendations in the previous report have not been fully addressed. In the coming year, Kosovo should in particular:

- pursue further alignment of tax legislation including the personal income tax (PIT), and value added tax (VAT) with the EU *acquis*;
- ensure more systematic implementation of risk-based tax audits and finalise the new strategy for combating the informal economy, money laundering, financing of terrorism and financial crime (2023-2026);
- increase cooperation with law enforcement and judicial institutions to ensure timely adjudication of tax evasion and fraud cases, with emphasis on high-risk sectors.

Good progress was made during the period with regard to **tax collection, enforcement and compliance**. Between June 2022 and April 2023, the Tax Administration of Kosovo (TAK) collected revenues of 728.7 million EUR, 16.7% higher than the same period in the previous year. During the reporting period TAK also stepped-up activities to combat the informal economy, increasing the number of compliance visits, audits and investigations of suspected cases of fiscal evasion. These activities resulted in additional revenue of EUR 181.5 million for the period June 2022 – May 2023, 17% higher than the same period in the previous year.

Regarding **indirect taxation**, the VAT system is broadly aligned with the EU *acquis*. Kosovo applies a standard 18% rate and a reduced 8% rate. The Law on VAT still needs to be further harmonised with the EU *acquis*. The legal framework and procedures on e-commerce taxation

need to be established. On **direct taxation**, Kosovo made no progress in amending the Law on personal income tax, or to remove contradictory provisions and further align it with EU *acquis*.

On **administrative cooperation and mutual assistance**, Kosovo has not been able to join the inclusive framework of the OECD Base Erosion and Profit Shifting (BEPS) due to status issues. Kosovo has double taxation treaties in application with 11 EU member states (Austria, Croatia, Luxembourg, Hungary, Latvia, Malta, Slovenia, Germany, Finland and Belgium, and Ireland).

On **operational capacity and digitalisation**, the Tax Administration made progress with regard to service quality, in particular with the use of e-services. This is also reflected in the 2022 Tax Administration Diagnostic Assessment Tool (TADAT assessment). In terms of streamlining and improving its service delivery, the Tax Administration needs to further strengthen professional capacities, especially on the tax inspection/audit, and improve the effectiveness of tax audit functions. The Tax Administration is implementing its 2022-2026 Strategy. It plans to increase revenue collection; strengthen voluntary compliance; strengthen approach and expertise in managing large taxpayers; build modern IT systems and tools; and strengthen the inspection programme. There is a significant setback regarding the development of the new IT system for tax administration. The tax Administration intensified its actions on risk-based approach regarding tax compliance. Despite higher revenues registered from tax audit processes, Kosovo needs to strengthen enforcement of a risk-based approach. Data quality and exchange of data across different agencies for the administration of taxes remain a challenge.

Chapter 17: Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

Kosovo is **moderately prepared** in the area of economic and monetary policy. **Some progress** was made with data collection and transmission to Eurostat; however, further efforts are needed to address the methodological inconsistencies on national accounts. The Central Bank has faced challenges in performing its tasks and responsibilities. After a vacancy of a few months, in July 2023 the Assembly elected a new governor. The Assembly also adopted a Law on minimum wages, decoupling war veterans' pensions, in an effort to ensure compliance with the legal ceiling applicable for spending on war veteran pensions.

The 2022 recommendations were not fully addressed and therefore remain valid. Kosovo should in particular:

- strengthen the Central Bank's governance by completing the procedure for the selection of its Deputy Governors;
- increase reporting capacities for governmental financial statistics according to the ESA 2010 and ensure regular monitoring of standards;
- improve the quality of macroeconomic forecasting in the budgetary process.

Kosovo does not have an independent **monetary policy** and does not have standard monetary policy tools at its disposal, as it uses the euro as a legal tender, leaving fiscal policy as the main macroeconomic policy instrument. Kosovo's use of the euro is fully distinct from membership of the euro area.

The Central Bank of Kosovo (CBK) is the sole authority responsible to promote and maintain the stability of the financial system in Kosovo and to contribute to maintain price stability. The Law on the Central Bank and the constitution establish its functional and institutional

independence, prohibits its decision-making bodies to give and receive instructions from government authorities. The Law also prohibits monetary financing of the public sector and ensures that the latter does not have privileged access to financial institutions.

The Central Bank of Kosovo is facing challenges in performing its tasks and responsibilities. The mandate of the Governor ended in March 2023, and the position was vacant until the Assembly appointed a new governor in July. Even though new staff were recruited, the Central Bank needs to ensure that its core functions, including banking supervision and maintaining financial stability, are adequately staffed. The Bank still needs to implement reforms with regard to its corporate governance structure in order to improve its accountability.

On **economic policy**, Kosovo needs to further align with the requirements of the EU Directive on budgetary frameworks. In July, the Assembly adopted a Law on minimum wages, decoupling the level of war veterans' pensions from the minimum wage in an effort to ensure compliance with existing legal spending limits. Although fiscal rules are well established in the legislation, further efforts are required to ensure their full compliance.

During the reporting period, **operational capacities** of the Ministry of Finance improved. In particular, macro-fiscal modelling, planning and forecasting, as well as assessment of the fiscal impact of the government's new policy and legislative initiatives has improved. Kosovo is at the early stages of introducing programme-based budgeting. Some steps have been taken to better link the medium-term policy with budgetary planning process. Nonetheless, strong political will and inter-institutional cooperation are necessary to transform the budget into a policy-planning tool and strengthen the medium-term budgetary framework.

During the reporting period progress was made in the timeliness and completeness of **annual national accounts data** produced, according to the European System of Accounts (ESA) 2010 methodology. Some progress was made also in government deficit and debt statistics, but further work is expected to fully adhere to the ESA 2010 methodology. Kosovo should make efforts to improve the coverage and timeliness of the Excessive Deficit Procedure (EDP) notification tables and to start completing the questionnaire relating to the EDP tables. After the tables for quarterly financial accounts for general government were transmitted to Eurostat for the first time in 2023, Kosovo now provides the currently full set of required Government Finance Statistics (GFS) tables. However, efforts are still needed to improve various qualitative aspects of the tables.

The 2023-2025 **Economic Reform Programme (ERP)** was submitted on time. There is a significant degree of uncertainty surrounding the macroeconomic and fiscal framework presented in the ERP. The ERP projects a robust acceleration of economic activity in 2023-2025, which is above the historical trend. An expected strong rebound in public investment is seen as a key growth driver, but in order to realise this ambition, obstacles to public investment execution need to be effectively addressed. There are additional sizeable downside risks to this outlook notably linked to higher-than-expected energy and food prices following Russia's war of aggression against Ukraine and the induced energy crisis. The 2022 policy guidance has been implemented only partially. The structural reforms presented in the ERP reflect the government's plan to address obstacles to competitiveness and inclusive growth in the medium-term. However, implementation of the structural measures has often been delayed and improvements have not materialized. Similarly, additional efforts are necessary to improve macro-fiscal projections underpinning the budget and the linkage between the macro-fiscal framework and the planning of structural reforms.

Chapter 19: Social policy and employment

EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at European level.

Kosovo is at an **early stage of preparation** in this area. **Some progress** was made during the reporting period, in particular on the preparations for the implementation of the Youth Guarantee, in securing funds for social services and intensifying inspections in work sectors with higher risk. However, the rate of fatal occupational accidents remains high.

Last year's recommendations were only partially implemented and remain valid. In the coming period, Kosovo should in particular:

- continue implementing the Youth Guarantee Implementation Plan to prepare for the piloting of the scheme; adopt the amendments to the Law on Labour to align with recent EU *acquis*, particularly in relation to non-discrimination in employment and parental leave;
- continue intensifying inspections in work sectors with higher risk, and enforce rules on health and safety at work to ensure a decrease in workplace accidents;
- pursue thorough reforms in the area of the social assistance schemes to ensure better targeting and impact, and improve access to social services, in particular for children.

Kosovo has postponed amendments to the legislation on **labour** and on **health and safety at work**, which are necessary to further align with the EU *acquis*, including with the EU Directive on work life balance. The 2014 Law on health insurance, providing for the right and obligation to have mandatory *basic package* health insurance for all citizens, has not been implemented. The Labour Inspectorate has intensified inspections, but with limited impact on prevention of accidents. During 2022, there were 349 workplace accidents, of which 15 resulted in fatalities. The Labour Inspectorate is increasing: in 2022, 12 new inspectors were recruited. The Tax Administration Inspectorate took actions to formalise jobs, and together with Labour Inspectorate and International Labour Organization, launched a campaign to promote labour rights.

On **social dialogue**, tripartite and bipartite dialogue remain limited. During 2022, the Social Economic Council mandated its Commission to negotiate the new General Collective Agreement. The social partners have approved the work plan for 2022 and 2023. On 14 June 2022, the Assembly approved in the first reading an increase in the minimum wage at EUR 264 (from EUR 170) per month, but the final adoption is pending. The capacity of social partners remains limited.

On **employment policy**, Kosovo has continued drafting a new employment and labour market strategy 2023-2028, a new employment policy 2022-2024, and a concept document regulating the field of employment. The last sectoral strategy (2018-2020), albeit with modest targets, had a very low implementation rate.

The overall activity rate stood at 38.6% in 2022, a slight decrease compared to 39.3% in 2021. **Unemployment** rates in 2022 were 12.6% (20.7% in 2021). The rates are higher among women, 16.5% (25% in 2021), than among men, 11% (19% in 2021). The indicators that still give rise to most concerns are the high inactivity rate, 61.4% (60.8% in 2021) and youth unemployment 21.4% (38% in 2021). Unemployment is even higher (over 90%) in the Roma and Ashkali communities. Members of these communities usually work in the informal sector, holding insecure, low-skilled and low-status jobs.

Youth unemployment remains high (21.4% in 2021), particularly among women (27%). Demographic pressures, joblessness growth pattern, a propensity towards emigration and poor education are key factors in the precarious position of young people. A recent mapping shows that since 2018 there have been remarkable shifts in the categories of young people not in employment, education or training. The rates for those with primary education had levelled at below 30%, the rates of secondary educated youth increased, at a moderate pace, to just over 40%, while the rates for university educated young people increased from around 30% to over 50%. Kosovo has continued the preparations for the implementation the **Youth Guarantee**, in line with the implementation plan adopted in November 2022. As of 2023, authorities are working to ensure conditions for piloting the Youth Guarantee in two municipalities, and in amending relevant legislation, restructuring the key delivery mechanisms (public employment services), and fast-tracking some long-due reforms in vocational education training.

Kosovo is restructuring the **Employment Agency** so as to deliver on the Youth Guarantee implementation plan. Management and operational procedures, and data management are still weak. The labour market information system to support evidence-based policy making and planning is outdated and lacks operational capacity in critical areas. The lack of human resources in public employment services is the greatest concern.

There were no developments on the preparation of the **European Social Fund**. (*See Chapter 22 - Regional policy and coordination of structural instruments*). On **social inclusion and protection**, Kosovo's spending on social assistance scheme amounts to 6% of GDP, but less than 0.5% of GDP is allocated to the most deprived as most of the amount is spent on war veterans' pensions. On 4 April 2023, the Assembly has ratified an agreement with the World Bank to conduct thorough reforms in the social assistance system. Kosovo made no progress to provide funding allocation for social services. The draft law on local government finances is not part of the 2023 legislative plan raising concerns as to the sustainability of financing for social services. For 2023 the government fund dedicated for licensed NGOs to provide social services increased by 50% (from EUR 1 million to 1.5 million); this does not address fully the funding situation for the provision of quality social services at the local level. Municipalities should make effort to improve service planning and delivery, data collection and integrated care. Care for the elderly remains a serious issue. Around 18% of Kosovo's population lives below the poverty line (EUR 45 per month, with 5.1% percent of the population living below the extreme poverty line). Children from poor households, and those with special needs, lack equal access to vital and quality health and education services. Children represent half of those benefiting from social assistance, but less than 10% of them are with special needs. Children with disabilities lack adequate health and rehabilitation services, social services and assistive equipment from state institutions. Most of them lack proper access to education facilities. Around 9% of children are involved in work, of whom 5.6% working under hazardous conditions, an issue being particularly evident among the Roma and Ashkali communities.

Kosovo has to intensify efforts to address **discrimination against women in employment and social policy**, particularly during hiring procedures, promotion and pay. The unequal share of responsibilities present in the maternity, paternity and parental leave between women and men hinders women's employment. Women face discrimination also when they are pregnant or wish to have children; therefore, it is important to treat the termination of a probationary period due to pregnancy as direct discrimination. Trainings are needed for both labour inspectors and judges to better address the issue of gender-based discrimination. In 2022, the employment rate for the population aged 15-64 was 18.4% for women and 49.4% for men, resulting in a very high gender employment gap of 31 percentage points. Limited access to childcare and flexible working arrangements, as well as regulations that discourage the recruitment of women are

important barriers. Other challenges faced by women, especially in rural areas, are the lack of care for the elderly, discrimination in the access to property, and gender-based violence.

Chapter 20: Enterprise and industrial policy

EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).

Kosovo is **moderately prepared** in the area of enterprise and industrial policy. It made **good progress**, as the government approved the Strategy for industrial development and business support 2030, the first of its kind. The Assembly passed the Law on sustainable investment and the Law on technological and industrial parks in first reading. The laws provide for the establishment of two new agencies dedicated to investment and export promotion and business support and entrepreneurship. The operational performance of the existing Kosovo Investment and Enterprise Support Agency (KIESA) also improved during the period. .

Last year's recommendations were only partially implemented and remain largely valid. In the coming period, Kosovo should in particular:

- Implement the strategy for industrial development and business, and the sustainable economic growth pillar of the national development strategy 2021-2030;
- improve the capacities of the Ministry of Industry, Entrepreneurship and Trade (MIET);
- complete the restructuring of the Kosovo Investment and Enterprise Support Agency (KIESA) into separate investment promotion and SME support agencies, as well as ensure both are sufficiently resourced.

As regards **enterprise and industrial policy**, the Ministry of Industry Entrepreneurship and Trade (MIET) prepared an ambitious strategy for industry development and business support 2030. It aims to improve the business environment in Kosovo, promote industrial development, address the trade deficit, create jobs, as well as to ensure both resource efficiency and a more circular economy. The Ministry prepared a comprehensive analysis of the main subsectors in the manufacturing sector to use for refining its policies and actions. In view of the expansion of solar energy in the carbon emissions policy, incentives for the use of renewable energy sources in industry are planned; their approval is expected in 2023.

The Assembly has adopted in first reading two laws to promote investment and encourage private sector development: a Law on Technological and Industrial Parks and a Law on Sustainable Investment. The latter anticipates restructuring of the Kosovo Investment and Enterprise Support Agency (KIESA) into an Agency for Support to the Enterprises within the MIET, and of the Agency for Investment and Export (AIE) under the remit of the Prime Minister's Office. With clear delineation of responsibilities, the two agencies could be more efficient in providing support to active companies and attracting new investors. KIESA has long struggled with limited capacities to implement its broad mandate. Despite this, KIESA has strongly improved its performance in 2022, increasing foreign direct investments (FDI) by 43.6% over the period January to September 2022 and increasing participation of Kosovo firms in international trade fairs.

A concept document for public enterprises adopted in 2023 envisages the revision of the Law on public enterprises and implementing legislation. The Ministry of Economy has initiated policy changes covering publicly owned enterprises to align with the new legislation on Sovereign Fund. In June 2023, the government adopted the Law on the Sovereign Fund.

In the area of **policy instruments**, the KIESA organised a high number of activities despite capacity deficiencies. The Agency had difficulties fulfilling its objectives, in particular enabling the implementation of before- and after-care services and programmes and promoting links between multinational enterprises and SMEs.

Kosovo has no streamlined process to handle investors' **grievances and retain investments**. Having such a process would implement the principles of the systemic investment response mechanism, as proposed by the World Bank. The fragmented and inefficient flow of information between state institutions remains a challenge, it in turn presents obstacles for SMEs to access the available business support services and obtain permits and licenses. When applying for government support, SMEs are required to submit excessive paperwork and information, which extends the application time.

The Law establishing the legal framework for a Commercial Court was passed in February 2022 and the court became fully operational and began hearing cases in August 2022. Although since 2022 the legislation on foreign investment includes equal treatment of national and foreign nationals and companies, foreign nationals and companies still encounter challenges in practice, for instance when registering property rights.

Kosovo has significantly increased the number of services available on its e-government platform and has begun preparations to simplify and digitalise permits and licenses on the e-government platform. Business licensing procedures are clear and centralized. Kosovo continues reforms to reduce the administrative burden on businesses. Self-employed workers face a low tax burden and the incorporated SMEs benefit from corporate income tax incentives. The tax administration simplification and the development of digital services have decreased tax compliance costs for SMEs.

The lack of easily accessible and affordable credit serves is a substantial barrier to the growth of SMEs. In addition, SMEs and corporations suffer from a low capacity to prepare bankable projects due to informality in accounting practices, weak corporate governance, and management quality, in addition to integrity issues. By 2022, the Kosovo Credit Guarantee Fund (KCGF) expanded; it now enables loans worth EUR 270 million to 8 871 micro-small and medium-sized enterprises (MSMEs) in the sectors of production, services agriculture, and trade, including start-up firms and female owned businesses. On 11 May 2023, Kosovo signed the Association Agreement for the participation in the EU "Single Market Programme" (SMP).

Chapter 25: Science and research

The EU provides significant support for research and innovation. All Member States can participate in the EU's research and innovation programmes and benefit from them, especially where there is scientific excellence and solid investment in research and innovation.

Kosovo is at an **early stage of preparation** in the area of science and research. **Some progress** was made during the reporting period: Kosovo substantially improved its performance in the EU's framework programme on research and innovation.

Since the recommendations of the previous report were not fully addressed, Kosovo should in particular:

- fully implement the national science programme, including prioritise and promote scientific research and innovation, ensure higher spending on research and innovation, and seek to stimulate investment from the private sector by completing a smart specialisation strategy;
- continue efforts to increase participation in the Horizon Europe programme;

→ use the newly established current research information system to provide reliable data on numbers of researchers, on percentage of GDP spent on research and innovation, and on performance related to the European Research Area priorities.

Despite some progress on **research and innovation** policy, Kosovo lacks a strategic approach to develop, prioritise and promote research activities. There has been some progress in this respect since the National Science Council developed the national science programme as the main strategic document on science and research. It identifies priority fields for the economic and social development for the next six-year period. In addition, it includes new funding models and the creation of a fund for innovations.

The **smart specialisation strategy** should be completed as a priority. The current research information system has been developed and should be put into use. It systematically collects research, science and innovation data, that should be used to support evidence-based decision making. The bundling of competencies for science, education, technology, and innovation in a single ministry is a welcome development. This should foster the coordination and administrative capacities to plan, implement, monitor, and evaluate research and innovation policies.

The research and innovation sector is severely underfunded, with public research spending amounting to only 0.1% of GDP despite a 0.7% of GDP target mandated by law. The financing of scientific research through the allocation of the budget for higher education institutions is unclear since the budget for scientific research and innovation is not separated from the budget for universities. The quality of programmes preparing postgraduates for research careers remains unsatisfactory. Funding of innovation support measures is urgently needed to support the economic recovery. Kosovo is encouraged to take up the opportunities made available by the European Institute of Innovation and Technology.

Kosovo was for the first time fully associated to **Horizon Europe** in 2021. After a slow start, preliminary figures for 2022 show a substantial performance increase from the research and innovation community with five projects receiving a total EU funding of EUR 0.8 million.

Chapter 26: Education and culture

The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policy through the ‘open method of coordination’. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

Kosovo has **some level of preparation** in the field of education and culture. During the reporting period there has been **some progress**, notably with the Kosovo Accreditation Agency becoming an affiliated member of the European Association for Quality Assurance in Higher Education and the European Quality Assurance Register for Higher Education, and with the adoption of the Law on the Kosovo Accreditation Agency and the Law on early childhood education. However, the quality of education still needs improvement in terms of teachers’ qualifications and training and learning outcomes. The Assembly should adopt key legislation on higher education.

As last year’s recommendations were only partially implemented, Kosovo should in particular:

→ develop a roadmap for the implementation of key reforms of the education system, including the recommendations under the ETF Rapid Education Diagnosis;

- finalise the implementation of the new curricular framework for basic education, complete the revision of the existing textbooks and provide sustainable training to teachers; systematically apply quality assurance mechanisms at all education levels;
- enhance the VET governance and increase the quality of vocational education and training for professions in demand in view of the Youth Guarantee.

Kosovo's public spending on education in 2022 stood at 4.1% of GDP (13.3% of the total budget). Although the amount as a percentage of GDP is comparable to EU countries, *per capita spending* is considerably lower. Thus, Kosovo should increase the funds for students *per capita* and for investment in quality education. The funding formula used to allocate pre-university budget to each municipality is under revision, as the current one is not sufficiently accurate. During 2022, almost two thirds of schools in rural areas (63%) operated in multiple shifts. In consequence, pupils receive an insufficient number of teaching hours.

In recent years, Kosovo has made considerable progress in **increasing access to pre-primary and primary education**. It should nevertheless do more to equitably increase coverage of pre-school and secondary education. In the 2021/2022 school year, 224 429 pupils attended primary and lower secondary education: a decline of 18% compared to the 273 649 pupils in 2014/2015. On average, (gross) enrolment rates in primary and secondary education are very similar to those in the region, and relatively high: 88.1% of children attend pre-primary education but for no more than 2 to 2.5 hours/ day in public institutions. In private institutions, the duration is 7 to 8 hours/ day. In 2020/2021, the inclusion rate in primary education was 101.2%. Participation of children in pre-school education and care remains low, at 6.7%, well below the average in the region and the OECD average (over 36%). Only 46.2% of pre-school children are girls, while the number of Roma, Ashkali and Egyptian children included in the early childhood education system is low. The new Law on pre-school education was adopted by the Assembly on 10 July 2023; the primary curriculum for Early Childhood Education is being developed. Higher education gross enrolment rate continues decreasing and is currently at 49.4%, almost 30% lower than five years ago, but low graduation rates remain of concern.

Kosovo adopted a new education strategy 2022-2026, which includes plans for digitalisation of schools, focusing on digital learning, platforms, content, teachers upskilling and support, connectivity, devices, and institutional support. For the successful implementation, the Ministry of Education, Science and Technology (MESTI) needs to ensure the necessary human and financial resources. The restructuring of the MESTI is still pending. The restructuring of the MESTI is still pending.

The **quality of education** remains poor, as evidenced by the last two OECD Programme for International Student Assessment (PISA) evaluations, with Kosovo ranking respectively second and third from bottom. Kosovo participated in the 2019 Trends in International Mathematics and Science Study (TIMSS), in the 2021 Progress in International Reading Literacy Study (PIRLS) and PISA 2022. In TIMSS 2019, Kosovo was among the ten poorest performers. However, Kosovo has joined the ICILS 2023 (International Computer and Information Literacy Study) which can help monitor targets regarding students' digital competences and also monitor progress toward the UN Sustainable Development Goals.

Kosovo is participating in the European Education Area working groups 2021-2025. These working groups fosters collaboration among European Union Member States, as well as with candidate countries, in order to build more resilient and inclusive national education and training systems and prepare their youth for the green and digital transition.

Reforms are still lagging behind due to the lack of suitable textbooks, teaching materials and

sustainable professional development schemes for teachers. Another issue is the mismatch between education outcome and skill requirements. The law on the education inspectorate is not properly enforced due to the insufficient number of inspectors.

Higher education institutions (HEIs) should invest more in the implementation of their strategic documents and action plans. Academic integrity remains an issue. The Ministry adopted a decision on the compatibility of scientific works and publications of the academic staff with ethics in research, obliging programme holders to upload their research in indexed platforms ahead of accreditation of their programmes. It also has developed the new Kosovo Research Information System (KRIS) platform that requires the registration of all researchers. During the reporting period, MESTI developed a roadmap on the performance-based funding of the public HEIs. All public HEIs have fully aligned with the accreditation standards. Apart from the University of Pristina, all public universities depend financially on the state budget. Kosovo should adopt the new law on higher education that would strengthen the autonomy and academic integrity of higher education institutions, governance matters and improve quality assurance. The limited involvement of the students in the decision-making processes at the university level remains an issue. The newly adopted Kosovo education strategy 2022-2026 is expected to address the above-mentioned issues. In 2022, the Kosovo Accreditation Agency (KAA) became an affiliated member of the European Association for Quality Assurance in Higher Education and the European Quality Assurance Register for Higher Education. Kosovo adopted the Law on the Accreditation Agency which aims at increasing its operational independence and transparency of appointments of the KAA management.

Over half of upper secondary schools students enrol in **vocational education and training** (VET). The statistics for the 2022/2023 academic year show that out of 67 373 students enrolled in upper secondary education, 35 568 students are enrolled in vocational education schools, compared to 31 805 students enrolled in gymnasiums. VET profiles offered by vocational schools are not based on occupational standards and are often not well aligned with the labour market demands. Funding for vocational education has not increased over the last few years. Only 9.6% of the total education budget is allocated to VET.

Work-based learning, integrated in the current VET curriculum, is not systematically delivered. The currently used subject-based curricula are not geared towards developing vocational skills. Schools generally lack the conditions, teacher skills, equipment, materials and structured cooperation with businesses to develop learners' practical skills. During the reporting period, Kosovo adopted the Youth Guarantee implementation plan, making the introduction of the necessary reforms in VET even more urgent. It includes both preventative measures to make education and VET more relevant and measures to expand offers for young people that are not in employment education or training (NEET).

Kosovo needs to **increase the access of students with disabilities to education**. It is estimated that 38 000 children with disabilities do not attend school. Key problems include the lack of suitable definitions of various forms of disability, barrier-free access to schools and adequate support, and the low number of suitably qualified teachers and assistants. Despite the positive development with the decision of the government to increase the number of assistants for children with special needs to 100 per year, at least until 2024, the quality of education for children with disabilities is low. The dropout rate remains higher among Roma and Ashkali children though statistics are unreliable. During the reporting period, trainings were organised on inclusive education, human and minority rights and on Kosovo respective policies and legal framework for 25 municipal officers (14 women and 11 men) from 22 municipalities.

With the cooperation of the Kosovo government, the European Training Foundation carried out an evidence-based rapid education diagnosis of the entire education system addressing

three main thematic areas: inequality, financing and governance. The analysis aimed to identify key issues and actions to improve the quality and delivery of education services overall. The Foundation drew up a set of recommendations for the Kosovo authorities to consider. These recommendations include: (i) setting up adequate monitoring and evaluation mechanisms; (ii) improving cross-ministerial cooperation; (iii) boosting institutional capacity, particularly for financial management; and (iv) setting priorities in the Education Strategy.

Kosovo benefits from the international dimension of the 2021-2027 **Erasmus+** programme. In 2022, around 480 higher education staff members and 650 students from Kosovo were selected to undertake a mobility period in EU Member States and associated third countries to the programme, while Kosovo's higher education institutions are expected to host 375 staff members and 225 students from Europe.

On culture, Kosovo should maintain efforts to meet the standards of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. There has been no progress on drafting the law on cultural heritage, reflecting its commitments under Annex V of the Ahtisaari Plan. The Implementation and Monitoring Council needs to resume meetings and identify joint solutions to be reached between Kosovo and the Serbian Orthodox Church.

The Ministry of **Culture**, Youth and Sport (MCYS) has the responsibility to prepare and implement public policies, drafts legal acts, and adopts implementing legislation in the field of culture, youth, sports, copyright and related rights. MCYS is at an early stage to develop a culture strategy. MCYS needs to increase its efforts to improve the status of the artistic community, governance and budget issues of public cultural institutions. During reporting period, the Ministry allocated EUR 500 000 for construction of the Jewish Cultural Centre that will serve to organise exhibitions on the history of the Jewish community. MCYS can increase its commitment towards further development of technical capacities in the specific cultural heritage skills by ensuring further education of the students in this area and providing professional training.

Kosovo currently participates in the Creative Europe programme. More efforts are needed to increase the number of culture beneficiaries in Culture strand calls with European partners. Kosovo still has to increase efforts to align on the short term its legislation with EU Audiovisual Media Services Directive, in order to participate as well in MEDIA strand.

Chapter 29: Customs Union

All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementing and enforcement capacity and access to common computerised customs systems.

Kosovo is **moderately prepared** in the area of customs. During the reporting period, it made **some progress** as it reduced fees charged to exporters/importers at inland customs terminals, opened a customs office at the Port of Durrës (Albania) increased the number of authorised economic operators and enforced customs measures, for example for the protection of intellectual property rights (IPRs). Kosovo Customs has continued the fight against narcotics and other smuggling activities. As not all the recommendations from the previous report have been addressed, in the coming year Kosovo should in particular:

→ continue to align with the Union Customs Code and the excise *acquis*, including approving a new Customs and Excise Code;

- Kosovo Customs should strengthen its administrative and professional capacity, and to that end, ensure merit-based and transparent selection processes, transfers and promotions;
- abolish all fees charged to exporters/importers at both public and private inland customs terminals.

In the area of **customs legislation**, the newly drafted Customs and Excise Code, which is aligned with that of the Union Customs Code, is still to be adopted by the government.

Due to recognition issues, there was no progress on Kosovo's application to become an observer under the Common Transit Convention. Regarding the rules of origin, Kosovo continues to apply the Pan-Euro Mediterranean (PEM) Convention. The Kosovo Customs continues to systematically exchange data on the cross-border movement of goods among Western Balkan economies. Kosovo is participating in 'Customs', the EU programme for cooperation in the field of customs.

The **legislation** on customs measures governing IPR and export controls for cultural goods is aligned with the EU *acquis*.

Kosovo Customs continued to make good progress on **trade facilitation**. Kosovo Customs has granted an additional five certificates for Authorized Economic Operators, bringing the total number to ten Authorized Economic Operators.

There is some progress with regard to reducing fees for exporters/importers at inland **customs terminals**. Import fees have been entirely abolished at the Peja customs terminal, while the Trepca terminal applies a reduced fee. All other customs terminals apply a full fee.

Kosovo Customs should still strengthen its **administrative and operational capacity**, by ensuring merit-based and transparent transfers, promotions and selection processes. In this regard, it should update its secondary legislation job descriptions. Kosovo Customs should continue to implement its medium-term strategic plan (2019-2023).

During the reporting period, Kosovo Customs jointly with Kosovo Police detected and seized substantial amounts of narcotics valued at several million euro. Kosovo Customs conducted 42 field inspections. Kosovo Customs, other law enforcement authorities and line institutions, cooperate well to fight against the informal economy and customs fraud.

Kosovo Customs initiated three cases involving four customs officers suspected of corruption of which 12 officers have been dismissed, and one arrested. The legal framework for investigation of asset declarations checks filled by customs officials is still not developed.

CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

This cluster covers: transport (Chapter 14); energy (Chapter 15); trans-European networks (Chapter 21); and environment and climate change (Chapter 27).

Kosovo is at an early stage or has some level of preparation in areas related to the Green Agenda and sustainable connectivity. Kosovo continues to actively participate in the Transport Community and Energy Community meetings. During the reporting period, some progress was made in the energy sector. Kosovo adopted an ambitious energy strategy, which includes an increased share in renewable energy sources, and launched the first solar auction Kosovo remains heavily reliant on coal. Limited progress was made in the transport sector with the adoption of the multimodal transport strategy, whereas limited progress was made in the areas of environment and climate change.

Kosovo needs to significantly increase its ambition and administrative capacities to properly implement EU standards on transport, energy and environment. Strategies, action plans and legislation in these sectors need to be more consistent and in line with the principles and objectives of the Green Agenda for the Western Balkans and the Economic and Investment Plan.

Chapter 14: Transport policy

The EU has common rules for technical and safety standards, security, social standards, Stateaid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

Kosovo is in an **early stage of preparation** in this area. It made **limited progress**, notably with the adoption of the multimodal transport strategy.

As most of the last year's recommendations have not been addressed, they remain valid; Kosovo should:

- invest in road maintenance and inspections, organise prevention campaigns and establish a systematic monitoring mechanism for the collection of crash data and continue the alignment with the EU rail market *acquis*, and in particular, the Law on safety and interoperability;
- adopt and roll out the action plan 2023-2025 of the multimodal transport strategy; align Kosovo's aviation regulation with the European Common Aviation Area Agreement;
- adopt the intelligent transport system (ITS) strategy and its action plan; ensure sufficient capacity and resources for its implementation; continue efforts to harmonise with the EU passenger rights *acquis* across all modes of transport.

On transport matters, Kosovo proactively participated in Transport Community activities. In January 2023, the government approved the Multimodal Transport Strategy; the adoption of the action plan is still pending. Further efforts are needed to align and implement the EU *acquis* in all areas of the sector, with a focus on safety and incorporating elements of the Smart and Sustainable Mobility Strategy. Kosovo needs to take concrete measures to speed up the implementation to meet the deadlines set in the five Transport Community Action Plans (rail, road, road safety, waterborne transport and multimodality). Kosovo made limited progress on the implementation of Annex 1 of the Transport Community Treaty. The operational and administrative capacities of the enforcement bodies remain insufficient. Kosovo needs to upgrade the existing capacities to improve coordination to ensure proper, timely and professional implementation of all infrastructure projects. Kosovo should begin to enhance transport climate resilience and the use of alternative fuels, in line with the Green Agenda and the Smart Sustainable Mobility Strategy for the Western Balkans. For larger transport agglomerations, sustainable urban mobility plans which respect environmental and social standards should be developed following EU practice.

On road transport, Kosovo should make further efforts to align with the EU *acquis*. For the first time, Kosovo has allocated a budget for 2022-2024 to set up the Road Asset Management System. Kosovo should implement the recommendations on establishing a Road Safety Agency, including developing the national system for continuous road crash data collection. The current road crash data collection system is not compliant with Common Accident Data Set (CADaS) and the improvement of the system is not yet foreseen. Kosovo should continue raising awareness to achieve better results in line with the United Nations (UN) and EU's goal to halve the number of road deaths and injuries by 2030. Kosovo should also still implement

the report recommendations of Technical Assistance to Connectivity project in the Western Balkans - CONNECTA - to improve the quality of the road network and implement actions as set out in the road safety Transport Community Treaty regional action plan. The draft bylaw on aligning the Directive 2008/69/EC on road infrastructure safety management and the bylaw on periodic technical inspections on roads should be finalised without any further delays. Establishing a system/model to increase the capacity of road safety inspectors and auditors should be a priority.

Kosovo has made some progress on the implementation of **rail transport *acquis***, with the partial implementation of the Transport Community action plan on rail. The market for rail transport services is open and functional. However, the railway legislation still needs to be fully aligned with the market and technical pillars of the fourth Railway Package. Kosovo drafted a multiannual maintenance contract; final approval is pending. Although the 2021 agreement on joint rail border crossing is in place for more than 2 years, the joint rail station with North Macedonia is not yet operational. Kosovo should still ensure the outstanding finalisation of the 2020-2024 financial agreement between the infrastructure manager, Infrakos, and the relevant authorities.

On **air transport**, Kosovo is part of the European Common Aviation Area (ECAA)) and is also covered by the single European sky arrangements. The sector continues to face a number of challenges arising from Kosovo's non-membership in several international civil aviation organisations. KFOR/NATO still manages and coordinates upper Kosovo airspace. The institutional shortcomings of the Air Navigation Service Agency and the Civil Aviation Authority, as well as the lack of revenue from upper airspace management, remain an issue. The ongoing staff-management issues in the Civil Aviation Authority remain unsolved and may have a negative impact on the functioning of the Authority. Its upcoming reorganisation and administrative reforms should reflect public administration reform principles, as well as the aviation sector's specific circumstances and requirements. More efforts are needed to continue the alignment with the remaining ECAA first-phase items. Kosovo made some progress with the second phase of ECAA requirements, on aviation safety matters.

On **combined transport**, the approval of the Multimodal Transport Strategy sets out the objective for a well-functioning transport infrastructure which is integrated into TEN-T network and enables the provision of multimodal transport services. However, the 3-year implementation program of the Strategy is yet to be adopted.

Kosovo should increase its efforts to implement **EU passenger rights *acquis*** in all mode of transport. While it has made limited progress in implementing certain aspects of the EU Regulation on rail passenger rights, further efforts are required to achieve comprehensive compliance.

Chapter 15: Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy and safety, and radiation protection.

Kosovo has **some level of preparation** in the area of energy. Kosovo has made **some progress**, notably with the adoption of an ambitious new Energy Strategy in March 2023, the launch of the first solar auction in May 2023, and with further investments in the energy efficiency of public and residential buildings in line with the Energy Support Package action plan. Kosovo remains heavily reliant on coal, which in addition to being a dominant source of greenhouse gases, causes serious health and environmental hazards. The targets set in the new Energy Strategy and in the National Energy and Climate Plan (NECP) will need to be aligned with the

2030 Energy Community energy and climate targets. This plan (NECP) needs to be adopted by the end of June 2024, in line with the Energy Community 2030 energy and climate targets, taking due account of recommendations issued by the Energy Community Secretariat. Kosovo needs to align its legislation with the Energy Community Electricity Integration Package. Implementation and enforcement of legislation on energy efficiency need to be enhanced. Kosovo has to fulfil its obligations under the connection agreement with ENTSO-E without delay.

Since the recommendations from the previous report were only partially addressed, in the coming year, Kosovo should in particular:

- continue the environmental upgrade of the Kosovo B thermal power plant and the works for decommissioning of the non-working parts of Kosovo A thermal power plant;
- continue the rollout of the energy efficiency fund and implement support to residential buildings and small and medium-sized enterprises; and
- adopt the Law on renewable energy sources and sign a direct agreement with the service provider to use the national electronic register for the issuance, cancellation, and trade of guarantees of origin.

Kosovo made some progress on **the security of supply**. Electricity market integration with Albania advanced with the launch of the Albanian Power Exchange (ALPEX) and the successful inauguration of the day-ahead market in Albania. ALPEX obtained a license to operate the day-ahead market in Kosovo, and the launch was expected by September 2023. Market coupling between Albania and Kosovo is envisaged to take place in parallel with the launch of the day-ahead market in Kosovo. Kosovo still made no progress in restructuring the existing Bulk Supply Agreement between Kosovo Electricity Supply Company (KESCO) and the Kosovo Electricity Corporation (KEK). The phase out of the bulk supply agreement would contribute to unlocking competition and liquidity in the market for the benefit of Kosovo's energy consumers.

Kosovo Transmission Operator (KOSTT) continued withdrawing electricity from the European network to balance demand in an unauthorised manner. KOSTT lacks the financial resources required to cover for the losses to which unpaid electricity bills in the north of Kosovo contribute. Electricity supplies for the North of Kosovo are provided through deviations that breach the Connection Agreement with ENTSO-E. KOSTT should address the problem of frequency deviations in the control area of Kosovo as a matter of urgency, as the transmission system operator TSO is responsible for fulfilling the obligations under the Connection Agreement with ENTSO-E.

Although Elektrosever received a supply license in June 2022, following the adoption of the Energy Roadmap as part of the EU-facilitated Dialogue, the conclusion of a commercial contract between the distribution company KEDS and Elektrosever remains pending. Following the separation of the Kosovo transmission system operator KOSTT from the Serbia control block, the Serbian electricity transmission system operator EMS did not determine net transmission capacities and capacity allocation at the interconnection with Kosovo.

In March 2023, Kosovo adopted an ambitious **Energy Strategy** setting a clear vision for decarbonisation and foreseeing a substantial increase of renewable energy sources in the electricity mix and approved its implementation program in September. Kosovo needs to ensure a time-efficient and dynamic implementation of various energy strategy components and reach ambitious targets. Kosovo is dependent on outdated, unreliable, and highly polluting lignite-fired thermal power plants, which are greenhouse gas emission sources and cause

serious health and environmental hazards. Kosovo should work on decommissioning the non-working parts of Kosovo A thermal power plant. In 2024, it is expected that Kosovo starts the works to enhance the environmental performance of the Kosovo B thermal power plant and to bring dust and nitrogen oxide emission levels in line with the EU standards. Kosovo is already in breach of the Energy Community requirements for reducing greenhouse gas emissions; the legal framework also needs to be aligned with the EU Directives on large combustion plants and industrial emissions.

Kosovo's new energy strategy does not envisage the development of **gas infrastructure**. The feasibility study for the Kosovo-North Macedonia pipeline and the gas master plan have been completed but there is no investment decision on gas infrastructure.

Concerning the **internal energy market**, there is no progress with the further opening of the retail market. In practice, all customers except those on high voltage continued to be supplied at a regulated price. To ensure compliance with the Third Energy Package and the latest Electricity Integration Package requirements of the Energy Community, Kosovo's Energy Regulatory Office (ERO) still needs to implement the liberalisation of the retail electricity market in Kosovo. On 30 March 2023, the Board of ERO approved the maximum allowed revenues for regulated operators and increased the new electricity tariffs for all consumer categories by 15.4%. The government is defining energy-poor consumers according to the World Bank recommendations, so not only social assistance beneficiaries will benefit but also other consumers in vulnerable situations; the latter will also benefit from the EU's Energy Support Package. Kosovo submitted its draft National Energy and Climate Plan to the Energy Community Secretariat on 10 July 2022. The final plan is to be adopted by end of June 2024.

On renewable sources, by the end of 2022, Kosovo registered 276.2 MW of renewable electricity generation, 128 MW of small hydropower, 137 MW of wind, 10 MW of solar and 1.2 MW of biomass. Kosovo needs to mobilize new investments in renewable energy sources to achieve the targets of the Energy Strategy and the Green Agenda for the Western Balkans. Kosovo also needs to make more efforts to adopt the legal framework on Renewables. In May 2023, Kosovo launched the auction for the first solar energy park of 100 MW. Permitting procedures need to be simplified and streamlined to enable faster deployment of renewables. Kosovo should sign a direct agreement with the service provider to use the national electronic register for the issuance, cancellation, and trade of guarantees of origin, as provided in the regional project for guarantees of origin implemented in the Energy Community and in line with EU standards.

The biomass/woodchips supply chain, critical for the operation of the installed heating and cogeneration plant in Gjakova/Đakovica, is not yet established. To ensure the supply chain for woodchips, Kosovo needs an improved forest management plan and dedicated subsidy for sanitation of the forestry. Due to concerns over their environmental impact, the development of small hydropower plants continued to face strong public resistance. In line with the *acquis* on concessions and the environment, developing new hydropower plants should always be accompanied with proper environmental and social impact assessments. Kosovo's new energy strategy does not foresee the development of new hydro power capacities.

Good progress can be noted on the implementation of the **energy efficiency** fund. Kosovo has put in place the operational procedures for subsidising energy efficiency measures in the residential sector, including social housing. The financial model for investments in the residential sector on a revolving basis is under development. To increase the energy efficiency as foreseen in the Energy Strategy, Kosovo needs to mobilise more financing and to strengthen the institutions' capacity to implement and monitor the savings. The Law on energy efficiency and the Law on energy performance of the buildings have to be aligned with the new directives

as required by the Energy Community Treaty. Kosovo needs to immediately implement the energy performance certification of the buildings and adopt both the Building Renovation Strategy and the Plan for nearly zero energy buildings.

The capacities of the **Nuclear Safety and Radiation Protection** Agency remain weak, Kosovo has still not found a solution for the treatment and interim storage of radioactive waste in accordance with EU standards.

Chapter 21: Trans-European Networks

The EU promotes trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.

In the area of trans-European networks (TENs), Kosovo has **some level of preparation**. Kosovo made **limited progress** in developing transport and energy networks, with the implementation of the Transport Community action plans on road, road safety, rail, and transport facilitation, and the operationalisation of a common power exchange with Albania.

As recommendations from the previous year were only partially addressed, in the coming year, Kosovo should:

- implement the pending connectivity projects and strengthen institutional and administrative capacities for the implementation of strategic infrastructure projects;
- improve the capacity of the regulatory authority of electronic and postal communications to enforce telecommunications market regulations.

Progress on the trans-European **Transport** Network (TEN-T) is limited due to the lack of inter-institutional capacities to implement infrastructure projects. All transport infrastructure investments need to be based on realistic cost/benefit analyses, and comply with EU standards on public procurement, state aid and environmental impact assessments. A revision of the indicative TEN-T core and comprehensive network took place. A relevant high-level agreement on indicative maps for TEN-T in the Western Balkans was signed in July 2023. The amended maps for the new European Western Balkans corridor will be part of the revised TEN-T Regulation, which is currently under negotiation between the EU co-legislators.

In 2022, the government submitted the loan request to EBRD and EIB for the segment of the “Peace Highway” (part of Route 7). However, negotiations have not yet been concluded. The railway works on the Orient/East-Med Corridor (rail route 10) connecting Fushë Kosovë/Kosovo Polje and Mitrovicë/Mitrovica to North Macedonia continued at a slow pace. The works on the second segment are progressing, while the tendering for the related signalling and telecom is delayed. Kosovo and Albania will conduct a feasibility study for a railway connection between Durres and Pristina.

Kosovo achieved some progress on rail market opening. Obstacles remain, such as the mutual recognition of operating train driver licenses, institutional framework, and recognition of safety certificates and vehicle authorisations. Kosovo needs to further revise the railway law and to finalise the new rail safety and interoperability law by incorporating the market and technical pillars deriving from the fourth railway package.

On **energy networks**, the Feasibility Study for Kosovo-North Macedonia gas/hydrogen pipeline and the Gas Master Plan for Kosovo are completed. The government does not foresee to develop gas infrastructure in Kosovo. In the new Energy Strategy, the government plans to consider joint investments in natural gas power plants with Albania, North Macedonia, and

Greece. Progress was made towards advancing electricity market integration with Albania. The Albanian Power Exchange (ALPEX), including Kosovo, was launched in April 2023.

On **telecommunications networks**, the institutional capacity of the electronic and postal communications regulatory authority still needs to be reinforced.

Chapter 27: Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

In the area of environmental protection and climate change, Kosovo is at an **early stage of preparation**. During the reporting period, Kosovo made **limited progress** with the adoption, in March 2023, of the Law on Integrated Prevention and Control of Pollution. Kosovo needs to increase its political commitment and administrative capacity to address the issues related to environmental degradation and climate change as well as to improve the implementation and enforcement of its legislation. These efforts should be aligned with the goals of the Green Agenda for the Western Balkans. The recommendations from the previous report have not been implemented.

In the coming year, Kosovo should, in particular:

- increase the waste collection coverage, apply widely reduction, separation, recycling and reuse of waste; address effectively the issue of illegal dumpsites; introduce circular economy measures to reduce waste, develop and approve inter-municipal integrated waste management plans; and establish the extended producers responsibility system; □ intensify the work for reduction of industrial pollution through the implementation and enforcement of the law on integrated pollution prevention and control;
- harmonise with and start implementing legal provisions on environmental liability, damage and crime; implement the polluter pays principle and raise public awareness on environmental protection;
- implement the climate change strategy and the action plan on climate change; prepare a roadmap for alignment with the Green Agenda for the Western Balkans and the *acquis* on climate; adopt the national energy and climate plan, in line with the Energy Community requirements, and finalise the drafting the long-term de-carbonisation strategy, and prepare for alignment with the EU Emissions Trading System (ETS).

Environment

As regards **horizontal** issues, Kosovo needs to take ownership and all the necessary measures in the environmental sector and to that end, increase the capacities of the environmental authorities at the central and local level, implement structural reforms and ensure inter-institutional cooperation. Further efforts are needed to revise and adopt strategies, action plans, and relevant legislation to ensure coherence with the objectives of the Green Agenda. The adoption of the Strategy for Environmental Protection and Sustainable Development 2022-2030 is still delayed. There are challenges to implement the strategic framework due to the lack of sufficient funding, low administrative and technical capacities, and heavy reliance on donor support. Kosovo needs to align its environmental protection with the environmental liability Directive. Kosovo adopted the legislation on inspections, but inspection capacities and implementation needs to improve. Kosovo recently adopted the Environmental and Social

Impact Assessment Law; however, it needs to amend the Law on Strategic Impact Assessment. Kosovo needs to meaningfully consult civil society in this policy area, as well as to raise the public and its institutions' awareness of the importance of environmental protection.

Air quality, notably pollution, continues to be a major health threat. Although detailed identification of sources of air pollution has been completed, Kosovo needs to implement adequate measures to remedy and curb air pollution. Kosovo does not comply with the emission ceilings established under its national Emissions reduction plan, the adoption of which is delayed. Kosovo needs to start the preparation of the implementation of the new National Emissions Ceiling Directive. Measures for banning the use of coal for heating need to be effectively enforced. Kosovo introduced subsidies for investments in more efficient and less polluting sources for the first time. The air quality plans for zones where pollutant levels exceed limit values need to be adopted. The real time monitoring, identification of air pollution sources and air quality reporting have slightly improved.

There is some progress in aligning the **waste management** legislation with the EU *acquis*, but the unsustainability of the system still needs to be addressed. While the legal framework is partially aligned with the EU *acquis*, it needs to include the extended producer responsibility and the polluter pays principle. In August 2022, Kosovo adopted the Law on Waste, aligning with the Waste Framework Directive. The implementation and enforcement of waste management legislation is lagging behind, with the only noticeable progress being on management of organic waste with 18 of 38 municipalities having initiated home-composting systems and some municipalities having implemented pilot measures for the separation of fractionous collection waste and the reduction of organic waste. Most of the waste still ends up in landfills, which are not properly managed or categorised as illegal dumpsites. However, the number of illegal dumpsites has steadily decreased (from 1489 in 2020, 1 189 in 2021 to 763 in 2022). Kosovo needs to increase capacities and set realistic recycling targets to implement its integrated waste management and circular economy. In March 2023, the Ministry of Environment, Spatial Planning, and Infrastructure launched the Circular Economy Roadmap; however, the overall grasp of the concept is still at an early stage. The capacity of the central and local institutions, including inspections, to fulfil their responsibilities needs to be strengthened. The coal ash deposit lake operated by the Kosovo Electricity Company and the Mirash landfill in Obiliq/Obilić remain open, despite their negative environmental impact. The government selected locations for the new landfill for Pristina regional waste management and hazardous waste storage; yet, it needs to conduct the environmental and social impact assessments procedures.

Kosovo made limited progress to align the **water** legislation with the EU *acquis*. The monitoring mechanism of the 2017-2036 Water Strategy and the implementation of the Law on Waters need further improvement. Kosovo needs to urgently set up the monitoring systems with data available to the public. Water protection zones still need to be enhanced. The river basin district authorities need to become operational as a matter of urgency. The management plan for the White Drin basin has to be adopted, and the preparation of the other river basin management plans should accelerate. Any small hydroelectric power plants need to be built in full respect of the environmental legislation and undergo appropriate environmental assessments. Flood risk and hazard maps preparation progressed well. Untreated sewage and discharge remain the primary sources of water pollution, particularly in rivers. The planning and construction of wastewater treatment plants in bigger cities are progressing, but identifying agglomerations and sensitive areas in line with the Urban Waste Water Treatment Directive remains weak. Reduction of water losses and traffic collection should intensify.

Kosovo made no progress on **nature protection**. The Strategy for Environment and

Sustainable Development 2022-2031 has not yet been adopted. Detailed regulatory plans for the two national parks have been re-drafted into partial plans covering smaller areas. The 2016-2020 action plan for biodiversity needs to be fully implemented. The designated areas continue to be polluted and poorly maintained, and illegal activities such as construction, hunting, and logging still, need to be addressed. Effective measures are necessary to ensure the protection of critically endangered species. Although Kosovo has taken steps to start inventories of natural habitats and species, the designation of potential Natura 2000 sites is at a very early stage. Kosovo made some progress on forestry, mainly in planning and management, as it adopted relevant secondary legislation. The forest Strategy and the forestry Law are yet to be adopted. Deforestation and illegal logging remain matters of serious concern.

Kosovo made limited progress in aligning with the *acquis* on **industrial pollution** and risk management. In March 2023, the Assembly adopted the Law on Integrated Prevention and Control of Pollution. Progress in implementation the legislation on pollution prevention and control and polluter accountability is very slow. Hazardous mine waste, industrial discharge into rivers, and industrial dumpsites continue to pose serious threats to soil, water, and health. Significant efforts are needed to align with the EU *acquis* and to implement it, particularly concerning the Industrial Emissions Directive and Seveso III. This process requires a strengthened capacity to enforce the legislation on the central and local levels. In addition, public awareness campaigns, training of the affected industry, and issuing integrated permits for reducing harmful industrial emissions are necessary.

There was no progress on **chemicals**; here, alignment with the EU *acquis* and implementation of legislation remains at a low level. Kosovo is not a party to the Rotterdam Convention. It still needs to implement the regulatory framework on the export and import of hazardous chemicals. Kosovo made some progress in providing information to stakeholders; yet, more efforts are needed to develop a centre for the control of chemical poisoning.

There was no progress in **noise** regulation in the reporting period.

Kosovo is not part of the Union **Civil Protection Mechanism** but can benefit from certain Union Civil Protection Mechanism activities available to the beneficiaries of the Instrument for Pre-Accession Assistance (IPA) and benefits from regional civil protection programmes under the same Instrument. Kosovo is encouraged to participate in the Mechanism activities, such as training, exchange of experts, prevention and preparedness projects, exercises, peer reviews, and advisory missions. In improving its disaster management capacities, Kosovo should develop legislation, governance, and financial framework related to preparedness, develop a comprehensive investment plan for preparedness and response, improve coordination among responsible authorities in large-scale disasters, and strengthen governance and procedures related to developing national risk assessment. The coordination between the central level and local level should improve. Kosovo made no progress regarding disaster risk needs assessment; it did not develop a recovery strategy or prepare disaster response plans. Kosovo should start the process of installing the Trans European Services for Telematics between Administrations (TESTA) as a prerequisite for installing the Common Emergency Communication and Information system (CECIS).

Climate change

Implementing the 2019-2028 climate change strategy and the action plan for 2021-2023 is very limited. Kosovo has still not adopted the law on climate change. The national energy and climate plan, needs to be adopted at the end of June 2024 (*See Chapter 15 – Energy*). The government should start drafting a Decarbonisation Strategy, including actions related to

energy, agriculture, forestry, and overall economic development. The re-established National Climate Change Council took concrete measures to mainstream climate action and raise public awareness. The greenhouse gas emissions inventory reporting for 2020 is not yet available. The strategic and legislative framework needs to be aligned with the EU strategic goals stemming from the Green Agenda for the Western Balkans. Kosovo needs to get prepared for alignment with the climate acquis as per the important modifications brought in by the Fit for 55 package. Kosovo needs to take the necessary steps for the establishment of a mechanism on carbon pricing, aligned with the EU ETS, to advance the implementation of the EU acquis and adequately prepare for the EU Carbon Border Adjustment Mechanism, that enters into force in its transitional phase as of 1 October 2023. Administrative and inspection capacities in the sector need to be significantly strengthened and structural reforms need to be implemented. Awareness raising need to be enhanced. Kosovo is not a UN member, and *de facto* not a signatory to the UN Framework Convention on Climate Change; therefore, it does not have a nationally determined contribution under the 2015 Paris Agreement. Full implementation of its climate change strategy should serve as a guide to achieving the Agreement's objectives.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

This cluster covers: agriculture and rural development (Chapter 11); food safety, veterinary and phytosanitary policy (Chapter 12); fisheries and aquaculture (Chapter 13); regional policy and coordination of structural instruments (Chapter 22); and financial and budgetary provisions (Chapter 33).

The system for the implementation of the agricultural and rural development policy is being developed. Kosovo has some level of preparation in this area. In March 2023, the Assembly adopted the Law on agriculture and rural development as well as the Law on forestry. Legislation on genetically modified organisms and plants protection needs to be aligned with the EU *acquis*. On chapter 12, Kosovo made limited progress. Kosovo developed surveillance and eradication programmes for animal diseases, as well as prepared secondary legislation; yet, more progress is needed. Kosovo should adopt the agriculture and rural development programme 2022-2027 and the Law on agriculture land. Administrative capacity of the ministry and agencies need to be strengthened significantly with adequate human and financial resources. A policy dialogue with the EU on the strategic orientation of Kosovo's agriculture need to be launched as soon as possible. The measures encouraging land consolidation are insufficient. Kosovo needs to make more efforts to implement the relevant *acquis* on fisheries and aquaculture.

Chapter 11: Agriculture and rural development

The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.

Kosovo has **some level of preparation** on agriculture and rural development. There was **limited progress** with the adoption of the Law on agriculture and rural development, while the agriculture and rural development programme 2022-2027 remains to be adopted. The Law on Forestry was also adopted.

Some of the Commission's recommendations from last year were not fully implemented and , therefore remain valid. In the coming year, Kosovo should in particular:

- perform a qualitative assessment of the direct payments and rural development programmes provided under the financial framework 2014-2020; adopt the Law on agricultural land and the programme for agricultural and rural development 2022-2027;
- take urgent and effective measures to stop the loss of agricultural land and implement the legislation on spatial planning;
- take effective action towards developing its organic farming and quality policy sectors.

On **horizontal issues**, in 2022, the budget for direct payments and rural development increased to EUR 58.1 million, 59% higher than in 2021. In 2022, the agriculture and rural development programme prioritized investments in rural diversification; it also provided support to agricultural primary production and to the processing and trading of agricultural products. Support measures need to be brought in line with the EU *acquis*.

Kosovo is still in the process of establishing agricultural system which include the integrated administration and control system (IACS), a farm accountancy data network (FADN) and agricultural market information system.

A law on the **common market organisation (CMO)** remains to be adopted.

On **rural development**, a Law on Agriculture and Rural Development was adopted in March 2023. However, the agriculture and rural development programme 2022- 2027 is yet to be adopted.

On **quality policy**, Kosovo recorded some progress with the first registration of a geographical indication.

Organic farming certification and control operations are carried out by four international organisations.

An action plan for protection of agricultural land, involving the Ministry of Agriculture and Rural Development, the Ministry of Environment, Spatial Planning and Infrastructure and local authorities, to address the steady loss and degradation of farmland has not yet been adopted.

Chapter 12: Food safety, veterinary and phytosanitary policy

EU hygiene rules for food production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with the quality of seeds, plant protection material, the protection against harmful organisms and animal nutrition.

Kosovo is **in between some and moderate level of preparation** in the area of food safety, veterinary and phytosanitary policy. During the reporting period, Kosovo made **limited progress**, as it prepared and adopted the necessary secondary legislation as well as developed surveillance and eradication programmes concerning animal diseases and control programmes concerning stray dogs. The food control and traceability management system as well as the laboratory information management system for the food safety and veterinary laboratories were put in place .

The Commission's recommendations from last year were only partially met and therefore remain valid. In the coming year, Kosovo should in particular:

- timely secure the means and resources required for effectively operating the food control and traceability management system and the laboratory information management system developed with EU support as they are instrumental in securing compliance of the foodstuff produced or marketed by Kosovo with food safety, animal health, animal welfare, and plant

health standards, a prerequisite for a competitive agri-food sector;

- take a decision on a model for operating the rendering plant and animal by-product collection system and start operation of the rendering plant;
- strengthen surveillance and control of the animal diseases through improved implementation of disease control and surveillance programmes, including by taking over the responsibility of financing fully oral rabies vaccination campaigns to be carried out from autumn 2023 onwards.

Kosovo further progressed in the field of food control and traceability as well as the laboratory information management system managed by the Food and Veterinary Agency. Furthermore, it prepared a gap analysis regarding the legislation covering the areas of animal health, animal welfare, food safety and phytosanitary, as well as the strategy and action plan for drafting the missing legislation. Notwithstanding the transfer of 75 inspectors from municipalities, the financial and human resources of Kosovo's Food and Veterinary Agency remains insufficient to fully implement the EU *acquis* in this area. While food and veterinary laboratory continued testing and participated in proficiency testing with EU reference laboratories, there is still no progress in obtaining international accreditation.

Limited progress was made on the **veterinary policy**. Kosovo developed surveillance and eradication programs for animal diseases and in October 2022 approved the Stray Dog Control Programme and Action Plan. The Food and Veterinary Agency has still not developed or begun implementing a comprehensive disease monitoring and control system, in line with EU legislation and World Organisation for Animal Health requirements.

The long-term planning and implementation of programmes to **eradicate endemic diseases** in Kosovo still requires improvement. The same applies to animal health controls at farm level, the transport of animals, and livestock markets. The lack of necessary resources, both human and financial, as well as the lack of in-service training and education programmes hampered the adequate implementation of programmes in these areas.

No progress was made regarding **animal health**. While the multi-annual animal disease control and surveillance programme still needs to be adopted and implemented, Kosovo continued rabies eradication vaccination campaigns. Taking full ownership of these campaigns from autumn 2023, and continue with the vaccination campaigns twice a year, is still necessary to be in line with the obligations stemming from the EU *acquis*.

Kosovo made no progress on the system for collection and disposal of **animal by-products**. This is not yet functional despite the existence of a new and equipped rendering plant. Kosovo still has not decided on the operating model and procedures for the rendering plant and the collection system, as well as on the timeline for its operationalisation.

Some progress was made on **animal identification and registration**, through a microchipping campaign for dogs with owners. The under-reporting of animal movements remains a challenge. The Food and Veterinary Agency has yet to adopt measures to enforce the relevant regulation at the level of livestock markets, slaughterhouses and transport. Kosovo made no progress in identifying basic **cross-compliance measures** in the areas of food safety, animal health and welfare.

On the placing of food, feed and animal by-products on the market, some progress was made during the reporting period. Moreover, the National Residue Monitoring Plan (NRMP) for the year 2022 was completed and submitted to the Commission for evaluation and the comments/corrections were addressed accordingly.

Kosovo made some progress on **phytosanitary policy**. Standard operating procedures and the necessary accompanying documentation required for the monitoring of 18 high priority pests (quarantine organisms) were prepared. Alignment is yet to be ensured for novel food and for **genetically modified organisms**.

Chapter 13: Fisheries and aquaculture

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture, and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

Kosovo remains at an **early stage** of preparation in this chapter and it made **no progress** in this area. As none of the recommendations of the previous reports were implemented, in the coming year Kosovo should:

- adopt a multi-annual strategy dedicated to aquaculture;
- further align market policy with the *acquis*;
- establish an inventory of fish species.

Kosovo does not have a coastline, it has inland fishing and aquaculture, therefore the *acquis* on catch quotas, inspection and control is only partially applicable. The fisheries *acquis* also covers inland fisheries and aquaculture operations.

The adoption of a multi-annual strategy dedicated to aquaculture and legislation on aquaculture with the *acquis* is pending.

Kosovo should focus on establishing a **market policy** and data collection in line with the EU *acquis* as well as an inventory of fish species. It should also significantly reinforce administrative capacity for policy management, inspection and control.

Chapter 22: Regional policy and coordination of structural instruments

*Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU *acquis* elements such as environmental or public procurement legislation.*

Kosovo remains at **early stage of preparation** regarding regional policy and coordination of structural instruments. During the reporting period, Kosovo made **some progress** in this area, when it adopted the Law on Balanced Regional Development.

In the coming year, Kosovo should:

- adopt the Regional Development Action Plan 2023-2025;
- improve the administrative and technical capacity across the IPA operating structures;
- further develop activities stemming from the law as a step towards the principles of the EU regional and cohesion policy; ensure the implementation of the legal and strategic framework for regional development, upgrade the local and regional program, project planning and implementation capacity.

Kosovo has made some progress to align its existing strategic and **legislative framework** on the public financial management and control framework with the EU *acquis*. The legal basis, namely the Law on Balanced Regional Development, adopted in July 2023, and the Action Plan for the implementation of the Strategy on Regional Development 2020-2030, adopted in June 2023, improve regional development policy.

The Agency of Statistics in cooperation with EUROSTAT has not yet harmonised statistical regions with economic ones. The budget for regional development in 2022 amounts to EUR 4.2 million.

The **institutional framework** for the management of EU funds is not yet in place. At the same time, structures for the management of national regional development programs and projects are functional. Regarding **administrative capacities**, significant efforts are required to allocate more human resources and to increase their capacities, particularly on planning and management of EU funds. Concerning the **financial management, control and audit**, Ministries established functional internal services. The national audit authority performs central financial management and audit.

Programming is focused on national regional development projects and future IPA assistance. Currently, there are no IPA financed projects on regional development. In the area of **monitoring and evaluation**, regular activities continued in the field of regional development programs and projects.

During the reporting period, Kosovo implemented **cross-border cooperation programs** with Albania, North Macedonia and Montenegro. Regarding trans-national cooperation programs, Due to status issues, Kosovo does not participate in transnational and interregional cooperation programmes that cover the Western Balkans.

CLUSTER 6: EXTERNAL RELATIONS

In the area of trade, Kosovo is at an early stage of preparation. Limited progress was made during the reporting period. Improvement was achieved in reducing Kosovo's trade deficit, however Kosovo has not yet adopted a comprehensive trade policy, nor ratified the CEFTA Additional Protocols on trade facilitation and trade in services.

Chapter 30: External relations

The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.

Kosovo is at an **early stage of preparation** in the area of external relations. **Limited progress** was made during the reporting period. Kosovo has made progress in implementation of Common Regional Market action plan, notably by ratifying the three "Berlin process agreements" on free movement and mutual recognition of qualifications. Kosovo should abstain from taking further unilateral trade measures without justification and prior consultation with the Commission, in line with its SAA commitments. Disagreements relating to the representation of Kosovo have led the government to block decision-making mechanisms in CEFTA. Kosovo has yet to establish a humanitarian and development policy.

As not all recommendations from the previous report were implemented, part of the recommendations remain valid. In the coming year, Kosovo should, in particular:

- implement commitments under the Common Regional Market Action Plan 2021-2024; ratify and implement CEFTA Additional Protocol 5 on trade facilitation and Additional Protocol 6 on trade in services; and finalise the negotiations on, and adopt, the Additional Protocol 7 on dispute settlement;
- approve the Regulation on the establishment of the Trade Facilitation Enquiry Point;
- start the process to establish a development and humanitarian aid policy.

On the **common commercial policy**, Kosovo has not yet adopted a comprehensive trade policy or ratify the CEFTA Additional Protocols on trade facilitation and trade in services.

On 8 November 2022, the Assembly adopted the Law on temporary measures of basic products in special cases of market destabilisation, which provided the government with the authority to impose trade restrictions, price controls and rationing measures in cases of emergency. The implementation of this new law is suspended as opposition parties referred it to the Constitutional Court, on grounds that it is a breach of constitutional provisions on free market. The Court has yet to make a decision.

The government supports the Common Regional Market (CRM) as a basis for a regional free trade agreement. Kosovo continues to make progress in implementing technical measures of the CRM action plan 2021-2024, notably regarding the green lanes. During the reporting period, Kosovo has adopted three important laws on the CRM: on ratification of the Agreement on the recognition of professional qualifications for medical doctors, dentists and architects; on ratification of the Western Balkans Agreement on the recognition of higher education qualifications; and on ratification of the Agreement on freedom of movement with identity cards in the Western Balkans.

However, disagreements relating to the representation and denomination of Kosovo in CEFTA are hampering progress in other areas, notably the free movement of workers. These disagreements have also led the government to block decision-making mechanisms in CEFTA, with the adoption of the budget and the appointment of a new director still pending due to this lack of consensus. Kosovo, along with all participants in the CRM, should play a constructive role and deliver on joint commitments set out in the action plan. In June 2023, Kosovo's Ministry for Internal Affairs (MoI) issued a *"temporary operational security measure"* blocking the entry into Kosovo of Serbian goods and postal parcels. This measure appears not to be in line with Kosovo's commitments under CEFTA and goes against the spirit of the Stabilisation and Association Agreement. This measure was imposed by Kosovo following the arrest of three Kosovo Police officers by the Serbian authorities in mid-June. The officers were eventually released at the end of June.

There is a need to enhance the capacity of the trade department. The needs are both in the number of staff and in increasing their capacities to deal with the complex tasks. Delays in access to the Kosovo Customs trade databases and to the statistics by the Kosovo Agency of Statistics negatively affected the efficiency of the trade department.

Kosovo's law on **dual-use goods** remains aligned with EU regulations. Kosovo updated its list of dual-use goods in line with the delegated Regulation of the EU Commission 2023/66 of 21 October 2022.

As regards **bilateral agreements with third countries** on economic/trade/technical cooperation, Kosovo has a number of Free-Trade Agreements (FTAs) with enlargement and third countries. Kosovo has reached a trade partnership and cooperation agreement with the United Kingdom, and a first meeting of the Partnership Council took place in December 2022.

In June 2022, EFTA states and Kosovo officially launched free trade negotiations. Between August and December 2022, there were two rounds of negotiations, with good progress made in all areas.

There were few developments in the areas of **development policy and humanitarian aid**. As Kosovo is a recipient of aid programmes, it does not provide humanitarian aid to third countries in a systematic manner. It has no development aid agency. Kosovo is encouraged to start the process of establishing a legal framework covering international cooperation and development policy as well as humanitarian aid, in accordance with EU policies and principles, and to build dedicated administrative structures. In the context of Russia's war of aggression against Ukraine, Kosovo pledged to host up to 5,000 refugees and 20 journalists from Ukraine. Kosovo also pledged assistance to Türkiye and Syria after the earthquake in February 2023.

ANNEX I – RELATIONS BETWEEN THE EU AND KOSOVO

The EU-Kosovo **Stabilisation and Association Agreement (SAA)** entered into force in April 2016. This comprehensive agreement provides a framework for political dialogue and covers cooperation in variety of sectors. Since 2016, five Stabilisation and Association Council meetings and seven cycles of subcommittee meetings took place. Kosovo participates in the ministerial dialogue between the economic and finance ministers of the EU, and the candidate countries and potential candidates, aiming to help the latter to gradually meet the economic accession criteria and be better prepared for economic reforms, competitiveness and job creation.

On 31 March 2023, the government approved the National Programme for European Integration 2023-2027, subsequently endorsed by the Assembly on 15 June 2023. To further guide the implementation of reforms under the SAA, in November 2016, the Commission and Kosovo adopted the **European Reform Agenda (ERA)**. It outlines priority actions in the fields of good governance, rule of law, competitiveness, investment, sustainable development, employment, education and health. In 2021, Kosovo adopted the second phase of the ERA (ERA II) through a dedicated action plan. Kosovo should have implemented the priorities identified of ERA II within a two-year period, until mid-2023.

The government submitted its application for EU membership on 15 December 2022.

Regarding **visa liberalisation** for Kosovo, the relevant Regulation was adopted on 9 March by the Council and on 18 April 2023 by the European Parliament. The Regulation allows Kosovo biometric passport holders to travel to the EU without a visa for a period of 90 days within any 180-day period, starting on 1 January 2024.

The bilateral EU support for Kosovo under the **Instrument for Pre-accession Assistance II (IPA II)** in 2014-2020 amounted to EUR 562 million, and included, among others, budget support operations on public administration reform, public financial management and on socio-economic recovery.

The EU's COVID related assistance to Kosovo amounted to EUR 68 million. As part of the wider COVID-19 response, the EU made available a Macro Financial Assistance scheme of EUR 100 million in highly favourable loans in order to underpin the local economy.

The IPA III Regulation for the 2021-2027 financial period²² continues to provide financial support to the region and will also finance the Economic Investment Plan (EIP) for the Western Balkans. The IPA 2021, 2022 and 2023 annual programmes include an EU contribution amounting to around EUR 201 million. Under the EIP, Kosovo benefits from EUR 312 million, generating mobilised investments of EUR 940 million.

At the EU-WB Summit in Tirana in December 2022, the Commission put forward an **Energy Support Package** of EUR 1 billion for the Western Balkans to address immediate, short-term, and medium-term needs in the region in the context of the energy crisis and of Russian war of aggression against Ukraine. Kosovo will benefit with EUR 75 million in IPA 2023 funding under this package.

Kosovo continues to benefit from support under the IPA multi-country and regional programmes. Additionally, Kosovo participates in three **cross-border cooperation programmes**, and benefits, with IPA support, from participation in some EU programmes. Since 2018, Kosovo joined the following **EU programmes**: Erasmus+, Single Market

²² Official Journal L 330, 20.9.2021

Programme, Citizens, Equality, Rights and Values Programme, Creative Europe, Customs, Fiscalis and Horizon Europe. To facilitate progress on permitting procedures, Kosovo is participating as observer in a pilot project under the Technical Support Instrument.

Kosovo and **Europol** have enhanced their cooperation. Following the signing of the framework Working Arrangement in July 2020, there are three additional agreements/protocols: the Memorandum of Understanding on Secure Communication Line through SIENA, the Arrangement on secondment of Liaison Officers, and the Arrangement on the exchange and protection of classified information. The SIENA connection is fully operational. As of 15 March 2023, Kosovo Police has the first liaison officer to Europol in the Hague.

Since 2008, the **European Rule of Law Mission in Kosovo (EULEX)** has been assisting Kosovo authorities in establishing sustainable and independent rule of law institutions. Under its current mandate extended until 14 June 2025, the Mission continues to undertake monitoring activities and has limited executive functions.

Frontex is deploying its officers to several border-crossing points in Kosovo based on mutually agreed operational plans. Additionally, the agency provides with other border management related support e.g. guidance in the process to establish a National Coordination Centre (NCC).

To date, according to the government, Kosovo has been recognised by 117 countries, including 22 EU Member States.

Following Russia's war of aggression against Ukraine, Kosovo has continued to adopt packages of sanctions against Russia and Belarus by replicating the ones imposed by the EU and the US. Among the measures taken was a suspension of broadcasting activities of Russian media channels in Kosovo and introducing a visa requirement for Russian citizens. As regards Kosovo support to Ukraine, the government allocated EUR 100 000 in humanitarian aid and dedicated funds to shelter 20 journalists from Ukraine. The Assembly passed a resolution expressing a willingness to receive up to 5 000 Ukrainian refugees.

In relation to the escalation in the north of Kosovo in May 2023, the EU urged both Kosovo and Serbia to immediately and unconditionally take measures to de-escalate the situation and to return to the process of normalisation of relations. Due to lack of decisive steps to de-escalate by Kosovo, and in line with the 3 June Statement, the EU decided to take a number of measures.

The work of the Stabilisation and Association Agreement bodies has been put on hold. Programming of funds for Kosovo under the IPA 2024 programming exercise has so far been put on hold. The proposals submitted by Kosovo under the Western Balkans Investment Framework (WBIF) were not submitted for consideration by the WBIF Board. As regards ongoing support, procurement procedures and signing of new contracts were suspended. Kosovo was also not invited to high-level events and bilateral visits were suspended, other than those focused on addressing the crisis in the north of Kosovo and those related to Western Balkans regional integration.

These measures are temporary and reversible depending on the credible, decisive and timely steps taken by Kosovo authorities to de-escalate the situation, return to the Dialogue and implement the commitments made in this context.

STATISTICAL DATA (as of 31/08/2023)
Kosovo

Basic data	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		2 208 s	1 784 s	1 799 s	1 796 s	1 782 s	1 798 s
Total area of the country (km ²)	1)	10 908 w	10 905 w	10 905 w	10 905 w	10 905 w	10 905 w

National accounts	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million euro)		4 031	6 357	6 672	7 056	6 772	7 958
GDP (euro per capita)		1 826 s	3 564 s	3 709 s	3 930 s	3 800 s	4 426 s
GDP per capita (in purchasing power standards (PPS))		:	:	:	:	:	:
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		:	:	:	:	:	:
Real GDP growth rate: change on previous year of GDP volume (%)		4.9	4.8	3.4	4.8	- 5.3	10.7
Employment growth (national accounts data), relative to the previous year (%)		:	c	c	c	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	c	c	c	:	:
Unit labour cost growth, relative to the previous year (%)		:	c	c	c	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	c	c	c	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		11.5	9.2	8.1	9.0	8.9	8.6
Industry (%)		23.5	24.1	24.2	23.4	24.1	23.6
Construction (%)		9.3	10.1	10.4	10.1	9.3	10.6
Services (%)		55.6 s	56.5 s	57.2 s	57.5 s	57.7 s	57.2 s
Final consumption expenditure, as a share of GDP (%)		105.7	91.1	91.9	92.6	98.8	95.9
Gross fixed capital formation, as a share of GDP (%)		31.0	30.0	31.7	31.0	29.7	32.9
Changes in inventories, as a share of GDP (%)		2.1	4.7	4.6	3.5	3.7	3.1
Exports of goods and services, relative to GDP (%)		21.7	27.3	29.1	29.3	21.7	33.4
Imports of goods and services, relative to GDP (%)		60.5	53.1	57.3	56.4	53.9	65.2
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)		:	:	:	:	:	:
Number of active enterprises (number)		29 710 pw	34 355 w	31 028 pw	34 615 w	40 056 w	45 468 w
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		13.9 pw	8.7 w	4.8 pw	:	:	:
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		5.3 w	4.2 w	3.7 pw	4.2 w	2.6 w	:

People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		:	78.8 sw	78.4 psw	9.6 sw	8.6 sw	7.7 sw
Value added by SMEs (in the non-financial business economy) (EUR million)		:	:	:	:	:	:
Total value added (in the non-financial business economy) (EUR million)		:	:	:	:	:	:

Inflation rate and house prices	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)		:	1.5 d	1.1 d	2.7 d	0.2 d	3.4 d
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		- 516.1	- 348.6	- 508.8	- 399.5	- 472.2	- 694.6
Balance of payments current account: trade balance (million euro)		- 1 741.6	- 2 464.2	- 2 737.7	- 2 840.2	- 2 573.2	- 3 567.0
Balance of payments current account: net services (million euro)		176.0	827.3	855.8	926.0	391.6	1 034.9
Balance of payments current account: net balance for primary income (million euro)		67.0	127.4	113.1	160.6	164.0	150.9
Balance of payments current account: net balance for secondary income (million euro)		982.5	1 161.0	1 260.0	1 354.1	1 545.4	1 686.2
Net balance for primary and secondary income: of which government transfers (million euro)		319.5	199.7	226.1	236.6	276.6	233.7
**3 year backward moving average of the current account balance relative to GDP (%)		:	- 7.6	- 7.1	- 6.3	- 6.8	- 7.1
**Five year change in share of world exports of goods and services (%)		:	28.3	37.6	37.0	14.9	49.4
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		331.1 w	212.0 w	225.8 w	188.4 w	286.6 w	320.4 w
Foreign direct investment (FDI) abroad (million euro)		37.4 w	43.4 w	46.3 w	66.2 w	59.1 w	100.3 w
of which FDI of the reporting economy in the EU-27 countries (million euro)		:	14.1 w	13.0	6.1	16.5	26.5
Foreign direct investment (FDI) in the reporting economy (million euro)		368.5 w	255.4 w	272.1 w	254.6 w	345.7 w	420.7 w
of which FDI of the EU-27 countries in the reporting economy (million euro)		:	86.1 w	58.7	158.6	152.1	215.6
**Net international investment position, relative to GDP (%)		9.2 w	- 1.8 w	- 6.1 w	- 5.8 w	- 12.3 w	- 11.6 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		14.5 sw	11.9 s	12.0 s	12.1 s	14.5 s	14.5 s

Public finance	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)		:	- 0.8 w	- 1.0 w	- 0.5 w	- 5.2 w	:
General government gross debt relative to GDP (%)		5.9 ew	16.6 ew	17.1 ew	17.5 w	21.8 w	:
Total government revenues, as a percentage of GDP (%)		26.8 w	30.2 w	30.1 w	31.5 w	32.6 w	:
Total government expenditure, as a percentage of GDP (%)		28.9 w	28.9 w	29.6 w	30.5 w	34.4 w	:

Financial indicators	Note	2010	2017	2018	2019	2020	2021
Gross external debt of the whole economy, relative to GDP (%)		34.0 sw	32.9 sw	30.5 sw	31.2 sw	37.2 sw	37.4 sw
Gross external debt of the whole economy, relative to total exports (%)		157.0 w	120.2 w	105.0 w	106.4 w	171.2 w	111.9 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		:	:	:	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		:	:	:	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:

Total credit by monetary financial institutions to residents (consolidated) (million euro)		1 458.7 w	2 629.5 w	2 939.2 w	:	:	:
**Annual change in financial sector liabilities (%)		:	:	:	:	:	:
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	:	:	:	:	:
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	2)	14.63 w	6.83 w	6.65 w	6.51 w	6.21 w	5.96 w
Deposit interest rate (one year), per annum (%)	2)	3.70 w	1.04 w	1.31 w	1.46 w	1.49 w	1.33 w
Euro exchange rates: average of period (1 euro = ... national currency)		1 w	1 w	1 w	1 w	1 w	1 w
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		612.5 w	683.4 w	769.3 w	863.7 w	900.8 w	1 100.3 w

External trade in goods	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		2 158	3 047	3 347	3 497	3 297	4 684
Value of exports: all goods, all partners (million euro)		296	378	368	384	475	756
Trade balance: all goods, all partners (million euro)		- 1 862	- 2 669	- 2 980	- 3 114	- 2 822	- 3 929
Terms of trade (export price index / import price index * 100) (number)		100.0 sw	93.0 sw	91.0 sw	94.2 sw	92.6 sw	101.4 sw
Share of exports to EU-27 countries in value of total exports (%)		45.2 s	22.0 s	27.5 s	33.2 s	34.5 s	31.5 s
Share of imports from EU-27 countries in value of total imports (%)		40.4 s	42.3 s	42.7 s	49.1 s	45.8 s	44.3 s

Demography	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		13.3 b	8.2 e	7.7	6.9	7.4 ep	:
Infant mortality rate deaths of children under one year of age (per thousand live births)		8.8	9.7	10.6	8.7	:	:
Life expectancy at birth: male (years)		:	:	:	:	:	:
Life expectancy at birth: female (years)		:	:	:	:	:	:

Labour market	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		:	49.0 w	46.6 w	45.2 w	42.9 w	43.9 w
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		:	34.4 w	33.2 w	34.2 w	32.3 w	35.1 w
Male employment rate for persons aged 20–64 (%)		:	54.0 w	52.6 w	53.0 w	48.8 w	51.9 w
Female employment rate for persons aged 20–64 (%)		:	14.6 w	14.1 w	15.6 w	16.0 w	18.5 w
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		:	32.7 w	31.5 w	32.2 w	30.9 w	32.1 w
Employment by main sectors							
Agriculture, forestry and fisheries (%)		:	4.4 w	3.5 w	5.2 w	4.8 w	2.8 w
Industry (%)		:	17.4 w	14.3 w	15.1 w	16.3 w	14.8 w

Construction (%)		:	12.9 w	11.9 w	12.6 w	11.1 w	10.5 w
Services (%)		:	65.3 w	70.3 w	67.1 w	67.9 w	71.9 w
People employed in the public sector as a share of total employment, persons aged 20–64 (%)		:	28.4 w	30.8 w	27.6 w	28.7 w	28.3 w
People employed in the private sector as a share of total employment, persons aged 20–64 (%)		:	71.6 w	69.2 w	72.4 w	71.3 w	71.7 w
Unemployment rate: proportion of the labour force that is unemployed (%)		:	30.3 w	29.4 w	25.5 w	25.8 w	20.6 w
Male unemployment rate (%)		:	28.5 w	28.3 w	22.4 w	23.4 w	18.9 w
Female unemployment rate (%)		:	36.4 w	33.3 w	34.4 w	32.2 w	24.9 w
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		:	52.7 w	55.4 w	49.4 w	49.1 w	38.0 w
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		:	21.7 w	17.2 w	16.2 w	18.4 w	14.5 w
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		:	32.5 w	35.8 w	28.3 w	30.2 w	27.6 w
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		:	23.4 w	16.8 w	18.0 w	17.0 w	13.7 w

Social cohesion	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)		:	431 w	453 w	477 w	466 w	484 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		:	:	:	:	:	:
GINI coefficient		:	:	44	46 w	45 w	:
Poverty gap		:	:	47.4	55.3 w	46.6 w	:
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		:	12.2 w	9.6 w	8.2 w	7.8 w	7.0 w

Standard of living	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		90.6 sw	153.6 sw	155.9 sw	162.2 sw	164.4 sw	:
Number of mobile phone subscriptions relative to population size (number per thousand population)		:	1 200.7 ew	1 281.1 ew	1 266.4 ew	1 095.0 ew	1 072.0 ew
Mobile broadband penetration (per 100 inhabitants)		:	65.4 ew	73.9 ew	78.4 ew	84.5 ew	88.4 ew
Fixed broadband penetration (per 100 inhabitants)		:	15 ew	18 ew	20 ew	21 ew	22 ew

Infrastructure	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km ²)	1)	30.3 sw	30.5 sw	30.5 sw	30.5 sw	30.5 sw	30.5 sw
Length of motorways (kilometres)		w	108 w	119 w	137 w	137 w	137 w

Innovation and research	Note	2010	2017	2018	2019	2020	2021
Public expenditure on education relative to GDP (%)		:	4.4 sw	4.5 sw	4.6 sw	4.6 sw	4.3 sw
*Gross domestic expenditure on R&D relative to GDP (%)		:	:	:	:	:	:

Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	:	:
Percentage of households who have internet access at home (%)		:	88.8	93.2	93.2	96.4	:

Environment	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)		:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		553.1	409.0	398.1	392.3	413.9	405.0
Electricity generated from renewable sources relative to gross electricity consumption (%)		1.4	3.6	4.2	5.2	5.3	5.4
Road share of inland freight transport (based on tonne-km) (%)		:	:	:	:	:	:

Energy	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		1 861	1 793	1 822	1 849	1 901	1 937
Primary production of crude oil (thousand TOE)		0	0	0	0	0	0
Primary production of solid fuels (thousand TOE)		1 612	1 412	1 428	1 503	1 562	1 591
Primary production of gas (thousand TOE)		0	0	0	0	0	0
Net imports of all energy products (thousand TOE)		619 s	769 s	757 s	815 s	787 s	942 s
Gross inland energy consumption (thousand TOE)		2 517	2 569	2 585	2 669	2 665	2 888
Gross electricity generation (GWh)		5 168	5 918	5 915	6 351	6 711	6 892

Agriculture	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		100.0 w	112.4 w	108.3 w	119.0 w	100.0 w	95.7 w
Utilised agricultural area (thousand hectares)		406.9 e	417.0	419.5	421.0	421.1	421.2
Livestock numbers: live bovine animals (thousand heads, end of period)		:	259.7	259.7	257.7	261.4	260.5
Livestock numbers: live swine (thousand heads, end of period)		:	41.1	40.2	40.5	45.4	47.4
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	210.7 s	209.8 s	216.3 s	241.7 s	241.4 s
Raw milk available on farms (thousand tonnes)		:	365.1	334.3	:	:	:
Harvested crop production: cereals (including rice) (thousand tonnes)		430.5	477.9	441.8	459.4	529.1	504.4
Harvested crop production: sugar beet (thousand tonnes)		:	:	:	:	:	:
Harvested crop production: vegetables (thousand tonnes)		158.5	147.8	155.3	177.8	169.4	165.0

Source: Eurostat and/or the statistical authorities in Kosovo

: = not available
b = break in series
c = confidential value
d = definition differs
e = estimated value
n = not significant value
p = provisional
s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) The change of the area between 2016 and 2017 reflects measurements made by the Kosovo Cadastral Agency.
- 2) Includes disbursement fee charged by banks.



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Accompanying the document

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European Economic and Social Committee and the Committee of the Regions**

2023 Communication on EU Enlargement policy

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1. INTRODUCTION

1.1 CONTEXT

Since the opening of Serbia's accession negotiations in January 2014, 22 out of 35 chapters have been opened, including all chapters in cluster 1 on the fundamentals and all chapters in cluster 4 on the Green agenda and sustainable connectivity. Two chapters have provisionally been closed. In June 2021, Serbia accepted the revised enlargement methodology. The overall pace of negotiations will continue to depend, in particular, on the pace of rule of law reforms and on the normalisation of Serbia's relations with Kosovo*.

Serbia continued to implement the Stabilisation and Association Agreement (SAA) between Serbia and the EU.

The Serbian government has continued to declare EU membership its strategic goal. The previous government acted in a caretaker capacity with limited powers between February 2022 and late October 2022 when the new government was formed. This had an impact on the pace of reforms in 2022, which picked up again in 2023. Political developments following the two tragic mass shootings in early May 2023, which resulted in 19 dead, including nine schoolchildren, the ensuing protests, and speculations about snap parliamentary elections led to a shift in the reform priorities.

The EU-facilitated Dialogue on normalisation of relations between Kosovo and Serbia continued in the reporting period with regular meetings on the level of Chief Negotiators and Leaders. After months of intense negotiations and with the support of key partners, the Parties reached an Agreement on the Path to Normalisation in Brussels on 27 February 2023, and agreed on its Implementation Annex in Ohrid, North Macedonia, on 18 March 2023. Both Kosovo and Serbia are yet to start implementation of their respective obligations stemming from the Agreement, which are valid and binding for the Parties and part of their European paths.

The Commission's recommendations from its 2021 and 2022 reports, that Serbia has fulfilled the opening benchmarks for cluster 3 (competitiveness and inclusive growth) and that this cluster is technically ready for opening, remain valid.

Following Russia's war of aggression against Ukraine, Serbia aligned with some EU positions in international forums (including in the UN General Assembly). However, it has continued not to align with any restrictive measures against the Russian Federation and has not aligned with the majority of High Representative statements on this matter. It maintained high-level relations with the Russian Federation, raising questions about Serbia's strategic direction. Under the EU-Serbia negotiating framework, Serbia is expected to progressively align its policies towards third countries with the policies and positions adopted by the EU, including restrictive measures.

It remains important that effective policy planning and coordination is in place, along with sufficient human and financial resources for EU accession across all institutions involved, so that Serbia can work towards meeting its objectives for EU accession negotiations. In line with the EU accession objective, and as a matter of priority, the Serbian authorities need to take responsibility for proactive and objective communication on the EU, which is by far Serbia's main political and economic partner.

* 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.

1.2 SUMMARY OF THE REPORT¹

As regards the **political criteria**, the Parliament constituted in August 2022 includes the opposition parties that boycotted the 2020 elections. However, political polarisation remained in evidence and has further deepened following the tragic mass shootings in early May. A number of peaceful mass citizens' protests - Serbia against violence - have taken place – with support from several opposition parties.

No elections took place during the reporting period. Serbia still needs to address a number of long-standing recommendations by the Office for Democratic Institutions and Human Rights at the Organisation for Security and Cooperation in Europe (OSCE/ODIHR) and Council of Europe bodies concerning the electoral framework.

Debates in Parliament were marked by tensions between the ruling majority coalition and the opposition. The Parliament has no annual work plan and most of its sessions were called with the minimum advance notice of 24 hours, which should only be used in exceptional circumstances. The code of conduct was not systematically applied and the frequent use of inflammatory language was not penalised. Sanctions and fines were only issued to opposition MPs. Parliamentary Rules of Procedure need to be modernised, and the code of conduct applied to address offences by Members of Parliament. All but two political groups engaged constructively with the European Parliament in the follow-up to the *Inter-Party Dialogue* and its transition into a new *Parliamentary Dialogue Process*.

Further efforts are needed to ensure systematic and genuine cooperation between the government and **civil society**. An enabling environment for establishing, running and financing civil society organisations still needs to be created on the ground, as verbal attacks and smear campaigns against such organisations continued, including by high-level officials.

Serbia is moderately prepared as regards **public administration reform**. Overall, limited progress was made in this area, notably through the continued development of e-services, implementation of the e-government policy, and further roll-out of training courses for civil servants. On human resources management, more than half of senior manager positions are filled on an acting basis. As regards policy development and coordination, no mechanism is yet in place to verify that the Public Policy Secretariat's comments have been incorporated into the final draft versions of laws and policy documents submitted for government approval. On public financial management, action is still needed to fully implement the recommendation for a single mechanism for prioritising all investments regardless of type and source of financing.

Serbia has some level of preparation when it comes to its **judicial system**. Overall, some progress was made during the reporting period. Serbia took an important step towards strengthening the independence and accountability of the judiciary with the timely adoption of most of the implementing legislation giving practical effect to the 2022 constitutional amendments, while two of the implementing laws still need to be adopted: the Law on Judicial Academy and the Law on Seats and Territorial Jurisdiction of Courts. The Venice Commission issued three opinions that overall assessed positively the adopted implementing legislation and recognised the transparency and inclusiveness of the process. Most of its recommendations

¹This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of Serbia, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law.

The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale has been used: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

were addressed. Relevant by-laws will need to be adopted by May 2024. The High Judicial Council (HJC) and High Prosecutorial Council (HPC) were established on 8 May, following the election of the lay members, which gave practical effect to the implementing legislation.

Serbia has some level of preparation in the **fight against corruption**. Overall, limited progress was made during the reporting period, including on last year's recommendations. Steps have been taken that aimed at further implementing the recommendations of the Council of Europe's Group of States against Corruption (GRECO) in the area of prevention of corruption. There was a slight increase in the number of new investigations and final convictions in high-level corruption cases, but the number of new indictments fell. There were no cases of final confiscation of assets, for which a track record is required. Serbia still needs to adopt a national anti-corruption strategy and the accompanying action plan. Serbia presented to the European Commission a draft strategy for the period 2021-2028 accompanied by a first action plan for the period 2023-2024. A majority of anti-corruption related interim benchmarks for Chapter 23 and a majority of GRECO recommendations from the 4th and 5th rounds of evaluation have been included in the documents. However, there is still a need to ensure the inclusion of remaining Chapter 23 interim benchmarks and outstanding GRECO recommendations and to create the necessary conditions for implementation. Serbia should establish an effective coordination mechanism to operationalise prevention and repression policy goals and thoroughly address corruption. Those sectors most vulnerable to corruption require dedicated action. Overall, corruption is prevalent in many areas and remains an issue of concern. There is a need for strong political will to effectively address corruption issues, and a robust criminal justice response to high-level corruption.

In the **fight against organised crime**, Serbia has some level of preparation. Limited progress was made in addressing last year's recommendations, in particular on detection and prevention of migrant smuggling and trafficking in human beings. A slight increase in financial investigations and confiscation of assets can also be noted in 2022. The number of new investigations and indictments increased; first instance and final convictions (in particular money laundering) decreased. Extended confiscation is not systematically applied. Proactive criminal investigations and the systematic tracking of money flows, especially in cases of inexplicable wealth, are still not common practice. However, the understanding and the investigation approach has improved and police, prosecutors and criminal judges are aware of the importance of consistently applying a 'follow the money to find the crime' approach and using circumstantial evidence. Serbia is late in conducting an analysis of the roles and practices of security services and of the National Security Council in carrying out criminal investigations relating to serious and organised crime, although preparatory works have started. There is well-established cooperation with CEPOL, Eurojust, Europol and INTERPOL, notably on weapons trafficking, drugs trafficking, and the fight against high-profile organised crime groups. Serbia needs to further increase the technical, financial and human resources capacity of the Prosecutor's Office for Organised Crime to perform its duties in an independent manner (including premises to accommodate new staff). Serbia should adapt its approach from one based on individual cases to a strategy against criminal organisations, and from focusing on cases of low or medium importance to high-profile cases, with the aim to dismantle big and international organisations and seizing assets.

Serbia's legislative and institutional framework for upholding **fundamental rights** is broadly in place. The Ombudsman was re-elected in April 2023, without cross-party support. The Ombudsman's Office has yet to be provided with additional resources to cover its new powers laid down in the Ombudsman Law of 2021. The recruitment of additional staff for the Commissioner for Information of Public Importance and Personal Data Protection is

significantly delayed. The procedure for executing the decisions of the European Court of Human Rights, including the role of Serbia's Government Agent before the Court, needs to be further regulated. Implementation of the new strategies and action plans on gender equality, anti-discrimination and Roma² inclusion started, although monitoring bodies were not in place for most of the reporting period due to elections and formation of the new government. Action plans and related funding as regards violence against women and deinstitutionalisation are significantly delayed. New national minority councils were constituted following the elections held in November 2022. Serbia continued drafting and conducting consultations on a new '*action plan for the realisation of the rights of national minorities*'.

Regarding **freedom of expression**, limited progress was made in the reporting period. The police and the prosecution services reacted swiftly to several cases of attacks and threats, working with the standing working group on the safety of journalists. However, cases of threats, intimidation, hate speech and violence against journalists remain a concern, as is the increase of strategic lawsuits against public participation (SLAPP), notably launched by members of national and local authorities, that may produce a chilling effect including self-censorship. Recurrent statements by high-level officials on the daily and investigative work of journalists provide for a challenging environment for the exercise of freedom of expression. The possibility of journalists to report on ongoing criminal proceedings is excessively limited in the legal framework.

Serbia continued implementing the action plan of the media strategy. After increasing delays, several processes were relaunched after the formation of the new government in October 2022. Consultations resumed in November 2022 on amending the Law on public information and media. Following public consultations, consultations with media associations and hurried consultations with the European Commission amendments were adopted to the laws on public information and media and on electronic media before the dissolution of parliament in October 2023. Overall, the new laws will strengthen the independence of the regulatory body for electronic media (REM). They also codify the role of the Press Council and render the process of public co-funding more transparent and accessible. In the context of elections, the ban on media coverage of officials who are also candidates taking part in official gatherings organised for the opening of infrastructure or other facilities was extended to 30 days, which is an improvement of the current situation. However, the legislative process was not finalised fully in line with the EU *acquis* and European standards. The ownership of media by state-owned enterprises was prominent in deliberations. An important step was taken with respect to the application of criteria aligned with the EU *acquis* to the assessment of state aid, while it should be clarified that antitrust and merger control rules apply to the media sector and safeguards to protect media pluralism and editorial independence remain to be improved. The implementation of such safeguards needs to be closely monitored in practice. In August 2022, REM published a call for the allocation of a fifth media service licence with national frequency, which has still not been awarded, without credible justification. Political and economic influence on the media remains a source of concern. Serbia needs to take urgent action to counter anti-EU narratives propagated by numerous media outlets, and to counter foreign information manipulation and interference, most notably in the context of Russia's war of aggression against Ukraine.

On the **economic criteria**, Serbia is at a good level of preparation and has made some progress in developing a functioning market economy. After a strong rebound in 2021 from the

² In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

contraction induced by COVID-19, the Serbian economy decelerated substantially in 2022, impacted by the economic fallout from Russia's war of aggression against Ukraine, in particular as regards rising inflation via soaring energy and food prices. Consumer price inflation surged in 2022 and continued to rise in early 2023, which led the central bank to steadily tighten its policy stance. Progress has also been made as regards the adoption of new fiscal rules. Banking sector stability was maintained and lending growth decelerated substantially. High inflation helped improve the budget balance in 2022, despite substantial capital transfers to state-owned energy utilities and further ad hoc support measures. Major structural reforms of public administration and of the governance of state-owned enterprises continued to advance slowly. The state retains a strong footprint in the economy; the private sector is underdeveloped and hampered by weaknesses in the rule of law, in particular corruption and judicial inefficiency, and in the enforcement of fair competition.

Serbia is moderately prepared and has made some progress in **coping with competitive pressure and market forces within the EU**. The structure of the economy improved further and economic integration with the EU remained high. However, the quality and relevance of education and training still does not fully meet labour market needs. Public investment remained at a high level with the aim to address serious infrastructure gaps after years of underinvestment. Small and medium-sized enterprises still face a number of challenges, including an uneven playing field as compared with large companies and foreign investors.

On **good neighbourly relations and regional cooperation**, Serbia remained committed overall to maintaining good bilateral relations with other candidate countries, potential candidates and neighbouring EU Member States. Relations with Croatia improved. Relations with Hungary have further intensified. In general, Serbia actively participates in regional cooperation.

Overall, Serbia has remained engaged in the EU-facilitated Dialogue on the **normalisation of relations with Kosovo**, but it needs to demonstrate more serious commitment, invest more efforts and make compromises to take the process of normalisation of relations with Kosovo forward. Serbia needs to uphold its Dialogue commitments and commit to the full implementation of all past Dialogue agreements and the Agreement on the Path to Normalisation and its Implementation Annex. Serbia and Kosovo are expected to engage more constructively to enable negotiations on the comprehensive legally binding normalisation Agreement to start and show flexibility in order to make rapid and concrete progress. Normalisation of relations is an essential condition on the European path of both Parties and both risk losing important opportunities in the absence of progress.

The relationship with Kosovo has been affected by several crises of varying intensity on a number of issues, with a violent attack in the north of Kosovo against Kosovo Police on 24 September 2023, constituting the gravest escalation in recent years. Huge quantities of small arms and light weapons (SALW) were found in the context of this attack³. The EU expects the perpetrators to be apprehended and swiftly brought to justice and Serbia to fully cooperate and take all the necessary steps in this regard. Other crises during the reporting period were triggered by issues over the freedom of movement, in particular licence plates, following the Kosovo government's decision on 29 June 2022 to enforce the re-registration of all vehicles with Kosovo-issued licence plates. This led to the tensions in July 2022 and continued through the erection of roadblocks and the collective resignation of Kosovo Serbs from Kosovo institutions in November 2022. Following the withdrawal of Kosovo Serbs from Kosovo

³ The EU and Western Balkan partners agreed in May 2023 to prolong beyond 2024 the Roadmap for a comprehensive small arms and light weapons control in the Western Balkans.

institutions, local by-elections were organised in the four municipalities in the north of Kosovo. Scheduled initially for December 2022 and then postponed to 23 April 2023, the mayoral and municipal by-elections were held in line with the legal framework of Kosovo and efforts were made for them to take place in a smooth and orderly manner. However, despite the milestone Agreement on the path to normalisation reached in Brussels on 27 February and its Implementation Annex agreed in Ohrid, North Macedonia, on 18 March 2023, and despite Kosovo extending the deadline for the registration of candidatures for the local by-elections, not all parties and communities made use of their democratic right to participate and vote. The very low turnout (3.47% of voters), following the boycott by the Kosovo Serb community, showed that these elections do not offer a long-term political solution for these municipalities. The violence perpetrated against KFOR troops during protests against these mayors' taking office in the municipalities has to be fully investigated by Serbia. It remains imperative to restore a situation where Kosovo Serbs participate actively in local governance, policing and the judiciary in the north of Kosovo. Early local elections need to be held as soon as possible in all four municipalities, organised in a fully inclusive manner, and with the unconditional participation of Kosovo Serbs.

Regarding Serbia's **ability to assume the obligations of EU membership**, the country continued the work on alignment with the EU *acquis* in several areas.

The **internal market** cluster is key for Serbia's preparations for the requirements of the EU internal market and is of high relevance for early integration and the development of the Common Regional Market. Progress was limited in most areas within the cluster. No progress was registered in the area of free movement of capital.

The **competitiveness and inclusive growth** cluster has significant links to Serbia's Economic Reform Programme and is technically ready to be opened. Serbia continued to make progress in all areas under this cluster, particularly through further legislative alignment with the EU *acquis* as well as with a new law on the management of state-owned enterprises.

The **Green agenda and sustainable connectivity** cluster is at the heart of the Green Agenda for the Western Balkans⁴ and closely linked to Serbia's Economic Reform Programme and the Commission's Economic and Investment Plan⁵. Some progress was achieved in particular on Trans-European networks, where Serbia advanced on upgrading its infrastructure, with works progressing on the Serbia-Bulgaria gas interconnector, and on climate change, with the adoption of the Low Carbon Development Strategy 2023-2030.

The cluster on **resources, agriculture and cohesion** comprises policies linked to EU structural funds and to developing capacity to assume the responsibilities of a future Member State. It also comprises some of the key policy areas crucial for ensuring sustainable food systems and helping rural communities to develop and diversify economically. Limited progress was achieved in some areas, such as on classification of food establishments and establishments handling animal by-products, and the recruitment of additional staff in the Plant Health Directorate; financial and budgetary provisions as regards the underlying policy areas affecting the correct functioning of the own resources system; and the institutional framework for cohesion policy.

On the **external relations** cluster, Serbia is yet to finalise its accession to the World Trade Organisation which is one of the opening benchmarks for Chapter 30. Serbia should also abstain from introducing unilateral trade-restrictive measures without prior consultation of the Commission, in line with its obligations under the Stabilisation and Association Agreement.

⁴SWD(2020) 223 final.

⁵COM(2020) 641 final.

Serbia continued not to align with EU restrictive measures against Russia and the majority of declarations by the High Representative on behalf of the EU on this matter. Serbia's alignment rate with relevant High Representative statements on behalf of the EU and Council Decisions was at 46% in 2022 and 51 % in August 2023; some actions and statements by Serbia went against EU foreign policy positions. Serbia is expected to improve, as a matter of priority, its alignment with the EU Common Foreign and Security Policy, including with EU restrictive measures, and refrain from actions that go against EU positions on foreign policy.

On **migration**, Serbia contributed to the management of the mixed migration flows towards the EU and cooperated with the EU, EU Member States and its neighbours to implement the EU Action Plan on the Western Balkans presented by the Commission in December 2022. Additional progress along all the pillars of the Action Plan is expected. Efforts continued, with EU support, to host and accommodate substantial numbers of third-country nationals. Serbia extended for one more year, until March 2024, temporary protection to Ukrainian nationals having fled Russia's war of aggression against Ukraine. Serbia continued to implement the EU-Serbia readmission agreement and to carry out border control and surveillance. Implementation of the new integrated border management strategy for 2022-2027, with its 2022-2024 action plan, is delayed. Access to and provision of information regarding the asylum procedure has yet to be improved, in particular at the airports in Nis and Kragujevac. Serbia made substantial progress to align with EU visa policy by reinstating visa requirements for six third countries. Serbia needs to further align with EU visa policy as set out in the Commission's sixth report under the visa suspension mechanism of October 2023⁶. Following the concerns raised by the EU the Government has withdrawn the proposed amendments to the Law on citizenship, which would have provided the possibility to apply for Serbian citizenship after only a short period of residence and work.

⁶ COM(2023) 730 final.

1.3. STATE OF PLAY OF THE ACCESSION NEGOTIATIONS

Clusters	Chapters / areas	State of play
Fundamentals <i>All chapters open</i>	23 – Judiciary and fundamental rights 24 – Justice, freedom and security 5 – Public procurement 18 – Statistics 32 – Financial control ...Economic criteria ...Functioning of democratic institutions ...Public administration reform	Opened July 2016 Opened July 2016 Opened December 2016 Opened December 2018 Opened December 2015
Internal Market <i>4 chapters open</i>	1 – Free movement of goods 2 – Freedom of movement for workers 3 – Right of establishment and freedom to establish services 4 – Free movement of capital 6 – Company law 7 – Intellectual property rights 8 – Competition 9 – Financial services 28 – Consumer and health protection	Serbia working on fulfilment of opening benchmarks Draft EU Common Position in Council Draft EU Common Position in Council Opened December 2019 Opened December 2017 Opened June 2017 Serbia working on fulfilment of opening benchmarks Opened June 2019 Draft EU Common Position in Council
Competitiveness and inclusive growth <i>5 chapters open</i>	10 – Digital transformation and media 16 – Taxation 17 – Economic and monetary policy 19 – Social policy and employment 20 – Enterprise and industrial policy 25 – Science and research 26 – Education and culture 29 – Customs union	Draft EU Common Position in Council Opening Benchmarks Assessment Report in Council Opened December 2018 Opening Benchmarks Assessment Report in Council Opened February 2017 Opened December 2016 and provisionally closed Opened February 2017 and provisionally closed Opened June 2017
Green agenda and sustainable connectivity <i>All chapters open</i>	14 – Transport policy 15 – Energy 21 – Trans-European networks 27 – Environment and climate change	Opened December 2021 Opened December 2021 Opened December 2021 Opened December 2021
Resources, agriculture and cohesion <i>2 chapters open</i>	11 – Agriculture and rural development 12 – Food safety, veterinary and phytosanitary policy 13 – Fisheries and aquaculture 22 – Regional policy and coordination of structural instruments 33 – Financial and budgetary provisions	Opening Benchmarks Assessment Report in Council Serbia working on fulfilment of opening benchmarks Opened June 2018 Opening Benchmarks Assessment Report in Council Opened June 2018
External Relations <i>1 chapter opened</i>	30 – External relations 31 – Foreign, security and defence policy	Opened December 2017 Screening Report in Council

Not part of a cluster:

Chapter 34 – Institutions is currently not applicable for Serbia

Chapter 35 – Other Issues (including Normalisation of relations between Serbia and Kosovo) opened in December 2015

2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

2.1 FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

2.1.1 Democracy

The proper functioning of Serbia's democratic processes is a central pillar of Serbia's EU accession process. The Parliament elected in April 2022 includes the opposition parties that boycotted the elections in 2020. However, political polarisation remained in evidence, both in and beyond the Parliament, and was illustrated by frequently harsh and intolerant language used in debates and in the media. The period following the tragic mass shootings in May 2023 saw a further deepening of this polarisation. A number of peaceful mass protests by citizens - Serbia against violence – have taken place since May with support from several opposition parties. Freedom of assembly was guaranteed and protests took place mostly unhindered. However, the protests were sometimes accompanied by verbal attacks on participants by politicians and parts of the media, which also consistently downplayed the size of protests. There were also instances of criminal sanctions issued against participants. In May 2023, the Minister of Education resigned over the school shooting. At the end of a plenary debate on opposition's motion seeking institutional/political and media accountability for mass shootings that lasted between mid-May and mid-July 2023, an inquiry committee was established to look into the background of the shootings and the circumstances that had led to them, but its work was suspended after only two sessions.

Elections

While Serbia's electoral framework has improved, the key aspects of the electoral process require further reform implementation. It is crucial that all outstanding and recent recommendations by the Office for Democratic Institutions and Human Rights at the Organisation for Security and Cooperation in Europe (OSCE/ODIHR) and Council of Europe bodies are fully implemented, in a transparent and inclusive process and well ahead of the next elections.

No elections were held in the reporting period. In August 2022, OSCE/ODIHR issued its final report on the 2022 presidential and national polls, and a follow-up visit was organised in October 2022, to discuss with Serbian authorities the implementation of ODIHR recommendations. In December 2022, a joint Venice Commission and OSCE/ODIHR opinion on the constitutional and legal framework governing the functioning of democratic institutions in Serbia, focusing on electoral law and electoral administration, was published. It was prepared at the request of the Council of Europe Parliamentary Assembly Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee). The opinion listed recommendations on issues such as electoral administration, media, transparency of election communication campaign financing and prevention of misuse of office and state resources, internal political party democracy, and dispute resolution. The opinion also recommended an interpretation of the Constitution that would limit recourse to early elections, specifically that the President only dissolves the Parliament on the basis of a well elaborated proposal and preferably only when necessary due to the parliamentary situation.

In March 2023, the government reinstated its ad hoc working group for cooperation with OSCE/ODIHR, which has resumed its cooperation with OSCE/ODIHR. While there is an improvement in implementing OSCE/ODIHR recommendations, Serbia still needs to address a number of long-standing recommendations by OSCE/ODIHR, including those pertaining to key aspects of the electoral process, such as access to media, campaign finance, and measures to tackle pressure on voters. It is crucial that all outstanding and recent recommendations by

OSCE/ODIHR and Council of Europe bodies are fully implemented, in a transparent and inclusive process and well ahead of the next elections. Expert civil society organisations should be involved and consulted.

As a follow-up to OSCE/ODIHR recommendations, training has been provided for employees in local self-government units that are responsible for updating and maintaining the single voter register. A manual on the implementation of the register was published and distributed to civil servants across local self-government units. Inter-service cooperation between state institutions was established to fully digitalise voters' access to the register. The Law on electronic media adopted in October 2023 extended the ban on media coverage of officials who are also candidates taking part in official gatherings organised for the opening of infrastructure or other facilities from 10 to 30 days, which is an improvement of the current situation.

Parliament

The Parliament's composition is more pluralistic than the previous legislature and includes the opposition parties that boycotted the elections in 2020. Debates were marked by tensions between the ruling coalition and the opposition. The Parliament has no annual work plan and almost all its sessions were called with the minimum advance notice of 24 hours, which should only be used in exceptional circumstances. The first session of the regular spring sitting, which according to the Constitution starts at the beginning of March, was held only on 19 April 2023. There was no follow-up to a citizens' initiative, nor to an opposition motion for interpellation. Oversight of the executive was weak. All but two political groups engaged constructively with the European Parliament in the follow-up to the *Inter-Party Dialogue* and its transformation into a new *Parliamentary Dialogue Process*. The code of conduct was not systematically applied and there was frequent use of inflammatory language, which went unaddressed. Parliamentary Rules of Procedure need to be modernised, and the code of conduct applied to penalise offences by parliamentarians.

The opposition and majority are taking active part in the work of the Parliament. However, plenary and committee sessions are marked by tensions, offensive language and occasional incidents. These largely lacked an impartial response by the Speaker who regularly engaged in antagonistic exchanges with the opposition. Two special sessions on Kosovo were held, with the participation of the President, and saw threats of violence including against the President. The Rules of Procedure were not systematically applied. Penalties and fines were only issued to opposition MPs. The code of conduct was not applied, despite one motion, upon which the relevant Committee did not act within the deadline.

The Parliament has no annual work plan and the agenda is driven by the executive. Nearly all adopted laws and proposed bills were tabled by the government, and almost all plenary sessions were called within the minimum advance notice of 24 hours, which should only be used in exceptional circumstances, thus limiting the possibility for MPs to propose changes to the agenda or table proposals. In May 2023, for the first time, a session was called upon the initiative of the opposition, which proposed items to discuss institutional and media accountability in the context of mass shootings and these were put on the agenda. There was a slight increase in the use of the urgent procedure – from 9% in the previous reporting period to 12%, covering 12 out of 95 laws adopted from October 2022 to June 2023. The practice of amalgamating large numbers of often unrelated items has continued. Neither the 2023 budget nor the 2023 revised budget were tabled as a separate agenda item. The minimum deadline of 15 days between sending the revised 2023 budget to Parliament and tabling it for plenary debate and adoption was not respected and no discussion on it took place prior to the vote. There has been no follow-up to a citizens' legislative initiative, with 38 000 signatures, on banning lithium mining, despite this being a legal obligation.

Seven public hearings were held: two in 2022 and five until August 2023. Committees continued regular quarterly hearings of ministries, but the work of some committees, which are chaired by the opposition, saw obstruction by ruling parties. Oversight of the executive is weak. The session with questions to the Prime Minister and the government, which should take place monthly, was held for the first time since November 2021 only in April 2023, followed by another two in May and June 2023. An opposition motion for interpellation of the Minister of Finance was not taken forward by the relevant bodies.

The annual reports of independent regulatory bodies were debated in the plenary in February 2023 and conclusions were adopted. However, the plenary took place almost one year after the submission of the reports in March 2022. Parliament needs to more systematically follow up on the implementation of recommendations made by the independent bodies. The mandate of the Ombudsman expired in July 2022 and the procedure for appointing a new one was initiated in February 2023. According to the law, the procedure for appointing a new Ombudsman should have been initiated no later than 180 days before the said expiry. The Ombudsman was re-elected in April 2023, without cross-party support (*See also Chapter 23 on fundamental rights*).

In November 2022, the European Commission's annual report on Serbia was debated in a constructive manner in the Committee for European Integration and the conclusions of the Committee were approved in plenary in April 2023. In March 2023 and August 2023, the European Integration Committee debated periodic six-month reports on the EU accession process submitted by the government. The Parliament continued its cooperation with the National Convention on the European Union composed of civil society organisations.

The Parliament engaged with the European Parliament in the follow-up to the Inter-Party Dialogue and its transformation into a new *Parliamentary Dialogue Process*.

The rules of procedure still need to be modernised in line with European standards and best practice. The effectiveness, autonomy and transparency of the Parliament, and the role of the parliamentary opposition, need to be strengthened to ensure the exercise of necessary checks and balances. In June 2023, a tampered redacted transcript of a plenary session was published on the Parliament's website.

Women make up 35% of MPs (88 out of 250) and three of the seven Deputy Speakers are women. Two Deputy Speakers belong to national minorities.

Governance

The Serbian government, appointed in October 2022, continued to declare EU membership its strategic goal. In line with the EU accession objective, the Serbian authorities need to strengthen emphasis on consistent, proactive and objective communication about the EU, which is by far Serbia's main political and economic partner and donor. Transparency and public consultation need to improve.

The new government was appointed and sworn in on 26 October 2022, within the constitutional deadline, albeit almost 7 months after election day. The governing coalition is composed of six political parties/coalitions, including three parties representing national minorities. The Cabinet consists of 29 members, of whom 10 are women, including the Prime Minister. Representatives of national minorities hold ministerial posts, including for Human and Minority Rights and Social Dialogue, and for the first time a representative of the Croat national community was assigned a ministerial portfolio. The Prime Minister singled out EU accession as the strategic priority of the government. After the mass shootings in early May, the Minister of Education resigned and a new candidate was confirmed by Parliament in July 2023. In July

2023, upon the Prime Minister's proposal, Parliament dismissed the Minister of Economy in connection with his position in favour of sanctions against the Russian Federation and his views about the mass protests by citizens against violence. A new Minister of Economy was confirmed in September 2023.

The government held more regular contacts and consultations with non-governmental organisations under the National Convention on the European Union (NCEU); the Prime Minister took part in the Convention plenary meeting in December 2022.

The autonomy of independent bodies needs to be fully exercised, their role acknowledged and respected by the authorities, and their recommendations followed up thoroughly and in a timely manner.

In March 2023, Serbia adopted and published monitoring reports on its 2022-2025 national plan for the adoption of the EU *acquis* (NPAA) covering the period July-December 2022. In 2022, only 26% of planned NPAA actions were implemented. A total of 35% of actions were implemented when taking into account activities carried out earlier than planned, indicating that planning needs to be further improved.

As regards administrative capacities, the technical secretariat of the National Coordinator for the instrument for pre-accession assistance (IPA) in the Ministry of European Integration now has a department that will serve as a managing authority for annual action plans under Indirect Management with Beneficiary Country (IMBC, IPA 2021 and 2022 programmes). However, the capacities of the secretariat for management of the annual action plans needs to be increased. A staff retention policy remains to be adopted across the public administration, including for structures involved in the management of IPA funds.

As regards **local self-government**, the Law on Vojvodina's financing resources is still not adopted, despite being provided for under the Constitution. Local administrative capacity is still weak and significant disparities between municipalities persist. Responsibilities are borne at local level without proper analysis of the required capacity and human/financial resources. Following the adoption of the first programme for reform of the local government system (2021-2025) in 2021, the implementation rate in 2022 showed rather slow progress (46% at the level of results and 45% at the level of activities). The Commission for Financing Local Self-Governments, re-established in 2021, did not ensure regular meetings and regular consideration of the methodology and criteria for transferring additional budgetary funds, i.e. earmarked funds, from the central level to the local level.

Civilian oversight of the security services

The parliamentary committee for the oversight of security services remains responsible for civilian oversight of the security sector. The Committee reviewed regular periodic reports by the civilian and two military security agencies and the activity reports of the General Inspector of the Ministry of Defence. In December 2022, the Committee visited civilian and military agencies. In April 2023, the Committee adopted a schedule of inspection visits, to be conducted in the course of 2023. The Committee rebutted speculation about the presence in Serbia of the Russian mercenary group Wagner and the recruitment of military officers, active or retired. A law on access to state security files still needs to be adopted.

Civil society

The legal framework for cooperation between the government and civil society organisations (CSOs) is broadly in place; further efforts are needed to ensure systematic, genuine and

meaningful cooperation. An enabling environment for establishing, running and financing CSOs needs to be strengthened. Verbal attacks and smear campaigns against CSOs continued, including by high-level officials. There was a significant increase in strategic lawsuits against public participation (SLAPP), notably launched by members of national and local authorities, against human rights defenders.

Serbia started implementing the 2022-2030 Strategy and action plan for creating a stimulating environment for the development of civil society, but measurable progress has yet to be demonstrated. A council for cooperation and development of civil society was established, as foreseen in the action plan, in September 2023.

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by state institutions.

CSOs and human rights defenders continued to raise awareness about civil and political rights. This took place in a polarised environment. Verbal attacks and smear campaigns against several CSOs and their financing continued, including by high-level officials. Despite the fact that verbal attacks were also made in the Parliament, the administrative committee in charge of the application of the code of conduct of the Parliament did not find any violation. Organisations and individuals that criticised the authorities were put under pressure, in particular those participating in protests against the glorification of war criminals, in support of environmental protection, and in the ‘Serbia against violence’ protests (*See also Chapter 23 on freedom of assembly*). There was a significant and worrying increase in strategic lawsuits against public participation (SLAPP), notably launched by members of national and local authorities, against human rights defenders.

Serbia started implementing the 2022-2030 Strategy and action plan for creating a stimulating environment for the development of civil society, but measurable progress has yet to be demonstrated. A council for cooperation and development of civil society was established, as foreseen in the action plan, in September 2023. The action plan also targeted the adoption of a Law on volunteering by the 1st quarter of 2023 but it is yet to be adopted.

In terms of public funding of civil society, the transparency and fairness of award procedures need to be significantly improved. Some of the key challenges acknowledged in the aforementioned strategy include the lack of consultations with CSOs when planning priority activities, discretionary decisions of managers in funding procedures, the lack of transparent criteria for approving financial and non-financial support to CSOs or for selecting independent experts in evaluation commissions, and insufficient transparency of public authorities in the reporting of spent funds on an annual basis. Overall, the strategy states that the 2018 Regulation on funds for programme promotion leaves room for further regulatory improvement but that the key issue is its inadequate and uneven application.

The National Convention on the European Union continued to monitor and assess the progress of accession negotiations, and met several times with government officials, including the Prime Minister. The legal framework for cooperation between the government and CSOs is broadly in place; its implementation still needs to be improved and systematised. There is still no central body in charge of the quality control of public consultations, including of the e-consultations platform established in December 2021. The reporting period saw increased consultation of civil society; however, despite the legal obligation to provide information on the results of public consultations, reports are not systematically published, nor are explanations systematically provided on the acceptance or not of comments received. CSOs continue to report that the time given for public consultations is not sufficient, and that their comments on draft laws of public interest are not taken into account.

2.1.2. Public administration reform

Serbia is **moderately prepared** as regards the reform of its public administration (PAR). Overall, there was **limited progress** in this area, notably through the continued development of e-services, implementation of the e-government policy, and further roll-out of training courses for civil servants. The Commission recommendations from last year are still to be implemented. On human resources management, more than half of senior manager positions are filled on an acting basis. As regards policy development and coordination, no mechanism is yet in place to verify that the Public Policy Secretariat's comments have been incorporated into the final draft versions of laws and policy documents submitted for government approval. On public financial management (PFM), action is still needed to fully implement the recommendation for a single mechanism for prioritising all investments regardless of type and source of financing. There is an urgent need to address these shortcomings.

In the coming year, Serbia should in particular:

- reduce the excessive number of acting positions, and allocate sufficient resources for effective, merit-based recruitment processes;
- strengthen the mechanism for systematically integrating the opinion of the Public Policy Secretariat in draft laws and policy documents, in line with the Law on the planning system;
- put in place a unified, comprehensive and transparent system for capital investment planning and management.

Strategic framework for public administration reform

There was no consolidated PAR implementation report published for 2022. Implementation varied between the different PAR sub-areas: 78% of achieved measures for the PAR action plan covering human resources management, accountability and public services, 64% for the PFM programme, and 46% for the local self-government programme. No implementation report on the public policy management and regulatory reform programme was published by the legal deadline. Four new positions were created in the Department for Local Self-Government, Sector for Registers and Local Government of the Ministry of Public Administration; the capacities on these matters need to be strengthened further. The authorities continued to involve civil society organisations in monitoring implementation of the strategy. **Political support** for public administration reform is limited. The PAR Council did not meet in 2022. The 2021 PAR implementation report was approved by the PAR Council only in January 2023. Financial sustainability is still an issue of concern due to reliance on donor funding.

Policy development and coordination

Institutions remain in place for a central government **policymaking system**, including for the EU integration process. The Law on the planning system sets clear rules for developing, monitoring and reporting on sector strategies. It is not yet applied systematically. In 2022, there was slow progress in optimising the sectoral planning areas, as only three out of the planned six were optimised. No notable progress was made in ensuring that comments by the Public Policy Secretariat are incorporated and that final draft versions of laws and policy documents are compliant with the legislation. The number of policy documents entered into the unified information system is gradually increasing, but the number of implementation reports deriving from it is still limited. Three years on, the legal requirement to have midterm plans adopted by all institutions as of January 2020 is still not met; only 22 of 40 public bodies have adopted and published their midterm plans for 2022-2024. No government annual work plan was prepared

in 2022. The annual work plan for 2023 was adopted in May 2023. Better synchronisation is needed between the national plan for the adoption of the EU *acquis* (NPAA) and other government strategic documents. In the government annual work programme, a high proportion of planned commitments continue to be carried forward to the following year as they have not been implemented. In 2022, only 26% of planned NPAA actions were implemented. A total of 35% of NPAA actions were implemented when taking into account activities carried out earlier than planned.

The capacity for **inclusive and evidence-based policy and legislative development**, including when aligning with the EU *acquis*, needs further strengthening. Administrative data collection and its systematic use for policy and law-making remains to be further improved across the administration. The Public Policy Secretariat's acceptance of 'partial compliance' with the methodology on impact assessments continues to limit both the degree of alignment with legal requirements and improvement in the overall quality of impact assessments. Better coordination between the Ministry of Finance and the Public Policy Secretariat is still needed to ensure that there are no discrepancies between financial impact assessments and financial information in the regulatory impact assessments. Regarding inter-ministerial consultations, there are still no high-level mechanisms for resolving possible conflicts between services before they reach the government.

While **public consultations** were conducted for all draft policy planning documents in 2022, this was the case for only 29% of draft laws and 30% of draft regulations. There is still no central body in charge of the quality control of public consultations, including on the e-consultations platform, established in December 2021. Despite the legal obligation to provide information on the results of public consultations, reports are not systematically published, nor are explanations systematically provided on the acceptance or not of comments received (*See Civil society*).

Regarding **public scrutiny of government work**, reports were published on implementation of the PAR strategy and PFM reform programme, on the action plan for implementation of the government programme, and on the NPAA. However, the annual government work plan for 2022 and its implementation report were not published. Reports on other sectoral strategies were not published. Overall, in 2022, only eight implementation reports (11%) out of the 75 policy planning documents were published. Agendas, minutes and conclusions of government sessions are still not publicly available.

Public financial management

The 2021-2025 PFM reform programme was largely implemented in line with its 2022 action plan. To preserve fiscal sustainability, and in line with government plans to prioritise capital projects, and pension and salary policies, fiscal rules were redefined by amendments to the Law on the budget system. The capital budget level was kept at a satisfactory level, but a unified, comprehensive, effective and transparent system for planning and management of capital investments needs to be put in place. Serbia needs to apply the legal framework and methodology regarding capital projects management, and public procurement procedures, to all capital investments regardless of the type of investment or source of financing. It must also ensure that effective procedures are in place to guarantee that the planning, appraisal and implementation of capital projects is integrated into the budget process. The December 2022 amendments to the Decree on capital projects management focused on green investments. The public investment management information system (PIMIS), which aims at improving the monitoring of capital projects, was launched in June 2023. In September 2023, the government adopted a new Decree on capital projects, which makes some steps in the direction of a single and clear overall view of the current and planned investment in Serbia, notably with the

provisions dedicated to PIMIS. However, the Decree falls short of developing a genuine single pipeline for public investment management and foresees important exemptions. Furthermore, the government's investment planning and management capacity needs to be improved. This includes the capacity for public assets management and for assessing possible fiscal risks for investment projects funded by loans from third countries. The Capital Investment Commission was re-established in 2023.

The link between the government programme and the sector strategies and operational plans of budget beneficiaries remains weak. The improved legislative framework for public procurement and internal control needs to be implemented in practice and the managerial accountability roadmap needs to be adopted. The State Audit Institution continued to increase both the coverage and quality of its audits of public funds and its relations with stakeholders.

Analytical units in all ministries and government agencies need to be established without delay in order to foster the effective consolidation of strategic, operational and financial management functions, as planned in Serbia's strategic documents. Areas that would merit further improvements include the accounting and reporting framework, arrears, commitment controls, extra-budgetary operations and performance management.

Serbia did not progress in improving **budget transparency**. No transparency roadmap, pre-budget statement or mid-year report has been produced or published. The Ministry of Finance does not publish the budget execution profile at the beginning of the year, preventing analysis of deviations from targets. Some additional policy and fiscal risk information could be included in the executive's budget proposal. Public participation in the budget process and budget oversight by the legislature needs to be improved. The November 2022 amending budget was adopted under urgent procedure, without justification. The 2023 budget was adopted in line with the budget calendar but with very limited qualitative assessment and debate among stakeholders. In particular, the parliamentary debate on the draft budget was called under an urgent procedure, negatively affecting the quality of the debate. In addition, the September 2023 amending budget was adopted under urgent procedure and did not comply with the minimum deadline between sending the bill to the Parliament and tabling it for plenary debate and adoption.

Public service and human resources management

The civil service legislation provides for **merit-based recruitment and dismissal procedures** but leaves too much discretion to the heads of institutions in setting up selection committees. Mandatory competition procedures for recruiting temporary staff in cases of increased workload was further postponed from 2023 to 2025. The possibility to convert certain categories of temporary contracts into permanent civil service contracts needs to be considered carefully to avoid possible abuse. Grades received by civil servants under the performance appraisal system remain inflated. The proportion of disciplinary decisions annulled by courts decreased but remains high (42% in 2022; 50% in 2021). The gender structure within the overall public administration is balanced, including for top managerial positions (49% women; 51% men).

The legislation on senior civil service positions provides for a merit-based recruitment procedure, but the continuous lack of transparency and compliance with it remain issues of serious concern. The legal provision allowing for appointments to acting positions for 6 months (with a maximum extension of 3 months) remains used well beyond those limits. As of June 2023, 55% of filled senior positions were held on an acting basis (51% in May 2022). Despite amendments to the Law on civil servants restricting appointments to existing civil servants as

of July 2019, close to 70% of all acting posts are held by non-civil servants. The limited capacity of the High Civil Service Council remains a concern given the large number of competitions to be organised to replace all current acting managers at a reasonable speed. Clear political will, sufficient resources and effective monitoring by the responsible institutions remain essential to address this issue as a matter of urgency. Although a special working group was previously established to look into possible solutions, and its membership was widened, there are no concrete results yet. Overall, established practices continue to lack transparency. In particular, appointment decisions for management positions can still be overturned by a government personnel committee after the selection process has been finalised at the institutional level.

As regards the competency-based **human resources management** system, the success rate of tested competencies amounts to 34%, which means that they play a more efficient filtering role than in the past in the overall process. The Human Resources Management Service adopted an action plan for strengthening the capacities of human resources units and took measures to coordinate and harmonise the work of human resources units in the line institutions through regular meetings of the network of human resources units and the developed IT platform for information exchange. The actual impact remains to be assessed. The Service introduced annual reporting to government on recruitments. Reliable statistics on all human resources management functions are not yet available as the setting up of a new human resources management information system remains delayed. No progress was made regarding **remuneration** of civil servants because implementation of the 2016 Law on the public sector salary system, which introduces the principle of equal pay for equal work for all public sector employees, was postponed to 2025. Restrictions in recruitment are still in place under the Law on the budget system.

With regard to **professional development**, the National Academy for Public Administration accelerated the organisation of training for all public officials, including at the local self-government level. The Academy further developed online training courses, which contributed to increased training coverage. Implementation of a comprehensive professional development programme for senior civil servants is ongoing.

Almost all (99%) institutions that had the obligation to adopt **integrity plans** did so. Further efforts are needed to ensure that existing integrity plans for the judiciary and public administration are fully implemented. The integrity of the civil service is still undermined by the excessive number of acting senior manager posts. By March 2023, 48 out of 174 local self-governments had adopted the new code of ethics for local officials developed by the Standing Conference of Towns and Municipalities.

Accountability of administration

The public administration structure remains to be streamlined. The **lines of accountability** between agencies and their parent institutions are blurred, contributing to overlapping functions, fragmentation, and unclear reporting lines. Despite the existence of the Law on public agencies, the status of almost all agencies remains regulated by a special law. Responsibilities are delegated in a uniform manner to all local self-governments regardless of their size and capacity to assume them. Political commitment to managerial accountability, performance management and systematic delegation of responsibilities is not yet in place. Around 40% of institutions reported to have established analytical units since the adoption in March 2021 of a Decree on organisation and systematisation of work posts. Analytical units need to be promptly set up with appropriately trained staff. Institutions retain a predominantly bureaucratic and process-oriented approach to planning, budgeting and reporting on their activities (*See Chapter 32 – Financial control*).

As regards **citizens' right to good administration**, according to the Ombudsman's 2022 report, the largest number of citizens' complaints relates to violation of economic, civic and social rights, as well as the principle of good administration, specifically the right to efficient administration and the right to receive a decision within the legal time frame. Administrative silence, whereby public authorities fail to properly act on citizens' information requests, remained a major issue. (*See Chapter 23 – Fight against corruption*).

On **citizens' right to administrative justice**, review of Administrative Court judgments is possible only in a limited number of cases and only through extraordinary legal remedies. The establishment of two instances in the administrative justice network, planned for the first quarter of 2023 in the Chapter 23 action plan, was further delayed. In 2022, the Administrative Court received 63 302 new cases and resolved 25 178 of these (39.77% clearance rate). Some 103 198 cases were pending at the end of 2022. The average duration of court proceedings was 1 496 days. The number of judges increased from 46 to 52, but their work was negatively affected by the increased inflow of cases, including a high number (over 60%) of abuse of procedural rights cases filed by lawyers for the purpose of obtaining court expenses, which contributed significantly to the increased backlog. No interim measures were taken to address the challenges of the extensive court jurisdiction and the lack of specialisation among judges, which negatively affected the quality of work in 2022. The Court continued to improve transparency by uploading 213 651 integral and 25 703 anonymised judgments into the case law database of the Supreme Court of Cassation. **Citizens' right to seek compensation** is regulated but there is still no statistical data to monitor its implementation.

Service delivery to citizens and businesses

Creating a more **user-oriented administration** remains a government priority. The Office for IT and eGovernment and the Prime Minister's Delivery Unit, together with the recently established Ministry of Information and Telecommunications, continued to lead in this area. The e-government development programme and action plan for 2023-2025 were adopted in April 2023. Progress in key enablers, such as the cloud-based e-signature and user-friendly payment services, contributed to further development of e-services. The number of databases connected to the Government Service Bus - an information system linking major databases - has increased. Digital signatures are being used but by a limited number of people. The number of municipal one-stop shops increased. However, a regulation governing the setting up of one-stop shops has yet to be adopted. A central monitoring of performance and quality standards for services is still needed. Further developments in the digital transformation of the administration are hampered by the fragmentation of responsibilities and mandates between different institutions and the lack of a dedicated coordination system.

The legal framework for **simplification of administrative procedures** is in place. However, regulatory uncertainty for individuals and businesses remains due to delays in aligning sector-based legislation with the Law on general administrative procedures. The capacity of the Ministry of Public Administration and Local Self-Government to efficiently oversee the implementation of this Law is still limited and there is no record of legislation pending alignment. Through implementation of the 'e-paper' programme since 2019, the Public Policy Secretariat simplified 386 administrative procedures for businesses and digitised 64 procedures. The registry of administrative procedures has been further developed, but it is not yet known to the majority of businesses and citizens.

2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS

2.2.1. Chapter 23: Judiciary and fundamental rights

The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is respect of fundamental rights in law and in practice.

Serbia has **some level of preparation** and has made **limited progress** in applying the EU *acquis* and European standards in this area, most notably with implementation of the judicial reform. Despite ongoing work, Serbia remains to finalise and adopt an anti-corruption strategy fully in line with EU recommendations. On media freedom, limited progress was made on the recommendations of last year, which still remain valid.

The Coordination Body for overseeing the implementation of the action plan for Chapter 23 reports quarterly and every 6 months, including regular quarterly alerts under the early-warning mechanism. The mechanism for cooperation with civil society has improved. The Ministry of Justice has organised several round-table discussions bringing together civil society organisations.

Functioning of the judiciary

Serbia has **some level of preparation** in the area of the judiciary. **Some progress** was made on last year's recommendations. On 9 February 2023, Serbia took an important step to ensure independence and accountability of the judiciary with the timely adoption of five laws implementing the 2022 constitutional amendments, while two of the implementing laws still need to be adopted: the Law on Judicial Academy and the Law on Seats and Territorial Jurisdiction of Courts. The Venice Commission issued three opinions that overall assessed positively the legislation and recognised the transparency and inclusiveness of the process. Most of its recommendations were addressed. Relevant by-laws will need to be adopted by May 2024. The High Judicial Council (HJC) and High Prosecutorial Council (HPC) were established on 8 May, following the election of the lay members, which gave practical effect to the implementing legislation.

Serbia needs to ensure that the human resources strategy and the related action plan are implemented within the scheduled timelines.

Challenges and delays in implementation persist regarding the impartiality, accountability, efficiency and professionalism of the judiciary, access to justice, and high-quality training. The current system of recruitment, transfer and promotion of judges and prosecutors has not been revised yet to ensure that careers are fully based on merit. While the new judicial laws lay down more precise disciplinary rules, there is a need to improve the capacity of the disciplinary bodies. Regarding undue pressure on the judiciary the situation remains a concern. A number of steps have been taken to reduce the space for political influence on the judiciary. However, it is not yet possible to observe a consistent reduction of undue influence on judges and prosecutors in practice. Serbia still has not shown a genuine commitment to investigating and adjudicating war crimes cases. Serbia continues to challenge publicly the judgments of the International Criminal Tribunal for the former Yugoslavia (ICTY), including at the highest levels. A number of Serbian political parties, politicians and media outlets continued to provide support to, and public space for, convicted war criminals.

In the coming year, Serbia needs in particular to:

- adopt the Laws on Judicial Academy and on Seats and Territorial Jurisdiction of Courts and carry out the necessary appointments of judges and prosecutors in line with the newly adopted legal framework;

- ensure that the High Judicial and Prosecutorial Councils, the Government and the Parliament effectively and proactively defend judicial independence and prosecutorial autonomy in cases of external undue influence, including in cases of undue public comments by members of Government or Parliament on ongoing investigations or court proceedings which are in contradiction with their code of conduct;
- operationalise the uniform and centralised case management systems to improve the efficiency of the justice system and fully implement the human resources strategy.

Strategic documents

The revised **action plan for Chapter 23**, adopted in June 2020, and the 2020-2025 **judicial development strategy**, adopted in March 2022, are the main strategic documents. The government is still delayed in carrying out a comprehensive impact analysis of the country's reforms on the basis of the 2014 World Bank functional review, including addressing its recommendations, as well as recommendations from previous World Bank functional reviews and the latest World Bank functional analysis of the prosecution services, finalised in August 2022. They remain to be addressed.

The implementation of the **human resources strategy** (HR strategy) started by launching a series of normative gap analyses, pending finalisation. Full implementation is expected to improve performance across the justice sector. The new monitoring and reporting mechanism, set out in the Chapter 23 action plan, should provide a qualitative analysis of achievements against clear impact indicators, including on human and financial resources, as well as early-warning and corrective measures. Special efforts should be placed on staff retention and capacity building across the implementing institutions. Sustained efforts are needed to make the information and communications technology (ICT) system work in an effective and efficient manner, closely linked with the human resources strategy and the judicial reform. The Ministry of Justice developed a mechanism for cooperation with civil society.

Management bodies

A division of budget functions was established, by judicial laws, between the Minister of Justice, the HJC, the HPC and the Supreme Public Prosecutor. In line with the 2022 constitutional amendments, the implementing laws provide that the two councils independently manage the funds in their budget. Consultations are planned with the Ministry of Finance to harmonise their positions. In addition, implementation of the human resources strategy is expected to improve the overall management of the system, taking into account the predicted judiciary workload, and both the number and complexity of cases, as determined by a case-weighting procedure.

The HJC adopted a new strategy and improved the use of the information and financial reporting system for more accurate, reliable and efficient data collection and processing. The HPC took steps towards introducing the necessary ICT tools to ensure random allocation of cases and introducing the case-weighting formula. Measures were also taken to improve the transparency of work by the Councils, through publication on their websites of their reports. The new judicial laws will further strengthen the role of the Councils, in line with constitutional amendments and Venice Commission recommendations. The need to improve the analytical and statistical capacity of both Councils in line with the human resources strategy for the judiciary has still not been addressed.

Independence and impartiality

The new constitutional and legal framework strengthens the guarantees against attempts to exercise undue political influence over the judiciary, notably by shifting the competence to

appoint judges and prosecutors from the Assembly to the Judicial and Prosecutorial Councils. Following the promulgation of the constitutional amendments in February 2022, aimed at strengthening judicial independence and accountability, the relevant implementing legislation giving effect to the amendments was adopted on time in February 2023. The draft laws on judges, high judicial council, organisation of courts, public prosecutors' office, and high prosecutorial council were shared in September 2022 with the Venice Commission. The latter adopted a series of relevant opinions that were duly considered by Serbian authorities to revise the draft legislation. Broad public consultations were held between September 2022 and January 2023. Serbian authorities worked constructively with the European Commission and the Venice Commission. The Venice Commission commended the Serbian authorities for *'the considerable effort they invested in the preparation of the legislative package implementing the constitutional amendments, which was well-structured, clearly written and covered all essential points'*. The Venice Commission also commended Serbia *'for the inclusiveness of the process of preparation of the legislative package'*.

The Venice Commission further underlined that *'the overall positive assessment of the revised draft Laws and the general recommendation remains valid.'* On the other hand, the Commission also stressed *'that a successful judicial reform ... need[s] to be accompanied by non-legislative measures including a change of the current legal culture.'* Following these opinions, further amendments were made during the parliamentary discussions. On 13 March 2023, the Venice Commission published an information document as a follow-up to its opinions assessing that *'the overall direction of the amendments corresponds to the recommendations of the Venice Commission.'*

Notwithstanding this positive development in the legal framework, pressure on the judiciary and the prosecution services still remains high. Government officials, including some at the highest level, and Members of Parliament continue to **comment publicly on ongoing investigations or court proceedings**, as well as on the work of individual prosecutors and judges. Such comments are in contradiction with the code of conduct of members of the government and the Parliament, but the enforcement and penalisation policy did not improve. Information leaked on ongoing investigations or cases was published by a number of media outlets, interfering with the investigations and processing of cases, thus creating undue pressure on individual members of the judiciary or the prosecution service.

In principle, the current rules of procedure of the HJC and the HPC lay the foundation for a more effective reaction and protection mechanism for judges and prosecutors in cases of undue influence. The HJC has appointed one member to act as confidential counsellor upon report of cases of undue influence while one HPC member has been elected as Commissioner for Autonomy. However, despite these steps taken, it is not yet possible to observe in practice a significant reduction of undue influence on judges and prosecutors. In 2022, the HJC received seven requests for protection of undue influence. It took a decision in four cases. In the first quarter of 2023, the HPC and the Commissioner for Independence received 19 new cases. In two cases a decision was taken and no ground was found for undue inappropriate influence. The 17 remaining cases are still ongoing. Up to 31 December 2022, seven judges requested from the HJC protection from undue influence. In two cases, the requests were withdrawn for referral. In five cases, the requests were rejected as inadmissible. In the first quarter of 2023, in four cases, the judges reported undue influence on their work. The cases are still ongoing before the HJC member, a judge who was elected in May 2023 to work on protection of his peers from undue influence. More transparency in the work on undue influence is needed, including the publication of guidance and anonymised decisions. This creates a certain vulnerability for political influence, notably with the lack of effective safeguards. Overall, both

Councils should react more strongly and engage in broader public outreach to overcome limited media coverage, notably through statements, press conferences, and targeted messages to the authorities or institutions concerned. This would send a clear message on the need to eliminate undue influence on judges and prosecutors and help reverse a persisting negative perception as to their independence and autonomy in practice.

The transfer of two deputy public prosecutors from the Special Department for Suppressing Corruption of the Higher Public Prosecution to the General Crime Department in Belgrade, which took place without proper justification, was contested by the prosecutors themselves and led to widespread criticism. The disciplinary charges, filed by the two (deputy) prosecutors against their superior who transferred them without justification were dismissed in June by the HPC disciplinary prosecutor as according to the legislation of that time there was no rule asking for proper written justifications in such instances. The deputy prosecutors had been working on a corruption case and a money laundering case related to the state-owned Electric Power Company of Serbia (EPS). The transfer was made in the middle of the investigation and after the arrest of suspects. Even if the HPC Commissioner for Independence assessed that the transfer was conducted in accordance with the law, it noted that the transfer should not have taken place during the proceedings of such a high-profile case. The new legislation implementing the 2022 constitutional amendments has now introduced safeguards in relation to mandatory instructions and the reallocation of work within the Public Prosecutor's Office.

Accountability

Following the constitutional changes, the new judicial laws lay down more precise disciplinary rules for judges and prosecutors, including the necessary procedural safeguards, especially for violations of adopted standards of professional ethics. There is a need to improve the capacity of the disciplinary bodies.

In June 2022, the HJC adopted a new rulebook on the work of its Ethical Board. Both Councils continued to promote respect for professional ethical standards and confidential counselling.

A precondition for the implementing legislation to be applicable was the establishment of the High Judicial Council and the High Prosecutorial Council, for which the four lay members of each Council needed to be elected by the Parliament. The election procedure started on 19 April 2023 when only one lay member received the necessary votes of the Parliament. Therefore, the five-member anti-deadlock commission (Parliament Speaker, President of the Constitutional Court, President of the Supreme Court, Supreme Public Prosecutor and the Ombudsman) was activated to elect the remaining seven lay members (three for the HJC and four for the HPC) on 8 May 2023. Before the voting, the five-member commission held public interviews with the candidates. Candidates were shortlisted by the Parliamentary Committee on Judiciary following a public competition and confirmation of at least 10 years of experience in a legal profession.

In 2022, the disciplinary prosecutor worked on 89 cases, which contributed to the reduction of the backlog of cases. Out of the total number of cases, disciplinary complaints were filed against 96 public prosecutors and against 20 other people. In the reporting period, disciplinary charges were filed against 14 public prosecutors and 82 deputy public prosecutors. Disciplinary reports are primarily submitted by citizens and their attorneys. The disciplinary prosecutor dismissed as unfounded disciplinary charges filed against a total of 83 public prosecutors. 18 cases were resolved by other means, for instance by joining the case or through an official note on the reason for archiving. In the reported period, one disciplinary report was assessed as well founded, which allowed for the initiation of proceedings before the Disciplinary Commission of the SPC.

In 2022, the HJC's acted as final instance in six cases upon appeals against the decisions of the Disciplinary Commission. In one case, the HJC started the procedure for dismissal of one judge over a serious disciplinary violation, ordered salary reduction of 20% and 30 % for two judges, public warnings for two judges and rejected one proposal for disciplinary proceedings. In 2022, the Disciplinary Prosecutor of the HJC, acting in first instance, received 312 disciplinary reports and worked on 579 cases (together with 267 unsolved reports from 2021). He solved 434 cases, submitted 18 proposals to the Disciplinary Commission for further processing, 145 reports are pending at the end of 2022. In the reporting period, the Disciplinary Commission, as the second instance, took decisions in 14 cases submitted by the disciplinary prosecutor. In nine cases, the Commission established disciplinary violations and issued various disciplinary sanctions, among them seven public warnings, one salary reduction, one ban on career advancement. The Commission rejected three cases, the disciplinary prosecutor withdrew the charges in one case and one case is pending appeal at the end of 2022. Majority of disciplinary reports were filed by private individuals and lawyers who complained over prolonged litigations and misdemeanour proceedings in first instance courts, mostly within the Belgrade Appellate Court jurisdiction. In 2023, the HPC disciplinary prosecutor had 46 disciplinary complaints against 43 persons, of which 27 were dismissed and 18 were resolved through other means. Disciplinary reports were mostly submitted by citizens. In the reporting period, one disciplinary report was assessed as founded, which allowed for the initiation of proceeding before the Disciplinary Commission of the HPC.

In 2022, 20 court presidents and 149 judges were appointed to courts at all levels (259 in 2020 and 2021) and in 2023, the HJC appointed 37 judges. At the end of 2022, out of 3 073 judicial positions, 137 were vacant (110 judges have retired and 19 judges left on own request while 2 503 judges effectively worked (2 508 in 2022), amounting to 39.71 judges per 100 000 inhabitants (39, 4 in 2022). The number of acting court presidents was reduced from 24 in October 2022 to six in February 2023. By the end of 2023, most of the present court presidents will end their mandate, the HJC is preparing the new competition. As of 31 December 2022, there were 711 deputy public prosecutors actively working and 103 vacant positions in appellate, higher and primary prosecution offices (out of 814 available). In June 2023, there were 747 holders of public prosecutors function (chief public prosecutors and public prosecutors), which is 10.99 per 100.000 inhabitants. In 2022, there were 50 public prosecutors in full mandate, 26 deputy public prosecutors in acting positions and 15 deputy prosecutors in the caretaker capacity for prosecution offices. In 2022, the SPC published a competition for 62 deputy prosecutors, out of which 27 were elected. On 19 June 2023, the HPC elected 46 prosecutors. More than 20 appeals against the selection decisions were filed with the Constitutional Court. One of the arguments was the lack of participation of prominent lawyers in preparing the candidates' list.

According to the European Commission for the Efficiency of Justice (CEPEJ), the European averages are 22.2 judges/11.8 prosecutors per 100 000 inhabitants.

Professionalism and competence

The HJC and HPC continued to publish information on their websites about the evaluation process. Transparency needs to be improved by sharing more information and improving communication with the public. In 2022, HJC published 116 statements on its activities and held 18 regular and 9 remote sessions; adopted minutes were posted on the website. In 2022, the HJC was an observer in the European Network of Councils for the Judiciary (ENCJ) and took part in a judicial career attractiveness programme. The HJC's strategic goal is to standardise information on the website and to establish spokesperson services for all courts. In 2022, the HPC held 2 regular and 26 extraordinary remote sessions. The current system for

recruiting, transferring and promoting judges and prosecutors will need to be revised in line with the new judicial legislation. It will be essential to establish merit-based judicial careers, with a clear performance evaluation mechanism and criteria. In the course of 2022, the evaluation procedure was initiated for 701 judges (259 judges under regular and 442 judges under extraordinary evaluation). The decisions for 374 judges are expected. In 2022, SPC evaluated 28 candidates and in June published a competition for 50 prosecutor positions, for which decisions are pending.

The eligibility criteria for the judicial profession remain to be defined in line with the newly adopted laws on judges and prosecutors and the new Law on the judicial academy, to cover all presently eligible categories (in 2022, HJC elected 92 judges from the ranks of court assistants, 9 judicial academy graduates and 3 from other professions). In line with the Venice Commission's recommendation, the Academy should be effectively '*protected from possible undue influence*'. The independence and professionalism of the Academy remain essential to it becoming the sole entry point to the judicial profession. Guidelines for amending the Law on the judicial academy are in preparation, with participation of the HJC and SPC members to define the training needs and criteria for the selection and engagement of mentors and lecturers.

In line with the Law on planning, the Ministry of Justice should step up implementation of the new reform strategy to improve performance appraisal, and budgetary planning and execution, and to increase support to qualifications and skills through training, based on recommendations from the World Bank's functional reviews (finalised in November 2022 for the court system and in August 2022 for the prosecution service).

Quality of justice

The Judicial Academy, responsible for initial and continuous judicial training, kept implementing its multiannual work programme for 2020-2025. From January until June 2023, 76 educational events (in-person and online) were held and the new platform (PARS LMS) for a better management and monitoring of the implementation of training programmes was established. Working under supervision of the Ministry of Justice, the Academy conducts annual analysis of the training needs in order to better define the topics. As of June 2023, 79 people were employed (43 permanent and 36 temporary positions). Trainings continued, among others, with the Council of Europe on undue influence on the judiciary. The Academy's capacity and internal expertise for delivering sufficient initial and continuous training should be further improved, in particular for training on EU law. Steps were taken to improve transparency of the mentor selection process and should be followed for the initial testing process. The total budget for training initiatives at the Judicial Academy in 2022 amounted to EUR 4 246 580. The Academy continues to be an observer in the European Judicial Training Network (EJTN) and should better benefit from its expertise.

On **case law harmonisation**, following the Supreme Court of Cassation (SCC) instruction of October 2022, the database with court jurisprudence was expanded with inputs from the SCC, four appellate courts, commercial and misdemeanour appellate courts and the administrative court. At the end of 2022, there were 353 670 integral decisions and 47 033 anonymised decisions in the database. The connection was made to prosecutor databases and to European Court of Human Rights (ECHR) databases. There were two joint sessions of civil departments of the appellate-level courts in 2022, in June and December, in accordance with the Agreement of Presidents of Appeal Courts. The Supreme Court also prepared two bulletins with the legal opinions on disputed legal issues ahead of the annual conference of judges held in May 2023. There is a need to redefine the role of the SCC in effectively orienting jurisprudence in line with the judicial laws adopted for implementing constitutional amendments, especially concerning repetitive cases.

Serbia still lacks a comprehensive **court case (and document) management system** that interlinks cases across Serbian courts and prosecutor offices. The work on a case management system for courts officially started in September 2021 and is planned to be finalised in 2024. The case management system for prosecutor offices is planned to be finalised by mid-2024. The case management system for prisons administration is operational as of December 2021. Further work is still required to ensure that all systems can operate smoothly. Legislative changes are needed, along with adequate staffing, financial resources and upgraded communication infrastructure.

By the end of 2022, the **notary system** had 226 offices, 455 notary trainees, over 700 notarial interns and assistants and over 700 administrative staff. Public notaries are yet to be appointed for the areas of three basic courts. In 2022, public notaries processed over 200 000 real estate transactions, 485 000 inheritance cases and 350 000 certifications of documents with a small number of appeals and reversals. Analysis is underway to prepare amendments to the Law on notaries and the set of accompanying laws. The notary chamber continued its efforts for better services, improvements to the electronic documentation system, standardisation of practice, and training.

In the area of **alternative dispute resolution**, including mediation, amendments to the legal framework are still pending, following prior analysis from 2020. As of 31 December 2022, 1 677 mediators were registered in the Ministry of Justice: 656 are from Belgrade, 112 from Nis, 140 from Novi Sad and 53 from Kragujevac (183 of them are lawyers, 15 judges, one is an enforcement officer, 739 are law graduates and 1 is an ombudsman). By 31 December 2022, 29 organisations have received permits to conduct training for mediators, but so far only 22 organisations have conducted training, with a total of 6 544 participants.

In 2022, 1 529 mediation agreements were concluded and 1 291 cases were successfully finalised (mainly in civil, commercial and family law areas). Most cases were resolved in the territory of the Belgrade Court of Appeals (61%), in Novi Sad (19%) and in Kragujevac and Nis (10%). In addition, 1 179 individual and 35 collective labour disputes were initiated before the arbitration; 565 and 19 were resolved respectively. The number of mediations compared with the number of pending civil court proceedings remains below 1%.

Efficiency

The court and prosecution network consists of 159 courts and 90 prosecutor offices (general and specific jurisdictions), operating in four instances (basic, higher, appellate and supreme), adding to the complexity in terms of financing, procurement and court payments for the services. Problems of unequal workload among judges and prosecutors negatively affected performance and access to justice for the public. An analysis of the effects of the Law on the protection of the right to a trial within reasonable time was prepared (with the Council of Europe). Legislative changes are pending. The proposal for amendments to the Law on the protection of the right to a trial within reasonable time are pending for adoption in Parliament.

In 2022, all courts received 1 808 813 new cases (compared with 2 402 486 in 2021), the highest number being in basic and misdemeanour courts. In 2022, all courts have resolved 2 132 305 cases, compared with 2 415 672 in 2021.

At the end of 2022, the number of pending cases fell; there were 1 174 642 cases compared with 1 498 237 in 2021. The average duration of court proceedings in 2022 was 201 days compared with 226 days in 2021, and the average clearance rate of 117,88%, was higher than in 2021 (100.55%) but with significant differences between courts (130.58% for basic courts, 26.89% for misdemeanour courts, 55.35% for SCC and only 39.63% for the administrative court).

Serbia already has numerous vacant posts in the judiciary, and many more senior judges will retire soon. This problem is exacerbated by a lack of interest in a judicial career among law school graduates. Attracting young judges and prosecutors to the system may require allocating sufficient budgetary means to the judiciary to solve the problem of relatively modest salaries. Another general problem, which cannot be solved by legislative amendments alone, is the strictly hierarchical organisation of the judiciary with a strong notion of supervision over the work of the lower courts. The new legislation has tried to address some of these problems. The division of budgetary functions was increased between the relevant ministry and high councils; the change of titles was not only cosmetic but reflected a consolidation of functions. However, the cumulative effect of all those mechanisms could affect the attractiveness of the judicial professions for young lawyers.

In 2022, there were a total of 10 098 positions for court staff (9 064 filled) and 1 546 were engaged on temporary basis, compared to 9 882 positions for court staff (8 763 filled) and 1 751 on temporary basis in 2021, who were engaged due to increased workload. The number of state employees i.e. staff whose work is not linked to processing of cases, slightly increased in 2022 (2 961, of which 2 709 were filled) compared with 2 831 in 2021 (2 938 in 2020). This remains high compared with the total number of staff, as against the European average (CEPEJ report).

Implementation of the unified **backlog reduction** programme for 2021-2025 continued under the supervision of the SCC, with declining trends in the overall number of pending backlog cases, including enforcement cases. Some measures were proposed to streamline future work on old cases. In 2022, the number of resolved backlog cases was 288 654, compared with 375 859 in 2021. The majority of resolved backlog cases were trial cases (250 185 in 2022 compared with 118 823 in 2021). At the end of 2022, there were 130 260 pending backlog cases, with a higher number of resolved civil cases before basic courts (36 859 compared with 32 923 in 2021). The percentage of backlog cases in the total workload of courts is 3.94%. Looking at individual types of courts, the number of pending cases in 2022 fell in basic courts, misdemeanour courts, commercial courts, appellate courts, commercial appellate courts and misdemeanour appellate courts; on the other hand, the number of pending cases increased in higher courts, administrative courts and the Supreme Court of Cassation. The number of old cases increased in the administrative court (6 333 in 2022 compared with 4 368 in 2021). Most of them are cases of 3-5 years old (6 190).

A high number of cases (29 672) is pending before the **Constitutional Court**, 99.13% of which are constitutional appeals and only 227 related to normative control. In 2022, the Constitutional Court worked on 16 249 cases (18 198 in 2021): 16 075 were constitutional appeals and 116 cases of normative control. The Constitutional Court resolved 14 203 cases, of which 13 969 constitutional appeals and 175 normative control cases. Working with 13 of the 15 judges, the Constitutional Court took 939 decisions on merit (6.72% of resolved cases), a fall compared with 2022 (1 147 or 11.5%), and rejected appeals in 7 617 cases (54.52% of resolved cases). The Constitutional Court is taking steps to improve visibility and transparency of its work and to enable easier access to the court practice database of both domestic and European Court of Human Rights judgments. No steps were taken to reform the Constitutional Court in particular in regard to the introduction of a qualified majority with a deadlock mechanism for the election of some of the judges of this court by Parliament, as underlined by the Venice Commission.

Significant **differences in workload** remain between courts across the country, with the Belgrade courts of first instance bearing the highest workload overall. There was no progress in amending the legal framework on local jurisdiction to address this problem. In January 2022, the Ministry of Justice introduced a case-weighting formula in all basic, higher and commercial

courts. Lengthy proceedings and the slow pace of processing indemnity claims continue to hamper, efficiency, quality and access to justice. There is a need to improve implementation of the 2019 Law on free legal aid. (*See procedural rights*)

As to **enforcement cases**, the transfer of additional types of enforcement cases from courts to 231 public enforcement officers and 37 deputy officers continued in 2022 (415 718 general cases and 1 435 commercial cases were transferred). The e-auction platform is in use to increase access to information and improve transparency. The number of sales of movable and real estate property increased. In 2022, courts received 236 004 new enforcement cases (255 792 in 2021) and solved 274 913 cases (514 833 in 2021). There was a fall in the number of pending backlog enforcement cases, which affect the efficiency of the courts, with 27 701 pending at the end of 2022 compared with 66 610 in 2021. Average length of proceedings was 36.78 days and 69.44 days for enforcement based on authentic document. Implementing the new human resources strategy for the judiciary should provide courts with the additional human resources that are required for better protection of individual debtors and stronger court control over enforcement.

Domestic processing of war crimes

Cooperation between the International Residual Mechanism for Criminal Tribunals (IRMCT) prosecution office and the Serbian War Crimes Prosecutor's Office has continued. Arrest warrants issued by the International Criminal Tribunal for the former Yugoslavia and the IRMCT on contempt of court charges have still not been executed. In May 2023, the appeals chamber of the IRMCT handed down the judgment in the Stanišić and Simatović case against two former senior officials of the Serbian State Security Service within the Ministry of Interior. The defendants were convicted for involvement in crimes across Bosnia and Herzegovina and in one town in Croatia as members of a joint criminal enterprise to ethnically cleanse non-Serbs from the areas during the 1990s wars in the Balkans. Besides overturning the acquittals of involvement in the criminal enterprise, the appeals chamber raised the sentences from 12 to 15 years. This is the last IRMCT case on the former Yugoslavia.

Regarding **judicial cooperation** issues, bilateral agreements exist between the Prosecutor's Office of Serbia and its counterparts in Bosnia and Herzegovina, Croatia and Montenegro, including on the exchange of evidence related to war crimes. Serbia has yet to enforce the judgment of Bosnia and Herzegovina in the case of General Djukić, who resides in Serbia. In November 2022, the Office of the War Crimes Prosecutor (OWCP) and the Prosecutor's Office of Bosnia and Herzegovina signed an agreement on cooperation in the area of support for witnesses, aggrieved parties and victims in criminal proceedings.

No progress in cooperation between Serbia and Croatia was noted in the reporting period.

Following the October 2021 government adoption of the second national strategy for the prosecution of war crimes for 2021-2026, three monitoring reports have been published. In December 2022, the OWCP adopted a Prosecutorial Strategy for the Investigation and Prosecution of War Crimes for the period 2023-2026 and an accompanying action plan. Relevant international organisations and civil society organisations were not consulted during the drafting process. Contrary to what was envisaged in the first national strategy, the OWCP has yet to define the selection criteria for war crimes cases and to create a list of priority and high-profile war crimes cases, consistent with the obligation that all priority and high-profile cases be duly prosecuted. In view of the end of the mandate of the current War Crimes Prosecutor in May 2023, the appointment procedure for the next mandate was launched in November 2022, but has not been completed yet.

A number of Serbian political parties and figures, including at ministerial level, continued to provide support to, and public space for, convicted war criminals. Convicted war criminals continue to spread hate speech in the public space. Certain politicians continue to deny the Srebrenica genocide without repercussions.

The War Crimes Prosecutor's Office filed 10 new indictments against 14 individuals in 2022, of which four were transferred from Bosnia and Herzegovina. The indictments involved five defendants who held high-ranking positions at the time of the alleged offences affecting hundreds of victims.

In March 2022, the OWCP filed an indictment against four high-ranking Croatian air force officers in the 'Petrovačka Cesta' case for war crimes against civilians allegedly committed during the operation 'Storm' in August 1995. The OWCP charged the suspects with ordering a missile attack on a convoy of Serb refugees on the Petrovačka cesta road, outside of Bosanski Petrovac, Bosnia and Herzegovina. As per the OWCP's allegations, the missiles fired by the combat aircraft killed 13 civilians, including six children, and wounded 24. Since all the defendants were unavailable to the Serbian authorities, the OWCP filed a motion to the High Court to initiate a trial *in absentia* against the defendants. In August 2022, the indictment was confirmed. The defence lodged appeals against the ruling on the confirmation of the indictment. In its August 2022 ruling, the Court of Appeals rejected the appeals lodged by the defence. To date, the High Court has not decided on the motion. The High Court postponed the start of the main hearing, scheduled for December 2022, finding that there was insufficient evidence as to whether the defendants had received the summons or not. In the first half of 2023, no hearing has been scheduled for the case.

In 2023, proceedings *in absentia* are underway in the 'Zagreb' case.

As of 31 March 2023, trial proceedings were ongoing in 23 war crimes cases before the Higher Court (19 cases) and the Court of Appeals in Belgrade (4 cases) against 44 defendants.

The trial of Milenko Živanovic, the former General and Commander of the army of Republika Srpska at the time of the alleged offence, is ongoing.

As of 31 December 2022, trial proceedings were ongoing in three cases of sexual violence committed during the 1992 conflict in Bosnia and Herzegovina: the Rogatica case, the Kalinovik case and the Bratunac II case. All of those cases relate to the rape of Bosniak women. In addition, during the reporting period, the OWCP raised one indictment related to the rape of a Bosniak woman in May 1992 in Bosnia and Herzegovina in the Gorazde II case; the first hearing took place in April 2023.

Two final judgments against three defendants were rendered in 2022. The Court of Appeals found three defendants guilty, sentencing them to 15, 7, and 4 years and 6 months respectively, in prison.

Serbia's judiciary has failed to include financial compensation to war crimes victims in any criminal proceedings. Its track record of compensation to war crimes victims in civil proceedings is weak.

Serbia's pace of processing war crimes cases has significantly deteriorated in recent years. A genuine commitment to address cases, including those of high-ranking suspects, should be assured. Serbia has a case backlog of over 1 700 pre-investigative cases.

According to the relevant data of the International Committee of the Red Cross (ICRC), as at July 2023, 9 781 people were still missing as a result of conflicts in the region. Of these, 6 237 cases are related to the conflict in Bosnia and Herzegovina, 1 926 to the conflict in Croatia and

1 618 to the conflict in Kosovo. In 2022, 106 cases were resolved, of which 67 concerned the conflict in Bosnia and Herzegovina, 37 the conflict in Croatia and two the conflict in Kosovo. From January to July 2023, 16 cases related to Croatia, 37 related to Bosnia and Herzegovina and two cases related to Kosovo were resolved. Throughout 2022, Serbia participated in the work of the Missing Persons Group under the framework plan, including the preparation and launch of the regional database of active missing persons cases from conflicts on the territory of the former Yugoslavia. The government Commission on Missing Persons also engaged in activities with the ICRC and the International Commission on Missing Persons (ICMP) to promote bilateral cooperation with Croatia, Bosnia and Herzegovina, and Montenegro in the resolution of missing person cases. Work was done among other issues on cases of common interest at the Lešće cemetery in Belgrade. On 29 November 2022, the missing persons domestic institutions from Serbia, Bosnia and Herzegovina and Montenegro met in Belgrade to discuss the framework for cooperation. Rules of procedures for bilateral cooperation with Montenegro were formally signed by the two Missing Persons Commissions on 9 June 2023. A meeting was organised in Zagreb on 30 January 2023 between the Missing Persons Commissions of the governments of Serbia and Croatia, also attended by the Serbian War Crimes Prosecutor, illustrating recent efforts to increase bilateral cooperation, without however leading to concrete follow-up. The Serbia Missing Persons Commission also joined a trilateral meeting with Bosnia and Herzegovina, hosted by its Croatian counterpart on 28 March 2023, which included a field visit.

In September 2022, Serbia's Missing Persons Commission signed a memorandum of understanding with the ICRC on the transfer and use of information and documents related to active cases of missing persons obtained from relevant archives for the purpose of supporting the search process. The Missing Persons Commission also actively participated in ICRC initiatives in support of families of missing persons.

The Serbian delegation to the ICRC-chaired working group on missing persons remained engaged in 2022 and 2023, including in assessing all locations indicated by the Kosovo delegation as potential gravesites in Serbia and participating in the assessments of four locations in Kosovo. There has been no session of the ICRC-led Belgrade-Pristina Working Group on Missing Persons since April 2021, as the Kosovo delegation refuses to hold meetings until the Serbia delegation changed its head. Nonetheless, lower levels of the mechanism (sub-working group on forensic issues analytical team and one meeting on unidentified bodies) continued to work on concrete cases and sites. Both the Kosovo and Serbia delegations have shown interest in resuming excavations at the Stavalj mine complex in summer 2023. From June 2022 until March 2023, the combined efforts of EULEX and local forensic experts resulted in 34 field operations and 12 exhumations. Some 12 sets of remains were recovered, representing a minimum of 12 individuals. Eight individuals were identified, of which three were on the list of missing persons. A total of 21 individuals were handed over to the families and 74 DNA samples were sent for analysis. The Serbian delegation to the working group remained committed to assessing several locations on the territory of Serbia indicated by their Kosovo counterpart as potential gravesites of victims from the conflict in Kosovo. In the context of the EU-facilitated Dialogue, the Parties agreed on and endorsed a joint declaration on Missing Persons at a High-level Dialogue meeting in Brussels on 2 May 2023, committing to improving Kosovo and Serbia's joint efforts towards resolving the outstanding cases of Missing Persons from the Kosovo conflict. Work is ongoing to establish the Joint Commission that will monitor the implementation of this Declaration.

Fight against corruption

Serbia has **some level of preparation** in the fight against corruption. Overall, **limited progress** has been made during the reporting period on last year's recommendations. Regarding the recommendations by the Group of States against Corruption (GRECO), Serbia took steps to meet the remaining five recommendations of the fourth evaluation round on the prevention of corruption in respect of Members of Parliament, judges and prosecutors, and reported on it to GRECO in March 2023. Serbia still needs to adopt a national anti-corruption strategy accompanied by an action plan. Serbia presented to the European Commission a draft strategy for the period 2021-2028 accompanied by a first action plan for the period 2023-2024. A majority of anti-corruption related interim benchmarks for Chapter 23 and a majority of GRECO recommendations from the 4th and 5th rounds of evaluation have been included in the documents. However, there is still a need to ensure the inclusion of remaining Chapter 23 interim benchmarks and outstanding GRECO recommendations and to create the necessary conditions for implementation. Serbia should establish an effective coordination mechanism to operationalise prevention and repression policy goals and thoroughly address corruption. In 2022, there was a slight increase in the number of final convictions for high-level corruption cases compared with 2021. The number of new investigations increased but the number of new indictments decreased. There were no cases of final confiscation of assets. Overall, corruption is prevalent in many areas and remains an issue of concern. There is a need for strong political will to effectively address corruption issues, as well as a robust criminal justice response to high-level corruption.

In the coming year, Serbia should in particular:

- further improve its track record on investigations, prosecutions and final court decisions in high-level corruption cases, in particular the seizure and confiscation of criminal assets;
- address all GRECO recommendations, in particular from the fifth evaluation round;
- adopt a new anti-corruption strategy, addressing in particular all relevant interim benchmarks and GRECO recommendations, and start implementing it. The strategy must be underpinned by a credible and realistic action plan, and establish an effective coordination mechanism.

Regional cooperation initiatives and events, including EU-funded programmes, support good neighbourly relations and reconciliation. Serbia has been invited by the European Commission to participate in the IPA 2019 multi-country rule of law programme aimed at 'supporting a more effective administration of justice in corruption and organised crime cases in the Western Balkans through trial monitoring'. This is implemented by the OSCE and all other Western Balkan partners already participate. Serbia should join this programme. This would send a positive signal concerning its commitment to the rule of law.

Track record

As regards the track record on **high-level corruption**, the number of final convictions in 2022 went slightly up compared with 2021. Based on indictments from the Prosecutor's Office for Organised Crime, the courts rendered first instance judgments against 26 individuals in 2022 (compared with 22 individuals in 2020 and only 10 in 2021). There were final convictions against 21 individuals (compared with 11 individuals in 2020 and 19 in 2021). The Prosecutor's Office for Organised Crime ordered investigations against 34 individuals (22 in 2022), but issued a lower number of indictments - only 12 - compared with previous years (22 in 2021, 19 in 2020, 20 in 2019, 41 in 2018 and 50 in 2017). As in the past 2 years, no case resulted in a final confiscation of assets (there were three such cases in 2019). Serbia still needs to show a convincing track record of confiscating assets in corruption cases.

In 2022, the special departments for combating corruption in the offices of higher prosecutors received a lower number of criminal complaints than in previous years (2 651, compared with 3 035 in 2021 and 2 936 in 2020). They ordered 179 investigations (270 in 2021) and initiated parallel financial investigations against 34 individuals (compared with 67 in 2021 and 23 in 2020). A total of 403 indictments were issued (540 in 2021, 470 in 2020). The courts rendered judgments against 221 individuals at the first instance based on indictments from these departments (271 in 2021, 230 in 2020). There were final convictions against 212 individuals (255 in 2021, 195 in 2020).

In 2022, in light of the gradual transfer of cases from the prosecutions of general jurisdiction to the special departments, there were no orders to investigate corruption and economic crime offences (29 in 2021, 22 in 2020), and the prosecution of general jurisdiction filed fewer indictments than in 2021 (19 indictments in 2022 in comparison with 63 in 2021 and 136 in 2020). The courts convicted 83 individuals at first instance (132 in 2021), and 28 individuals at final instance (80 in 2021). There was no case with final confiscation of assets (compared with one in 2021 and three in 2020).

The Agency for prevention of corruption initiated 483 procedures to determine violations of the Law on prevention of corruption (2021: 656). During 2022, in 309 procedures conducted by the Agency, it was determined that there were violations of the Law on prevention of corruption pertaining to conflicts of interest (347 in 2021). In 2022, misdemeanour courts issued first instance decisions on the responsibility of public officials in 20 cases (2021: 11).

In 2022, the Agency submitted 201 requests for initiation of misdemeanour proceedings relating to a failure to promptly submit asset declarations, which is far higher than in previous years (2021: 134; 2020: 29). Based on the Agency's work in previous years, a much larger number of final decisions were issued by misdemeanour courts: 161 in 2022 (52 in 2021). The Agency filed six criminal charges in 2022 (2021: seven) due to reasonable suspicion that a public official had not reported assets or had given false information about assets with the intent to conceal the facts. Based on the Agency's previous work, one conviction was rendered (2021: three).

In 2022, the Agency monitored the election campaign expenses for the presidential, parliamentary and local elections. It engaged 124 monitors for this purpose. Preliminary electoral campaign expense reports were submitted by 81.75% of the entities participating in the electoral campaigns that had this obligation. Final reports were submitted by 88.1% of the obliged entities. The Agency published its reports on the inspection of the financing of electoral expenses of political entities.

Regarding the financing of political activities, the Agency initiated 44 procedures in 2022 based on the suspicion of violation of the provisions of the law, of which 25 were related to the electoral campaign. It issued 28 warning measures, of which 11 related to the electoral campaign, and submitted 168 requests to initiate misdemeanour proceedings for violations of the Law on the financing of political activities (2021: 209). In 2022, the Agency issued 11 decisions related to electoral campaigns, based on suspicion of violation of the law, and submitted one report to the prosecution on suspicion of a criminal offence. Based on final judgments, 41 decisions were made on the loss of the right to obtain funds from public sources intended for financing regular work in the following year (13 in 2021; 9 in 2020).

Regarding **access to information**, in 2022, there was a 43.8% increase in the number of reports to the Commissioner for violation of the right to access information of public importance (9 219, compared with 5 181 in 2021). There was a 34.4% increase in reports to the Commissioner for information of public importance from national-level institutions, and 21.6%

from local-level institutions. The Commissioner adopted 547 decisions based on individual complaints (1 052 in 2021) and requested public institutions to provide such information. The institutions did not react in 148 cases, which means that the rate of execution of the Commissioner's decisions was 72.9% (75% in 2021). The Commissioner established that 42.9% of the cases of complaints from the public – most of them concerning 'administrative silence' – were well-founded, meaning that the information requested by citizens should have been provided by the authorities as per the Law on access to information of public importance. In 50.8% (27.8% in 2021) of well-founded cases, the authorities reported that they acted upon the Commissioner's request to provide the information to the complainants even before a decision was made on the appeal. The Commissioner continued to request the administrative enforcement of decisions for all requests that were submitted up until the entry into force of the amendments to the Law on access to information of public importance (16 February 2022). As in the previous years, the administrative enforcement of these decisions was not ensured. In 2022, the Commissioner submitted eight requests for initiating proceedings for misdemeanours as provided for by the law. As in previous years, the administrative inspection did not submit any request to the misdemeanour courts to initiate proceedings for non-execution of the Commissioner's decisions. Following a reversal of the Administrative Court's position in June 2022, a large number of cases of reimbursement of legal costs concerning requests for access to information of public importance has impacted the workload and resources of the Commissioner, as also assessed in his 2022 annual report. Any solution to this issue should not unduly restrict the effective exercise of the right to access information.

In 2022, courts in Serbia received 69 (2021: 99) new cases based on the Law on whistle-blower protection. A total of 71 cases related to the protection of whistle-blowers were resolved (2021: 106). Despite the urgency of these cases, 39 cases remained pending at the end of 2022 where the proceedings had not been completed even after 3 years. Some whistle-blower reports have still not been investigated in accordance with the Law. In order to strengthen trust in the institutions, Serbia needs to step up its protection of whistle-blowers and investigate allegations in high-level corruption cases.

Serbia needs to ensure that exemptions from the Law on public procurement are in line with the EU *acquis* and the Stabilisation and Association Agreement, including notably in the context of intergovernmental agreements. Intergovernmental agreements are not always in line with the principles of equal treatment, non-discrimination and transparency or competition rules (*see Chapter 5 – Public procurement*). The public procurement portal enables users to monitor all ongoing public procurement procedures. The number of requests for initiating misdemeanour procedures submitted by the Public Procurement Office (PPO) to the relevant courts increased significantly from 143 in 2021 to 429 in 2022, based on PPO findings in the process of monitoring the implementation of public procurement legislation.

Institutional framework

Prevention measures

As regards GRECO recommendations, following up on the March 2022 compliance report on Serbia's fourth evaluation round concerning Members of Parliament, judges and prosecutors, GRECO requested Serbia to report by March 2023 on progress for the five remaining recommendations. Serbia submitted this report on time.

Serbia should implement all recommendations issued by GRECO as part of the fifth evaluation round, which targets preventing corruption and promoting integrity in central government (top executive functions) and law enforcement agencies. The March 2022 GRECO report called for further measures to prevent corruption in Serbia in respect of those with top executive

functions, including the President, ministers, assistant ministers, state secretaries, heads of cabinet and political advisers, as well as members of the Serbian Police. In view of the findings of the report, GRECO issued 24 recommendations and invited the Serbian authorities to submit by 30 September 2023 a report on the measures taken to implement the recommendations. The measures will be assessed by GRECO through its compliance procedure.

The new director for the Agency for the Prevention of Corruption was elected by the Parliament in February 2023. In August 2023, the Agency for the Prevention of Corruption had 91 staff members out of a planned 163 (same as in 2021). The Agency's Council, which decides on appeals against first instance decisions by the Agency, among other things, held 12 sessions, and took 49 first-instance decisions upon appeals. In February 2023, the Parliament discussed and formally accepted the Agency's report for 2021, and in March 2023, the Agency submitted the 2022 report to Parliament for adoption, along with the report on implementation of the action plan for the Chapter 23 sub-chapter on the fight against corruption. Discussions on these reports have yet to take place within the relevant parliamentary committees. There is a need for strong political will to implement the Agency's mandate in full and to gain increased public trust in the institutions preventing corruption. There is a further need to increase the resources of the Agency to implement effectively the recommendations of GRECO's fifth evaluation round.

Regarding sectors particularly vulnerable to corruption, the operational plan for the prevention of corruption in areas of special risk, adopted in September 2021, expired at the end of 2022. According to the April 2023 final report on the monitoring of its implementation, prepared by the Agency, only three measures out of 15 have been completely implemented. Serbia still needs to fully implement all the measures stipulated by that plan in the areas of public procurement, police, customs, local self-government and privatisation processes. It also needs to fully implement the specific operational plans for prevention of corruption in the areas of tax administration, education and health. This includes the need for the adoption of amendments to health sector legislation in accordance with the analysis of risks to corruption in the Law on medicines and medical devices. In March 2023, the Agency provided training on the implementation of a methodology for corruption risk assessment for the members of working groups for the development of the new national anti-corruption strategy and its 2023-2028 Action Plan.

In July 2023, the Parliament enacted the Law repealing the Law on special procedures for linear infrastructure projects from 2020, which provided for the exemption of linear infrastructure projects of 'special importance for the Republic of Serbia' from the application of the Law on public procurement.

From 2017, when the obligation began, until the end of 2022, only 26 out of 145 local self-governments adopted a local action plan and established a body to monitor it, in line with the Anti-Corruption Agency model. Overall, there were no tangible improvements in relation to anti-corruption efforts at local level. This calls into question the local action plans as a solution to the prevention of corruption at local level in Serbia.

The Anti-Corruption Council, in its advisory role to the government, remained active in exposing and analysing cases of systemic corruption. It remains of serious concern that the authorities have still not established a more constructive relationship with the Council. In addition, the Council is still not systematically consulted on draft legislation. The government failed to set up a procedure to consult the Council, although this had been planned since 2016. The Council issued informative reports on the lack of transparency of the ownership of agricultural land and on the construction of a gondola from Kalemegdan to Usce park in Belgrade. No steps have been taken to additionally strengthen the Anti-Corruption Council's

budgetary resources and staff capacity. Serbia should implement the GRECO recommendation about the Council from the fifth evaluation round.

Law enforcement

Following an assessment of needs, the special departments for combating corruption in the offices of Higher Prosecutors in Kraljevo, Niš, Novi Sad and Belgrade have increased their staffing and now have 61 assigned deputy public prosecutors (58 in 2021; 44 in 2020; 45 in 2019). The offices should have one financial forensic expert in each of the four special departments, but the positions remain vacant.

The Prosecutor's Office for Organised Crime, which has jurisdiction over high-level corruption cases, remains understaffed (see Chapter 24 – Justice, freedom and security). It has yet to finalise activities for implementing the Rulebook on internal organisation and systematisation of work positions, establishing new organisational units, and increasing the number of employees. The Higher Court in Belgrade dealing with corruption also remains understaffed. Furthermore, as provided for in the Prosecutor's Office for Organised Crime, two financial forensic experts are employed.

In 2022, three task forces were investigating corruption offences, while in the first half of 2023, two new task forces were established (five in 2021).

The Law on the organisation and jurisdiction of state authorities in suppression of organised crime, terrorism and corruption is in force. However, it does not regulate in sufficient detail the role and mandate of the Prosecutor's Office for Organised Crime as the coordinator in relation to the special departments of offices of higher public prosecutors for suppression of corruption. Serbia should take further steps to ensure effective coordination.

Greater transparency is needed in the anti-corruption work of the prosecution service and courts, and the Public Prosecutor's Office should step up its monitoring of the reasons for the dismissal of criminal charges or lengthy investigation of corruption offences.

The State Audit Institution continued to audit statements from beneficiaries of public funds. By checking arrangements for ensuring the proper functioning of internal auditing, it found that out of a total of 90 auditees required to establish internal audit procedures, 48 auditees (53.33%) had not done so, similar to the previous year (45.36% in 2021).

Legal framework

Serbia is a party to all international anti-corruption conventions. The legal framework for the fight against corruption is broadly in place.

In February 2022, Serbia adopted the Law on the **financing of political activities**. While the Law has been aligned with a number of OSCE/ODIHR recommendations, Serbia needs to further align the law with the remaining OSCE/ODIHR and GRECO recommendations, in line with the August 2022 Final Report of the Election Observation Mission. This includes explicit regulation of third-party campaigning, and provisions on effective, proportionate and dissuasive penalties for violation and inadequate reporting. The criminal code needs to be brought in line with the Law on financing of political activities. Serbia should continue to take further measures to ensure that citizens are able to recognise paid political advertisements or communications and the related costs. Amendments were also made to the Law on prevention of corruption aiming at alignment with the new Law on financing of political activities. The Law on prevention of corruption now further specifies which public officials are excluded from the duty of unambiguous separation between their public function and representing a political entity while acting in public. This obligation no longer applies to directly elected officials such

as members of the National Assembly, members of provincial parliaments and members of local assemblies.

The GRECO report on the fifth round of evaluation took note of the November 2021 amendments to the **Law on access to information of public importance**, and recommended that requests for information lodged with the government or presidential administration not receiving a positive response should also be subject to appeal before the Commissioner for Information of Public Importance and Personal Data Protection. Furthermore, Serbia needs to continue to monitor their implementation to ensure that the previously identified issues are effectively addressed, including that of ‘administrative silence’ to citizens’ requests and the lack of enforcement of decisions of the Commissioner for information of public importance.

The legal framework on **whistle-blower protection** is yet to be aligned with EU *acquis*.

With respect to **transparency and integrity within the public administration**, there has been no sizeable reduction in the excessive number of acting senior manager posts but an increase, as of June 2023, to 55% of filled positions occupied by people in an acting capacity, compared with 51% in May 2022. In addition, non-civil servants continued to be appointed on an acting basis after the legal deadline of July 2019, in breach of the Law on civil servants. The similar issue of acting directors in state-owned enterprises – 22 out of 34 – has yet to be addressed.

There is no evidence of what the impact has been of the Law on the origin of assets, adopted in 2020 and amended in 2021, on the effectiveness of the check of assets of natural persons against declared income. An assessment of the impact of this law is needed, and its implementation needs to be non-discriminatory and not vulnerable to corruption.

Strategic framework

Serbia has no **anti-corruption strategy** in force. There is a clear need for an anti-corruption strategy encompassing prevention and repression of corruption, accompanied by a credible action plan in addition to the relevant section in the Chapter 23 action plan. Serbia presented to the European Commission a draft strategy for the period 2021-2028 accompanied by a first action plan for the period 2023-2024. A majority of anti-corruption related interim benchmarks for Chapter 23 and a majority of GRECO recommendations from the 4th and 5th rounds of evaluation have been included in the documents. However, there is still a need to ensure the inclusion of remaining Chapter 23 interim benchmarks and outstanding GRECO recommendations. There is a need to further clarify the context of cooperation, coordination and communication of the two bodies that will monitor implementation (the Working Body of the Government and the Agency for the Prevention of Corruption) as well as how implementing authorities will report to them. All activities under the action plan should be costed and budgeted for.

An ex-ante analysis based on risk assessments for sectors most vulnerable to corruption was completed in June 2023, with the aim to inform the draft strategy.

The Agency for Prevention of Corruption submitted the report on implementation of the anti-corruption part of the action plan for Chapter 23, and submitted it to Parliament in March 2023. According to this report, in 2022 Serbia completed 61% of actions (2021: 60%), which either had to be completed in 2022 or were ongoing actions.

Fundamental rights

Serbia’s legislative and institutional framework for upholding fundamental rights is broadly in place. This framework needs to be consistently and efficiently implemented. The Ombudsman was re-elected in April 2023, without cross-party support. The Ombudsman’s Office has yet to
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be provided with additional resources to cover the new powers introduced by the Ombudsman Law of 2021. The recruitment of additional staff for the Commissioner for Information of Public Importance and Personal Data Protection is significantly delayed. The procedure for executing the decisions of the European Court of Human Rights, including the role of Serbia's Government Agent before the Court, needs to be further regulated.

Implementation started of the new strategies and action plans on gender equality, anti-discrimination and Roma inclusion, although monitoring bodies were not in place for most of the reporting period due to elections and formation of the new government. Action plans and related funding due in July 2021 as regards violence against women, and April 2022 as regards deinstitutionalisation, are now significantly delayed. More efforts are needed to comply with the Law on the planning system, which requires that action plans be adopted within 3 months of the adoption of related strategies, and that reports are published annually on the implementation of strategies: no such reports were published for the year 2022. New national minority councils were constituted following the elections held in November 2022. Serbia continued drafting and conducting consultations on a new '*action plan for the realisation of the rights of national minorities*'.

Most of last year's recommendations have not yet been implemented and remain valid. In the coming year, Serbia needs to:

- strengthen human rights institutions by allocating the necessary financial and human resources and by putting in place procedures to ensure compliance with measures, including interim measures, of the European Court of Human Rights;
- implement and report in good time on the strategies on anti-discrimination that includes the rights of LGBTIQ persons, gender equality, violence against women, and deinstitutionalisation; actively counter hate-motivated crimes and establish a track record of investigation and convictions;
- demonstrate, through better data collection, tangible improvements across the country in the effective exercise of the rights of individuals belonging to national minorities, including reference to the targets set by the Poznan Declaration on Roma inclusion and by the future new action plan relating to national minorities.

Serbia has ratified the main **international human rights instruments**. Serbia's Council for monitoring the implementation of the recommendations of the UN Human Rights Mechanisms includes civil society organisations and was extended to the Chamber of Commerce and the Standing Conference on Towns and Municipalities.

In June 2023, there were 1 818 applications pending before the **European Court of Human Rights** (ECtHR). The ECtHR delivered judgments on 31 applications and found breaches of the European Convention on Human Rights in eight out of nine cases (against nine in 2022), relating mainly to the right to respect for private and family life, to the right to a fair trial and the general prohibition of discrimination. In the reporting period, there were 2 112 new applications allocated to a decision body. Currently, there are 59 cases under enhanced supervision by the Committee of Ministers of the Council of Europe. The procedure for executing the decisions of the ECtHR, including the role of Serbia's Government Agent before the Court, needs to be further regulated. The Law on the State Attorney's Office only broadly defines the Government Agent but it does not refer to the execution of judgments of the Court; only secondary legislation does this. The Government Agent before the Court needs to be given a coordination role and the authority to fulfil it. Work is ongoing to implement the mechanism providing individual redress to parents in cases similar to that of *Zorica Jovanović v Serbia*. A

key feature of this case is the continued failure by the Serbian authorities to provide the applicant with any information about the real fate of her missing baby who had been in the care of a state-run hospital. In 2021 and 2022, the National DNA Registry of the National Centre for Criminal Forensics of the Criminal Police Directorate received 34 requests for determining parenthood. When the status of the missing newborn could not be determined, courts awarded damages of the maximum amount prescribed by law. Since the Court's first judgment in 2008 on the *Kačapor group* case, a systemic solution needs to be found to the delayed enforcement of domestic decisions against socially/state-owned companies; this case is about companies in the former socialist regime of Yugoslavia.

As regards the **promotion and enforcement of human rights**, the mandate of the Ombudsman expired in July 2022 and the procedure for appointing a new one was initiated in February 2023. Under the law, the procedure for appointing a new Ombudsman should have been initiated no later than 180 days before the said expiry. The incumbent Ombudsman was re-elected in April 2023, without cross-party support. The law requires only an absolute majority for the election, deviating from the Venice Principles which set out that the Ombudsman should preferably be elected by an appropriate qualified majority. In addition, the Venice Principles recommend that the Ombudsman cannot be reappointed. While the new Law does prescribe that the Ombudsman cannot be reappointed, another provision in the Law gave to the Ombudsman who had been appointed under the previous laws the possibility to be reappointed, which did in fact happen. Parliament held a plenary discussion on the Ombudsman's annual report for 2021, issued in March 2022, only in February 2023. Citizens submitted 3 530 complaints to the Ombudsman in 2022, down from 4 501 in 2021. The number of recommendations from the Ombudsman to the authorities also fell to 904 (1 050 in 2021). According to the Ombudsman's 2022 report, the percentage of its recommendations followed up by the authorities increased to 92% (2021: 78%). However, it is not sufficiently clear how the Ombudsman verifies that a recommendation has been followed up appropriately. The Ombudsman needs to publicly address all violations of human rights and to improve his cooperation with civil society, in particular in his capacity as National Preventive Mechanism against Torture. A new rulebook on internal organisation and systematisation of posts was not yet adopted. The Ombudsman's Office has yet to be provided with additional resources to recruit staff and cover the new powers introduced by the new Ombudsman Law of 2021. As of May 2023, it was employing 74 staff, fewer than the target of 106 included in the Chapter 23 action plan. Staff turnover in the Office continues to hamper its efficiency. Appropriate premises are also still lacking.

In order for Serbia to fully benefit from its observer status in the **European Union Agency for Fundamental Rights**, it needs - as already required in the Law on the planning system - to develop a comprehensive monitoring and data collection system to assess the level of implementation of human rights legislation, policies, and strategies.

In the field of **prevention of torture and ill-treatment**, the Ombudsman, in the role of National Preventive Mechanism against Torture, continued with visits to relevant sites. Training sessions on the methodology for investigating cases of torture also continued. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) paid an ad hoc visit to Serbia in March 2023. The focus was on the treatment of individuals deprived of their liberty by the police, as the follow-up of recommendations contained in reports on CPT visits in 2017 and 2021 was not sufficient. A large number of CPT recommendations from previous reports have yet to be addressed. This concerns in particular the recommendation to eradicate police ill-treatment and effectively investigate such cases. The monitoring of police interviewing standards and procedures is needed to facilitate the

investigation of any allegations of ill-treatment. This would require an accurate recording of police interviews to be conducted with electronic audio and video recording equipment. The treatment of individuals held in remand detention is also of particular concern. Action is required to guarantee the right of access to a lawyer without undue delay after deprivation of liberty. The execution of the January 2021 judgment of the European Court of Human Rights in the case *Zličić v Serbia* - concerning inhuman and degrading treatment while in police custody and failure to conduct an effective investigation - is pending and under enhanced supervision of Committee of Ministers along with other similar cases. Serbia has still not revised the criminal code amendments of 2019 which introduced life imprisonment without the possibility of conditional release for a number of crimes; the criminal code therefore remains contrary to the European Convention on Human Rights and to the case law of the European Court of Human Rights. The CPT had raised concern about this issue in its report of March 2022. Following the Ombudsman's findings on the lawfulness of the work of the Ministry of the Interior during the July 2020 citizens' protests related to the COVID-19 pandemic, all criminal charges against police officers addressed thus far have been dismissed and a disciplinary measure (fine) was imposed on one officer (*see also the section on freedom of assembly*).

Concerning the **prison system**, the renovation programme continued in several prisons. The Training Centre for Prison Staff focuses on prison guards rather than on all prison staff and is reliant on external entities for sporadic training for other prison professions. Offender treatment programmes were rolled out in all prisons and covered a variety of issues, e.g. drug and alcohol addictions, aggression, and general cognitive-behavioural skills. Resocialisation programmes have been introduced in the pre-release phase of a custodial sentence but require additional support. Staff numbers and competencies need to increase to ensure that the Prison Service can systematically offer such programmes in all relevant institutions. In January 2022, the prison population stood at 10 557 for a total capacity of 11 957 places, i.e. an occupancy rate of 94.7%, although instances of local overcrowding remain. Overcrowding and overall conditions at the Belgrade Special Prison Hospital are still of concern. In December 2022, Serbia adopted the 2022-2027 strategy for the further development of the system of enforcement of criminal penalties and the accompanying action plan. The majority of executed alternative penalties comprise house arrests, and the use of community penalties remains low. The probation, social and employment services have insufficient resources to satisfactorily address post-penal care.

The Law on **personal data protection** is mostly aligned with the EU Regulation on general data protection (GDPR) and the Directive on law enforcement. However, the law is insufficient with regards to penalties and difficult to implement in practice. This is because it does not further elaborate on the principles provided by the GDPR, and the provisions regulating processing of personal data by law enforcement authorities are scattered across a number of articles in the law. In addition, the process of harmonising the provisions of all other laws relating to the processing of personal data with the personal data protection law, which was due by the end of 2020, is significantly delayed. The number of designated data protection officers within public entities remained low, with 616 new officers in 2022 (amounting to a total of 4 378 out of over 12 000). Court enforcement of this law, following complaints on personal data violations including data leaks to the media, remains limited. The Office of the Commissioner for Information of Public Importance and Personal Data Protection worked with 105 staff members in 2022, against the target of 129 in the Chapter 23 action plan. The recruitment of additional staff in the Office of the Commissioner is significantly delayed. In December 2022, a first regional office of the Commissioner was opened in Novi Sad. Following the Commissioner's previous negative opinions on the Ministry of the Interior's impact assessment on street video-surveillance, the Ministry stated that it had put processing

of biometric personal data on hold until a legal basis was developed. The Ministry started drafting a new law on internal affairs to regulate these matters, and several other topics. In December 2022, the draft law was withdrawn from the adoption procedure for the second time and consultations with civil society were relaunched and are ongoing. The proportionality and necessity of the proposed system of video surveillance in public spaces and processing of personal data by facial recognition software still needs to be assessed. The Law on personal data protection will need to be revised before a special regime for processing personal data by the police, together with amendments to the criminal procedure code, can be adopted.

Freedom of thought, conscience and religion is constitutionally guaranteed and generally respected. However, the lack of transparency and consistency in the process for registering religious communities remains one of the main obstacles preventing some religious groups from exercising their rights. The Law on churches and religious communities needs to be aligned with the recommendations of the Council of Europe's Advisory Committee for the Framework Convention on National Minorities.

Regarding the **fight against antisemitism**, the Jewish community is small (around 3000 Jews) but vibrant. Serbia is a member of the International Holocaust Remembrance Alliance since 2011. Serbia made concrete steps to ensure Holocaust education and remembrance but further work is needed. Implementation of the Law on the restitution of heirless Jewish property, and the return of properties to churches and religious communities, has continued.

Freedom of expression

Serbia has **some level of preparation** concerning freedom of expression. Overall, **limited progress** was made on the recommendations from last year, which therefore remain valid. The police and the prosecution service reacted swiftly to several cases of attacks and threats, working with the standing working group on the safety of journalists. However, cases of threats, intimidation, hate speech and violence against journalists remain a concern, as is the increase in strategic lawsuits against public participation (SLAPP), notably launched by members of national and local authorities, that may produce a chilling effect including self-censorship. There are recurrent statements by high-level officials on the daily and investigative work of journalists. The possibility of journalists to report on ongoing criminal proceedings is excessively limited in the legal framework. The overall environment for the exercise of freedom of expression without hindrance still needs to be further strengthened in practice. Serbia continued implementing the media strategy action plan. Several processes were relaunched after the formation of the new government in October 2022, after increasing delays. Consultations resumed in November 2022 on amending the Law on public information and media. Following public consultations, consultations with media associations and hurried consultations with the European Commission amendments were adopted to the laws on public information and media and on electronic media in October 2023 before the dissolution of parliament. Overall, the new laws will strengthen the independence of the regulatory body for electronic media (REM). They also codify the role of the Press Council and render the process of public co-funding more transparent and accessible. In the context of elections, the ban on media coverage of officials who are also candidates taking part in official gatherings organised for the opening of infrastructure or other facilities was extended to 30 days, which is an improvement of the current situation. However, the legislative process was not finalised fully in line with the EU *acquis* and European standards. The ownership of media by state-owned enterprises was prominent in deliberations. An important step was taken with respect to the application of criteria aligned with the EU *acquis* to the assessment of state aid, while it should

be clarified that antitrust and merger control rules apply to the media sector and safeguards to protect media pluralism and editorial independence remain to be improved. The implementation of such safeguards will need to be closely monitored in practice. In August 2022, REM published a call for the allocation of a fifth media service licence with national frequency, which has still not been awarded, without credible justification.

Political and economic influence on the media remains a source of concern. Serbia needs to take urgent action to counter anti-EU narratives propagated by numerous media outlets, and to counter foreign information manipulation and interference, most obviously in the context of Russia's war of aggression against Ukraine.

In addressing the persisting shortcomings, Serbia should implement its media strategy and action plan without further delay, in a transparent, efficient and inclusive manner, respecting the letter and spirit of the objectives of that strategy, and focusing as a matter of priority on implementing last year's recommendations:

- strengthening the security and safety of journalists and notably ensuring that: (i) high-level officials refrain from labelling or making verbal attacks on journalists; and (ii) any threats and cases of physical and verbal violence are swiftly followed up and, as appropriate, publicly condemned, investigated or prosecuted;
- strengthening media pluralism, including through implementing measures in line with the media strategy relating to REM's functioning, mandate and independence, and to the public broadcasters;
- ensuring transparent and equitable co-funding for media content serving the public interest, and full transparency in media ownership and advertising.

Intimidation of journalists

Cases of threats, intimidation and violence against journalists remain a source of concern, especially at local level. Verbal attacks and smear campaigns against journalists continued, including verbal violence against female journalists. Hate speech and discriminatory terminology are often used and tolerated in the media and are rarely followed up by regulatory authorities or prosecutors. Recurrent statements by high-level officials on the daily and investigative work of journalists are preventing the creation of an environment where freedom of expression can be exercised without hindrance. Despite these statements having been made also in Parliament, the administrative committee in charge of the application of the code of conduct of the Parliament has not found any violation so far. The two main journalist associations in Serbia recorded an increase in physical attacks and threats against property in 2022, compared with 2021. In June 2023, a group of protesters entered into the private property of one cable TV, with no reactions from the authorities, police or judicial follow-up. There was also an increase in strategic lawsuits against public participation (SLAPP), notably launched by members of national and local authorities. Cases were raised, for example, against one investigative portal and local media. Investigative journalists also continued to face either frequent refusals by public bodies to disclose information, or no response at all ('administrative silence'). Furthermore, the possibility of journalists to report on ongoing criminal proceedings is excessively limited in the legal framework.

The police and the prosecution service reacted swiftly to several cases of attacks and threats, working with the standing working group on the safety of journalists. The other working group for the safety and protection of journalists, established by the government in December 2020, has not met since June 2022. The majority of media associations had left the group in spring 2021 while another media association left in December 2022. In 2022, the Office of the

Republic Public Prosecutor (RPPO) registered 83 cases of criminal acts committed against journalists (87 cases in 2021). According to the RPPO's information regarding those acts that qualify for criminal prosecution, by the end of March 2023, the RPPO had proceeded with 75 of the 83 cases filed in 2022, while 8 cases had been dismissed. In total, 34 cases had been finalised (including 5 convictions), while criminal proceedings continue for the remaining cases (6 cases before the court, 29 in pre-investigation, 5 in investigation (evidential actions), and 7 cases without identified perpetrators). A conviction of a local official and the prison sentence was confirmed in the re-trial regarding the case of the arson attack on the house of an investigative journalist in December 2018, after the earlier decision had been overturned in 2021. Another conviction sentence, among others, was made in the case of an attack against a local radio station, despite challenges in the process. A number of other cases, including those with death threats, have still not been resolved. Regarding the work of the commission tasked with looking into three cases involving the murders of journalists, the Court of Appeals opened a re-trial in the case of the murder of Slavko Ćuruvija and completed the hearing in March 2023, which is now pending the final verdict more than 24 years after his murder. There were no developments in the two other murder cases from 1994 and 2001.

Legislative environment

Serbia continued implementing the media strategy action plan. Several processes were relaunched after the formation of the new government in October 2022, after increasing delays. In light of the wide scope of the planned reforms, appropriate human resources are needed in the newly formed Ministry of Information and Telecommunications. The working group established to monitor implementation of the action plan, including media representatives, did not meet as regularly as planned and there were delays in the adoption of quarterly monitoring reports. The initial action plan implementing the media strategy expired at the end of 2022 and a new action plan for the period 2023-2025 has not yet been adopted. Consultations resumed in November 2022 on amending the Law on public information and media, which notably deals with public co-financing of media through calls for proposals, state ownership of media, self-regulation and the transparency and functionality of the media registry. In the current system, the print media with the most violations of the journalistic code of professional conduct recorded by the Press Council, including those with court convictions, are not precluded from – and in effect continued – receiving public co-funding, especially at local level. According to the media strategy, this issue should be addressed by laying down binding criteria for complying with the journalistic code of conduct and by requiring applicants to accept the authority of the Press Council. Work started in January 2023 on drafting amendments to the Law on electronic media, which must strengthen the independence and transparency in the work of the Regulatory Authority of Electronic Media (REM), effectively safeguard media pluralism, and clarify the procedure for issuing licences for the provision of audiovisual media services. Public consultations on these two draft laws were launched in September 2023. Following public consultations, consultations with media associations and hurried consultations with the European Commission amendments were adopted to the laws on public information and media and on electronic media in October 2023 before the dissolution of parliament. Overall, the new laws will strengthen the independence of the regulatory body for electronic media (REM). and reinforce its mandate for tackling threats to media pluralism. The process of nominating REM Council members was depoliticised while steps were taken to enhance the protection of the rights of persons with disabilities, minors and national minorities. The authorities and the media associations also reached agreement on the role of the Press Council, while steps were taken to render the process of public co-funding more transparent and accessible. They also codify the role of the Press Council and render the process of public co-funding more transparent and accessible. In the context of elections, the ban on media

coverage of officials who are also candidates taking part in official gatherings organised for the opening of infrastructure or other facilities was extended to 30 days, which is an improvement of the current situation. However, the legislative process was not finalised fully in line with the EU *acquis* and European standards. The ownership of media by state-owned enterprises was prominent in deliberations. An important step was taken with respect to the application of criteria aligned with the EU *acquis* to the assessment of state aid, while it should be clarified that antitrust and merger control rules apply to the media sector and safeguards to protect media pluralism and editorial independence remain to be improved. The implementation of such safeguards will need to be closely monitored in practice. The third law planned by the media strategy, the Law on public broadcasters, has yet to be amended.

Implementation of legislation / institutions

REM fails to demonstrate its independence in a consistent manner and to exercise its mandate to the full in safeguarding media pluralism and professional standards. In July 2022, REM awarded all four national television licences – which have a validity of 8 years – to the same previous licensees despite the fact that they had received warnings from REM due to violations of their legal obligations during the previous period. Several of these channels continued not to respect legal provisions. In August 2022, REM published a call for the allocation of a fifth media service licence with national frequency, which has still not been awarded, without credible justification. According to the published call, REM was expected to decide within 30 days of publishing the list of eligible applicants. The REM Council suspended its work between 9 and 21 December, claiming to protest against public criticism it had received concerning the unallocated fifth frequency. REM subsequently resumed its work but unilaterally decided not to proceed with the allocation of the fifth frequency while a complaint brought by one applicant is pending at the administrative court.

In May 2023, in the context of tragic mass shootings, REM appeared before the Parliament's Committee for Culture and Information to present its report on media monitoring for the period October 2022 to March 2023, reflecting also on the topic of violence in media. Despite the fact that several TV channels broadcast content that encourages overt or covert hatred or violence, including by providing a platform for convicted war criminals, REM concluded that all of the media, except one, overall met the provisions set out in the Law on electronic media. During the reporting period, several TV channels with national frequencies, including TV Pink and Happy TV, fell short of their own commitments and obligations on programming for children, culture and education, based on which they had obtained a (renewed) national frequency. In May 2023, REM awarded a cable and IPTV licence to the publisher of a print tabloid which, according to the Press Council, frequently breaches the ethical code of conduct. In June 2023, one member of the REM Council resigned due to disagreements with the work and conduct of the regulator.

Serbia needs to take urgent action to counter anti-EU narratives propagated by numerous media outlets, and to counter foreign information manipulation and interference, most obviously in the context of Russia's war of aggression against Ukraine. Sputnik applied for the public competition for the issuance of licences for the provision of radio media services for the Belgrade area, which was rejected in December 2022 by REM. Russia Today's (RT) international channel in the English language was not banned by REM and is still broadcast in Serbia on the cable TV. In addition, in November 2022, RT launched a local RT Balkan multimedia web platform in the Serbian language, also hosting government representatives in its video format. The outlet also promoted military recruitment for the Wagner paramilitary group, which is prohibited under Serbian legislation but was not followed up by prosecution services. These outlets, together with Sputnik Serbia and other local media, produce and/or

disseminate content that manipulates the information environment in Serbia. Such content is echoed in a large portion of mainstream media in Serbia and in the region more broadly. Local civil society, the media and fact-checking community have been making valuable efforts in countering disinformation.

Public service broadcasters

The improved balance of representation of political parties on the public broadcaster during the electoral campaign in spring 2022 did not continue to the same extent beyond the election period. Shortcomings in public service media legislation, identified by the media strategy, still need to be addressed by amending the law. Public broadcasting services in minority languages need to be strengthened, in line with the Chapter 23 interim benchmark, especially as regards Radio Television Srbija (RTS) (*see also the section on minorities*). The partial budget financing of Radio Television of Vojvodina (RTV) was extended to 2023. The position of RTV managing director, which had been vacant since the expiry of the previous mandate in July 2021, was filled in October 2023 following a lengthy appointment process. Some other RTV management positions have also been vacant since July 2021. Some RTS employees held a warning strike demanding better employment conditions, while the management board president filed a criminal complaint against the director and another editor, under suspicion of fraud. In June 2023, a public protest was held outside RTS premises as the dismissal of its management is among the requests of the citizens' protests 'Serbia against violence'.

Economic factors

Political and economic influence on the media remains a source of concern. The media strategy proposes measures to address issues of transparency in ownership structures and fairness in financing media content and advertising from state resources, which are overdue (*see also legislative environment*). The media sector privatisation process has yet to be completed in line with the objective set in the media strategy. The media strategy also highlighted the absence of suitable criteria and mechanisms for assessing the existence of media pluralism, and identified measures aimed at addressing these issues; they now need to be implemented. A local civil society organisation monitoring central news shows on the five television channels with national coverage during the period June 2022 to May 2023 calculated that the ruling coalition received 95% of airtime and the opposition 5%; this ratio was similar for the public broadcaster RTS 1 (94% v 6%).

Professional organisations and working conditions

The lack of job security for journalists and the editorial environment encourage tabloidism. Further efforts are needed to improve journalistic standards, media literacy and overall resilience. The increasing trend of SLAPP lawsuits is of concern as it puts pressure on the media's financial and human resources capacity.

(*See also Chapter 10 – Digital transition and media*).

Freedom of artistic expression

Freedom of artistic expression is broadly guaranteed. Statements by MPs of the ruling coalition were made that productions involving government critics should not receive public funding.

While legislation on **freedom of assembly and association** is generally in line with European standards, Serbia has yet to align further with the joint Venice Commission and OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly. Freedom of assembly is a fundamental EU right, which needs to be both protected and exercised peacefully and in full respect of the rule of law and public order. This right also apply to civil servants. Following the Ombudsman's findings

on the lawfulness of the work of the Ministry of the Interior during the July 2020 citizens' protests related to the COVID-19 pandemic, all criminal charges against police officers addressed thus far have been dismissed and a disciplinary measure (fine) was imposed on one officer (*see also prevention of torture and ill-treatment*). As regards the environmental protest in Šabac in 2021, in November 2022 the Ombudsman issued a recommendation to initiate disciplinary proceedings against police officers who did not protect citizens from a group of hooligans who attacked them. The Ministry of the Interior informed that disciplinary proceedings against police officers could not be taken due to the statute of limitations, namely the fact that the initiation of disciplinary proceedings for minor violations of official duty expires 6 months from the date of execution or, for serious violations, after 1 year. The Ombudsman also issued a recommendation to wear uniforms with visible police identification; while this is required by the law on the police, such identification is not always visible when police officers wear protective gears during demonstrations. The EuroPride march in Belgrade in September 2022 was protected by a high number of law enforcement officers. Nevertheless, some instances of violence against participants were reported. In cases addressed so far, prosecutors found no criminal acts of violence against the participants. A Pride march took place in Belgrade in September 2023 without incidents. In February 2023, a gathering of neo-Nazi groups that celebrated Milan Nedić, the Nazi collaborator in WWII, was protected by the police. A number of peaceful mass protests by citizens - Serbia against violence – have taken place since May with support from several opposition parties. Freedom of assembly was guaranteed and protests took place mostly unhindered. However, the protests were sometimes accompanied by verbal attacks on participants by politicians and parts of the media, which also consistently downplayed the size of protests.

Issues of labour and trade union rights are further covered in Chapter 19 – Social policy and employment.

Regarding **property rights**, the Agency for Restitution continued with restitutions in kind and first instance decisions on the return of confiscated properties. Based on the coefficient for financial restitution when restitution in kind is not possible, the government issued bonds in January 2023 worth about EUR 40.14 million with maturities of 5, 10 and to be 12 years. It also provided claimants with an initial cash advance as a form of compensation. This is expected to be done annually until the process is completed.

In April 2023, the government established the Council for monitoring implementation of the strategy and action plan on **non-discrimination**, which is chaired by the Minister for Human and Minority Rights and Social Dialogue and composed of representatives of the relevant institutions and CSOs. Serbia has yet to adopt a national housing strategy addressing non-discrimination in terms of housing policies and taking into account the 2016 report of the UN Special Rapporteur on adequate housing. The 2022 report of the Commissioner for the Protection of Equality indicates an increase in the number of citizen complaints (2021: 1 372; 2022: 1 879), and in the number of recommendations issued by the Commissioner to public bodies (2021: 312; 2022: 412). The percentage of Commissioner recommendations that were implemented remained high (2021: 82%; 2022: 88%). The Parliament needs to timely react to the requests of the Commissioner so that her Office can be provided with adequate human resources, in line with the staff systematisation decision. Further work is still required to fully align the Law on the prohibition of discrimination with the EU *acquis*, and in particular Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, as well as with European standards. The criminal code relating to prohibition and punishment of criminal racial acts has yet to be aligned with the EU *acquis*. Hate speech, threats and violence continued to target human rights defenders, the Roma community, and lesbian,

gay, bisexual, transgender, intersex and queer (LGBTIQ) persons. The Commissioner for Equality reported cases of attacks and threats against migrants organised by extremist and far-right groups, as well as attacks based on hatred and ethnic identity.

Following the previous adoption of a strategy and action plan on **gender equality**, the Coordination Body for gender equality was re-established in October 2022 and includes an expert group with representatives of both public authorities and CSOs. The Council for Gender Equality was established in April 2023. Several provisions of the Law on gender equality, including those on reporting and data collection obligations and on funding of specialised services, will enter into force only in 2024. No progress has yet been demonstrated in enforcing the Law on gender equality as regards the obligations of education institutions to include the gender perspective and remove gender stereotypes from curricula, textbooks and learning materials. Moreover, eighth grade biology textbooks were modified in October 2022 following the conclusion of the National Educational Council that ‘no interpretation of a programme can contain elements of ideology’. The Ministry of Education claimed that, despite the modifications, the revised textbooks still contain the concept of gender equality and the prohibition of discrimination. An increased number of budget users introduced gender-responsive budgeting in their 2023 budgets. More efforts are needed to collect official sex-disaggregated data and statistics, which are lacking in several domains. In 2022, the Commissioner for the Protection of Equality reacted with statements and warnings on several cases of discriminatory attitudes and verbal violence against women, including by public figures. Roma women, older women, poor women, women with disabilities, refugee and internally displaced women, continue to experience multiple and intersecting forms of discrimination. These women continue to have limited access to health, education, employment, and social assistance, and they lack protection from gender-based violence. The role of the media in the production and reproduction of gender-based violence and gender stereotypes is still a source of concern, including when representing women victims of femicide or women in governing or decision-making roles. Discriminatory attitudes and verbal violence against women were expressed by Members of Parliament and other public figures.

The action plan and related funding for the April 2021 strategy against violence against women and domestic violence are now significantly delayed. A new, third, action plan for the implementation of UN Security Council Resolution 1325 on Women, Peace and Security has yet to be adopted following the expiry of the previous one in 2020. Implementation of the law against domestic violence needs to be improved. An integrated system must be set up for collecting and monitoring cases of violence disaggregated by type of violence and by relationship between perpetrator and victim. Serbia still lacks reliable official statistics but it is estimated that 27 femicides occurred in Serbia in 2022 and 20 in the first half of 2023. In its 2019 baseline report on Serbia, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) made recommendations that have yet to be addressed. One such recommendation is to amend the definition of rape in the criminal code to comply with the Istanbul Convention ratified by Serbia. A more comprehensive response is needed to all instances of violence against women covered by the Istanbul Convention, including rape, stalking, sexual harassment and forced marriage. The very few support services for these cases of violence are predominantly run by CSOs and operate on a limited budget. The transparency and fairness of public funding in this area needs to be demonstrated; an evaluation of the outcome of completed projects is also needed (*see also civil society*). Police protocols do not mandate cooperation with specialist support services or the routine referral of victims, resulting in the underuse of existing CSO expertise. The law against domestic violence does not assign women’s CSOs a standard role in drawing up individual protection plans, as recommended by GREVIO, but leaves their participation to the discretion of the relevant

prosecutor's office. The legal provision offering victims the possibility to participate in the creation of individual protection plans needs to be enforced. Even though there are 11 functioning safe houses in Serbia for victims of gender-based violence, they are understaffed and lack sustainable and adequate funding and capacity, in terms of housing capacity, accessibility, and geographical spread. Attention needs to be paid to ensuring equal access to safe houses for all women, including refugee and migrant women, transgender women and women from other marginalised groups. Appropriate funding is needed to ensure implementation of the national programme for safeguarding and improving sexual and reproductive health, and access to quality services in this area.

On the **rights of the child**, the Council on the Rights of the Child, the coordination body in charge of monitoring the strategy for the protection of children from violence, was re-established in March 2023; it has yet to be supported by a technical body and a cross-sectoral group to enable the effective coordination and monitoring of this strategy. No annual implementation report has been published since the adoption of the strategy in 2020. No national action plan for the rights of the child is in place since the expiry of the previous one in 2015. Further work is needed to implement the 2017 recommendations of the UN Committee on the Rights of the Child. Serbia has yet to ratify the UN Convention on the Rights of the Child's third optional protocol on a communication procedure, which it signed in 2012. Serbia needs to address the recommendations of the Lanzarote Committee on the effective implementation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention), which it ratified in 2012. Serbia also needs to amend its family law to explicitly prohibit corporal punishment of children in the family and to ban child marriage. Upgraded sectoral protocols are needed following the previous adoption of a general protocol for the protection of children from abuse and neglect. The Law against domestic violence needs to be amended to ensure that every child who is a witness or victim of domestic/partner violence is always included in the court's individual protection plan. A new Law on juvenile offenders and protection of minors in criminal proceedings has yet to be adopted to align with the EU *acquis* and international standards. Child offenders with mental health problems do not have sufficient access to mental health and psychosocial support services. The principles of the best interests of the child and child participation are yet to be properly operationalised in all court and administrative proceedings. Statistical data on vulnerable groups, including Roma children and children with disabilities, is still not disaggregated. Reliable and comparable data disaggregated by age and sex is essential for addressing violence against children. Although a relatively small number of children are placed in institutional care (under 100 children per 100 000 children), violations of child rights in large-scale institutions remain a concern. Children with disabilities, who are vulnerable to multiple forms of exclusion and abuse, constitute the largest group of children in institutions as they are over-represented (70%) among children living in residential large-scale institutions. Despite a moratorium being in place to prevent institutionalisation of children aged 0-3, this continues to occur, which constitutes a serious cause for concern.

On the **rights of persons with disabilities**, Serbia has yet to adopt implementing legislation for the December 2021 Law on temporary social care residents. There is still no legal basis for ensuring that placement decisions in care homes are subject to regular court reviews. Deprivation of legal capacity procedures need to be changed to strengthen the position of the individuals concerned, as noted in the 2022 CPT report. Amendments to the Family Law, aimed at abolishing the existing system of complete deprivation of legal capacity, as planned by Q2 2021 in the Chapter 23 action plan, have yet to be adopted. An implementation report for 2022 on the strategy for the rights of persons with disabilities has yet to be published. The action plan and related funding for the January 2022 strategy on deinstitutionalisation are now

significantly delayed and, as a consequence, community-based services have yet to be further developed. Deinstitutionalisation needs to be prioritised by the authorities. Women with disabilities in residential institutions continue to face gender-specific forms of violence. Funding for developing community-based services, and for supporting licensed service providers and social services, remains insufficient.

As regards the **rights of lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons**, a Pride march took place in Belgrade in September 2023 without incidents. There were no developments on the draft law on same-sex partnerships initiated by the Ministry of Human and Minority Rights and Social Dialogue, nor on the Ombudsman's recommendation to regulate legal gender recognition, as already planned in the previous anti-discrimination strategy. The Ministry for Human and Minority Rights and Social Dialogue established cooperation with a CSO that organised training sessions for employees of the Ministry to strengthen their capacities on issues faced by intersex persons. Difficulties remain, especially in smaller municipalities, in implementing amendments to the Law on birth registry, which enable data on gender changes to be entered into the registry. The implementation of hate crime legislation, including on grounds of sexual orientation, remains inadequate. The premises of the Pride Info Centre in Belgrade were subject to multiple attacks during the reporting period. Centralised official data on hate crimes, broken down by bias motivation, is still lacking. Due to a lack of trust in institutions and fear of secondary victimisation, cases of violence and discrimination towards LGBTIQ persons are often unreported. Transgender persons are particularly vulnerable to violence, abuse and discrimination. Intersex persons remain invisible both socially and legally. The lack of adequate mental health services for LGBTIQ persons became particularly visible during the COVID-19 pandemic and is still a concern.

Concerning **procedural rights**, the legal framework remains only partially aligned with the EU *acquis*, notably as regards procedural rights of suspects and accused persons in criminal proceedings and the rights of victims and their family members. In this context, legislative changes are planned by the strategy and action plan on the rights of victims and witnesses of crime, and on the rights of suspects, but the implementation of the strategy has proceeded at a slow pace since its adoption in 2020, as amendments to the Criminal Procedural Code have not yet been adopted. The victim focal points at public prosecution offices and the victim support services at high courts still need to be established by the State. Victim support is provided to a limited number of victims by local CSOs not funded by the authorities; these usually include specifically vulnerable victims of crime, such as victims of trafficking in human beings or gender-based violence, and children. No effective referral mechanisms exist so far between the institutions. During the criminal procedure, victims are guaranteed the right to access justice and to testify. Victims who have been granted the status of specifically vulnerable victim have the possibility to testify in special, secluded premises in court houses during trial, in order to avoid physical contact with the perpetrator. In practice, and as only five of the 25 high courts have been equipped with special rooms where testimonies can be provided via audio/video link, for cases where the law entitles them to this protection, victims are not always protected from having to face the accused during proceedings. The number of decisions rendered on compensation claims within the criminal justice procedure is growing at a very slow pace. No state-run compensation fund is available for victims of crime.

Regarding **access to justice**, there is a need to further raise awareness of the availability of legal aid among the most vulnerable and marginalised individuals. This also needs to take into consideration the recommendations to Serbia from the Committee of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) regarding women's access to justice in all cases of gender-based discrimination. CSOs continued to provide

information and support to beneficiaries. In the third year of implementation of the Law on free legal aid, local services in municipalities approved 95% of free legal aid requests. The Ministry of Justice shared a template on necessary documentation with all local self-government units. There is a need to improve the existing capacity and cooperation between different service providers, including through training courses on application of good governance and anti-discrimination standards in decision-making. An analysis of the necessary amendments to the Law on free legal aid was finalised, but the revision of procedural laws, the law on court fees and the tariff regulation has been delayed.

The legal framework for respect for and protection of **minorities** and cultural rights is broadly in place and generally upheld, in line with the Council of Europe Framework Convention on National Minorities. Implementation of Serbia's '*Action plan for the realisation of the rights of national minorities*' and relevant legislation needs to lead to a tangible improvement in the effective exercise of the rights of individuals belonging to national minorities throughout the country. Serbia needs to address the recommendations contained in the fourth opinion of the Council of Europe's Advisory Committee for the Framework Convention. Among other actions, it still needs to set up a sustainable data collection framework and to revitalise inter-ethnic relations, taking into account the need to involve the majority in Serbian society in integrating and including national minorities. All new national minority councils were constituted following the elections held in November 2022, except the Albanian one which was constituted after repeat elections held in May 2023. Following these elections, the working group in charge of drafting the new action plan in this area, including representatives of National Minority Councils, was reappointed. A new population census was conducted in October 2022, preceded by translation of census questionnaires into languages of national minorities and awareness-raising campaigns. The proper functioning and independence of national minority councils remain important. The Ministry for Human and Minority Rights and Social Dialogue maintained good cooperation with national minority councils. The amounts allocated under the Fund for the National Minorities for 2023 remained the same as in 2022. Members of the Albanian national minority raised concerns about the way police were checking residence status in South Serbia, resulting in the 'passivisation' of certain addresses; there is a need for the authorities to better explain to the public how these checks are being conducted and whether South Serbia is specifically targeted. Following a dialogue between the authorities and representatives of Albanians living in South Serbia in the framework of the 'Seven Points Action Plan', an action plan for improvements in the representation of Albanians in institutions was prepared but has yet to be adopted. Local councils for inter-ethnic relations exist in all 73 municipalities where such an obligation is stipulated by the law; however, the full implementation of their mandate has yet to materialise as council members have not always been nominated or councils often do not meet. Despite the legal obligation to take into account the ethnic composition of the population, national minorities remain under-represented in the public administration. The new public employees register, with the voluntary option of declaring national affiliation for statistical purposes, is not yet operational.

Progress on printing certain textbooks in minority languages needs to be further intensified, in line with the Chapter 23 interim benchmark. The process of preparing and printing textbooks continued and produced positive results. The publication of textbooks in some minority languages for use in secondary schools remains limited. The monitoring of the implementation of curricula for teaching Serbian as a non-mother tongue in pilot schools is ongoing. Access to religious worship in minority languages has yet to be enabled throughout Serbia. Public broadcasting services in minority languages are still not sufficient, except for some local broadcasters in Vojvodina. Following the process of media privatisation, such broadcasting needs to be made sustainable, taking into account the April 2021 recommendations of the

Committee of Ministers of the Council of Europe to ‘closely monitor the impact of the privatisation process on minority media’ and to ‘take the necessary measures to preserve sustainable editorial and financial independence of all minority media, including those linked to national councils of national minorities’ (*see also public service broadcasters*). There have been instances of hate speech against national minorities in the media. An appeal procedure is still ongoing before the Constitutional Court following the confirmation, in December 2021, by the appellate court of the decision of the Higher Court to reject a lawsuit filed by the president of the Albanian National Minority Council against a minister for the alleged use of hate speech. In March 2023, the Commissioner for Equality reacted publicly to the statement of one mayor targeting the Roma minority, criticising it as discriminatory.

Regarding **Roma inclusion**, robust monitoring and data collection is needed to implement the new strategy and action plan and to support Serbia in delivering on the commitments made in the Poznan Declaration - signed at the Western Balkans Leaders’ Summit in July 2019 - including its quantitative targets, as updated at the October 2022 Roma Ministerial meeting. In June 2023, Serbia established a coordination body chaired by the Prime Minister. An expert group to support the monitoring of the strategy and action plan has yet to be established. Inter-ministerial coordination, coordination between the national and local authorities, and Roma-sensitive budgeting all still need to be strengthened. Job descriptions for local Roma coordinators, pedagogical assistants, and health mediators have yet to be unified and become an integral part of local self-government services, with additional financial resources.

Most Roma people in Serbia have civil documentation. The number of individuals at risk of statelessness in Serbia fell significantly to 2 000. The procedure for registering all births, regardless of the parents’ status, needs to be implemented effectively and monitored. In the area of education, Roma students in elementary and secondary education continued to receive scholarships through affirmative measures. School dropout rates remain high, especially for Roma girls. Only 7% of Roma children up to 5 years of age attend preschool, compared with 61% in the general population. Only 28% of children living in Roma settlements enrol to upper secondary education, and the rate of completion of secondary school is 61% (overall population 98%), while that rate is the lowest for girls from Roma settlements (49%). Segregation in education needs to be addressed. Roma students are still over-represented in special schools and classes. Transition from education to the labour market is especially challenging for young Roma people. The national programme for transforming undeclared work among Roma has yet to be adopted to support the Poznan Declaration’s objective on employment. Following the adoption of the Law on social entrepreneurship, which is expected to encourage formal work of the Roma, registration of the status of social enterprises is possible since November 2022. As of June 2023, 11 social enterprises had registered. A total of 44 young college-educated Roma have completed training courses at the National Academy for Public Administration since the start of this programme in 2021. Another 26 Roma men and women have so far been employed in local self-governments following a public call launched in 2022. Overall, the Roma are still under-represented in the public administration.

Almost 20% of the population of the Roma settlements that were mapped have no or irregular access to safe drinking water, while over 55% have no or irregular access to sewer networks, and 14.5% have no or irregular access to electricity. The legalisation of Roma settlements needs to be tackled as a matter of priority as required by the Poznan Declaration, notably by updating and sharing the database on settlements and assigning staff to manage it effectively. Forced evictions are still taking place, which is not in line with the Law on housing or international standards. This Law needs to be implemented effectively, especially the provisions prescribing housing support and relocation of informal settlements. Roma returnees under readmission

agreements are in a particularly difficult situation in terms of social and economic inclusion. Limiting the number of children eligible for parental and child allowance, and conditioning the parental allowance on certain criteria, such as school attendance and vaccination of children, are disproportionately affecting Roma children and families. Children of Roma origin are over-represented among child offenders, in particular among children referred to educational/correctional institutions. Although child marriage is not common in the general population in Serbia, early and child marriage remains an issue of concern among Roma girls living in settlements; 56% of women aged 20-24 in Roma settlements were married before age 18 and 16% before age 15. Domestic violence also often goes unreported.

There are 194 662 **internally displaced persons** (IDPs) in Serbia, of whom 68 500 remain vulnerable and with displacement-related needs. The closure of the last collective centre in Bujanovac is ongoing. The strategy on IDPs expired in 2020; a new strategy and action plan need to be adopted. The Law on permanent and temporary residence needs to be consistently applied to allow Roma IDPs living in informal settlements to obtain registered residence and access to basic socio-economic rights. Roma IDPs remain the most marginalised and vulnerable. Serbia is engaged in the regional dialogue on ‘durable solutions for displaced persons from Kosovo’ (the ‘Skopje process’).

2.2.2 Chapter 24: Justice, freedom and security

The EU has common rules for border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails the lifting of border controls inside the EU. Member States also cooperate with Serbia in the fight against organised crime and terrorism, and on judicial, police and customs matters, all with the support of EU justice and home affairs agencies.

Serbia has **some level of preparation** to implement the EU *acquis* on justice, freedom and security. **Some progress** was made in addressing last year’s recommendations, in particular through the adoption of the Schengen action plan in July 2023 and further alignment with the EU’s visa policy by reinstating visa requirements for six countries. The Law on internal affairs has twice been withdrawn from the legislative process and is now once more under revision. The proposed law must address the long-pending issue of police autonomy from the Ministry of the Interior during pre-investigation and investigation phases, and the recommendations of the Council of Europe Committee for the Prevention of Torture (CPT).

Serbia contributed to the management of the mixed migration flows towards the EU and cooperated with the EU, EU Member States and its neighbours to implement the EU Action Plan on the Western Balkans presented by the Commission in December 2022. Efforts continued to host and accommodate substantial numbers of third-country nationals, with EU support. Serbia extended for one more year until March 2024 temporary protection to Ukrainian citizens having fled Russia’s war of aggression against Ukraine.

Serbia continued to implement the EU-Serbia readmission agreement and to carry out border control and surveillance effectively. Implementation of the new integrated border management strategy for 2022-2027, with its 2022-2024 action plan, is delayed. The IBM Coordination Body was appointed in June 2023. Access to and provision of information regarding the asylum procedure has yet to be improved, in particular at the airports in Nis and Kragujevac. Serbia needs to further align with the EU’s visa policy as set out in the Commission’s sixth report under the visa suspension mechanism of October 2023. The Government proposed amendments to the Law on citizenship that provided the possibility to apply for Serbian citizenship after only a short period of residence and work. While the EU respects the sovereign right of Serbia to decide on its citizenship and naturalisation policies, the Commission has

expressed its concerns to the competent Serbian authorities as regards the possible security risks for the EU linked to the fast-track acquisition of visa-free travel rights for nationals of countries that would be otherwise visa required. Following the concerns raised by the EU the Government has withdrawn the proposal. Serbia needs to adopt a new strategic document and accompanying action plan that cover all forms of radicalisation and violent extremism (irrespective of political, religious or ethno-nationalist so-called justification), in line with EU policies. A baseline study on all forms of radicalisation and violent extremism present in Serbia was adopted in October 2023.

In the coming period, Serbia should in particular:

- amend the Law on internal affairs to make the police fully autonomous from the Ministry of the Interior and fully accountable only to the Prosecutor's Office during pre-investigation and investigation phases;
- further implement the EU Action Plan on the Western Balkans, in particular by swiftly concluding the negotiations for a new Status Agreement with Frontex; further aligning with the EU visa policy; taking measures to systematically register and identify migrants, develop swift asylum procedures and increase capacities for managing effective return operations;
- adopt a national strategy for the prevention and suppression of trafficking in human beings and the protection of and support to victims, and increase national coordination efforts against trafficking.

In 2020, Serbia adopted a revised action plan for Chapter 24. It sets out Serbia's commitments, including in terms of timelines, for meeting the interim benchmarks of the EU common position for this chapter. In general, indications of delays in this report are measured against the deadlines established by Serbia in these revised action plans. The Ministry improved the practice of publishing reports on the implementation of the action plan for Chapter 24 with the timely publishing. The latest report covers the period July-December 2022. From February 2020 to November 2021, no meetings were held between the negotiating group for Chapter 24 and civil society organisations under the umbrella of the working group for Chapter 24 of the National Convention on the European Union. The meetings then restarted. After November 2021, only one such meeting was held (July 2022).

Fight against organised crime

Serbia has **some level of preparation** in the fight against organised crime. **Limited progress** was made in addressing last year's recommendations, in particular on detection and prevention of migrant smuggling and trafficking in human beings. A slight increase in financial investigations and confiscation of assets was also noted in 2022. The number of new investigations and indictments increased; first instance and final convictions (in particular money laundering) decreased. Extended confiscation is not systematically applied. Proactive criminal investigations and the systematic tracking of money flows, especially in cases of inexplicable wealth, are still not common practice. There has so far been insufficient follow-up in terms of investigation and prosecution to the recent attacks in the north of Kosovo. However, the understanding and the investigation approach has improved, and police, prosecutors and criminal judges are aware of the importance of consistently applying a 'follow the money to find the crime' approach and using circumstantial evidence. Serbia needs to align its legislation with Directive (EU) 2018/1673 on combating money laundering by criminal law.

Serbia has yet to conduct an analysis of the roles and practices of security services and of the National Security Council in carrying out criminal investigations related to serious and organised crime, although preparatory works have started.

There is well-established cooperation with CEPOL, Eurojust, Europol and INTERPOL, notably on weapons trafficking, drugs trafficking, and the fight against high-profile organised crime groups.

Serbia needs to further increase the technical, financial and human resources capacity of the Prosecutor's Office for Organised Crime to perform its duties in an independent manner (including premises to accommodate new staff).

Serbia should adapt its approach from one based on cases to a strategy against criminal organisations, and from focusing on cases of low or medium importance to high-profile cases aiming at dismantling big and international organisations and seizing assets.

In the coming period, Serbia should increase its efforts to address these shortcomings and:

- increase the efficiency of prosecution of serious and organised crime cases, including cases of money laundering, and the seizure and confiscation of criminal assets by systematic tracking of money flows, the efficient use of special investigative measures and the systemic use of extended confiscation;
- amend the criminal code in order to criminalise effectively the trafficking of weapons; adopt the new Law on weapons and ammunition; step up the fight against the storage, sale and ownership of illegal firearms;
- take concrete steps to ensure a clear separation of the mandates and regulations concerning the interception of communications for criminal investigation on the one hand, and for security purposes on the other.

Institutional set-up and legal alignment

In Serbia, there are 439 police officers per 100 000 inhabitants, compared with an EU average of 335.3 (Eurostat, 2019-2021). The Prosecutor's Office for Organised Crime (POOC) still needs to recruit three prosecutors to fill all 25 posts, a number which itself is insufficient, considering that Serbia has a prosecution-led pre-investigation and investigation system. There is a need to develop a 'systematisation rulebook' on the basis of a baseline analysis, which takes into consideration the extended jurisdiction and powers of this office. Furthermore, this office should be given more technical resources to carry out relevant special investigative measures, such as covert interception of communication autonomously and independently. POOC should be more accountable to the public concerning its activities and should provide feedback when deciding not to proceed with investigation, or to dismiss a case. The working conditions of general competence prosecutors' offices should be improved across the country.

Serbia has yet to conduct an analysis of the roles and practices of security services in investigations into serious and organised crime cases. The current criminal procedure code provides for covert interception of communication to be executed also by the Security Information Agency (BIA) and the Military Security Agency. This should be subject to an analysis to see whether it is in line with EU best practices. The use of security services in criminal proceedings should be forbidden or limited to exceptional cases regarding the interception of communications. A clear separation needs to be made between the remits and regulations for criminal investigations and those for security purposes.

Concerning **trafficking of weapons**, the same provision in Serbia's legal framework on weapons-related offences covers actions relating to trafficking of weapons and to illegal

possession and other less relevant actions. Hence, it is not possible to distinguish the number of convictions relating to trafficking in weapons from those related to illegal possession and other offences. Analysis by the UN Office on Drugs and Crime of the alignment of legislation with the UN Firearms Protocol confirmed that the criminal code needs to be amended to appropriately criminalise the trafficking of weapons. The working group on amending the law continued its activities and proposed amendments to Article 348 of the criminal code.

Intensified efforts are evident related to the alignment of legislation with the EU *acquis*. However, some additional activities would need to be carried out in line with the Regional Roadmap to better control of SALW in the Western Balkans, such as awareness raising, outreach and education on the dangers and risks related to the misuse, illicit possession, and trafficking of firearms/SALW.

Operationalisation of the Firearms Focal Point (FFP) continued during 2022 and remains to be made fully operational.

The 2017-2022 strategy for prevention and suppression of **trafficking in human beings**, especially women and children, and protection of victims expired, without ever an action plan being adopted. The report on the implementation of the expired strategy and its external evaluation were finalised. The Council for Combating Human Trafficking has not held a session for almost four years. The Centre for protection of victims of human trafficking is operating. The shelter part of the centre obtained the license and is fully functional. The Ombudsman's reports to the Centre for protection of victims successfully resulted in positive identification of 62 victims. However, the Ombudsman noted the lack of a systematic approach by the competent state authorities combatting trafficking in human beings and the lack of timely protection and assistance to victims, including a large number of children.

Legislative alignment on the **environmental liability and environmental criminal law** *acquis* has not progressed.

The legal framework is still insufficient to guarantee the operational autonomy of the police from the Ministry of the Interior during the pre-investigation and investigation phases, in order to be fully accountable only to the prosecutor. The new Law on internal affairs will have to address this issue as well as the recommendations of the CPT.

Media relations, including press releases on ongoing investigations and trials, are still managed mainly by politicians and representatives of the Ministry of the Interior and not by the prosecution service and/or the police. The prosecutors' offices (especially the Supreme Public Prosecutor's Office) needs to improve its external relations capacity, including relations with media. Government officials, including some at the highest level, and Members of Parliament, continue to comment publicly on ongoing investigations or court proceedings, as well as on the work of individual prosecutors and judges. Such comments are in contradiction with the code of conduct of Members of Parliament. Several media outlets made public leaked information on ongoing investigations, including defendants' statements on alleged links between politicians and organised criminal groups, creating undue pressure on individual members of the judiciary or the prosecution service.

The 2022-2024 action plan for implementing the anti-money laundering/counter-financing of terrorism (AML/CFT) strategy for 2022-2024 was adopted by the government in March 2022. The Reports on the implementation of the Action Plan for 2022 and the first quarter of 2023 have been prepared. The Coordination Body for the Prevention of Money Laundering and the Financing of Terrorism (AML/CFT Coordination Body) is responsible for monitoring implementation of the AML/CFT strategy and for reporting on implementation of the action plan. It is chaired by the Minister of Finance, and comprises members representing

23 institutions/authorities/bodies. The Ministry of the Interior's Financial Investigation Unit (FIU) carries out the functions of Serbia's **Asset Recovery Office (ARO)** relating to the exchange of police data in line with the EU *acquis*. In order to be fully operational and to cooperate effectively with the asset recovery offices of EU Member States, it will require access to all relevant databases in Serbia. This should be enabled through interoperability of the relevant databases at national level. The ARO would need to have a fully operational centralised case management system in place, compatible with the prosecutors' case management system (SAPO) and investigative software (SIDDA/SIDNA). In 2022, a total of 9 156 messages were exchanged via SIENA (8 087 in 2021) and a total of 538 messages were exchanged via CT SIENA (110 sent and 428 received).

The Financial Investigation Unit of the Ministry of the Interior received a total of 372 requests for financial investigations from the competent Serbian Prosecutor's Offices in 2022 (188 in 2021). During the same period, the FIU implemented 498 orders on prohibition of disposal of property and on temporary confiscation of movable property (230 in 2021).

Established within the Service for Special Investigative Methods (SSIM) of the Criminal Police Directorate, Serbia's Fugitive Active Search Team (FAST) is considered to be one of the most proactive and reactive units within the European Network of Fugitive Active Search Teams (ENFAST). According to feedback from the 37 countries participating in ENFAST, FAST Serbia is highly ranked in the entire network both by the number of arrests carried out in Serbia (following police cooperation requests disseminated by other FAST units) and arrests executed abroad (based on police cooperation requests produced by FAST Serbia).

Serbia uses SOCTA (Serious and Organised Crime Threat Assessment) to set operational priorities for fighting organised crime. The Ministry of the Interior prepared the national SOCTA for the period 2020-2023.

In Serbia, the police services still lack a shared case/workflow management system, connecting all institutions and giving them access to a common database. A comprehensive analysis of the state of play of business processes in the Ministry of the Interior and other institutions in charge of combating organised crime has been made. Work is ongoing to formulate a conceptual model of the case management system.

The centralised case management system for prosecutors (SAPO) needs to become fully operational. Since the SIDDA/SIDNA investigative software cannot run at full capacity because not all relevant data reaches it, technical and legal preparations progressed for a single centralised criminal intelligence system (NCIS).

Serbia should urgently assess the interoperability of the information systems and databases of all national law enforcement agencies and units before making any further purchases and improvements.

Implementation and enforcement capacity

As regards the **track record in organised crime**, the data provided by Serbia shows a mixed picture: the number of new investigations and indictments increased while first instance and final convictions decreased.

The number of new investigations increased in 2022. Investigations were initiated against 176 individuals compared with 130 in 2021 (110 in 2020). The number of indictments increased in 2022: 127 individuals were indicted compared with 100 in 2021 (108 in 2020). The number of first instance convictions decreased in 2022: first instance convictions were

rendered against 13 individuals compared with 46 in 2021 (127 in 2020). The number of final convictions decreased in 2022: 96 individuals were convicted in 2022 compared with 98 in 2021 (72 in 2020).

Under general jurisdiction, the data that Serbia has provided show that, in 2022, new investigations were initiated against 2 392 individuals (2 206 in 2021) and 8 595 indictments have been issued (8 165 in 2021). First instance judgments were rendered against 7 291 individuals (5 461 in 2021) and final convictions were rendered against 6 636 individuals (5 788 in 2021).

The number of final convictions is still low. Some trials, such as those of Saric, Belivuk, Jovanjica, are ongoing.

In case of recent attacks in the north of Kosovo there has been either no follow-up at all by Serbian prosecution (in case of the attack against KFOR of 29 May in Zvečan/Zvečan) or a very limited one (in case of the attack on Kosovo Police of 24 September). Perpetrators have not yet been brought to justice.

A comprehensive analysis of the effectiveness of the criminal justice system was done, which was submitted to the Ministry of Justice, and which will form the basis of the work of the Working Group for Amendments to the Criminal Procedure Code.

Cooperation and coordination among law enforcement agencies still needs to be strengthened. Measures in the criminal procedure code designed to prevent the excessive delay in proceedings need to be applied more systematically.

The use of plea agreements needs to be carefully balanced against the need to avoid any impression of impunity in serious and organised crime cases.

Currently, there are three active task forces – for combating organised crime and other particularly serious crimes, for combating crimes against legal traffic with elements of organised crime and for combating human smuggling. They are headed by public prosecutors for organised crime, the members of which include representatives of all competent state authorities.

Concerning **international police cooperation**, there is well-established cooperation with CEPOL, Eurojust, Europol and INTERPOL, including on high-profile organised crime cases.

There is a continuously increasing use of the secure communication channel SIENA (both in terms of exchanged messages and initiated cases) in the last three years. Statistics for 2022 point to the same positive trend: in 2022, a total of 9 156 messages were exchanged via SIENA (8 087 in 2021).

Serbia actively participates in the European Multidisciplinary Platform Against Criminal Threats (EMPACT). In 2022, Serbia participated in 67 operational actions and was a co-leader of one operational action (in the operational action plan (OAP) on cannabis, cocaine and heroin). In 2023, Serbia is participating in 64 operational actions while being a co-leader of two operational actions (in the OAPs on cocaine, cannabis and heroin and in the OAP on migrant smuggling). Serbia continued to participate in the EMPACT joint action days. For the time being, the Serbian police refrained from taking part in the activities where Kosovo is mentioned as an operational action leader or co-leader.

Cooperation between Serbia and the EU Agency for Law Enforcement Training (CEPOL) is well established and based on a working arrangement. A dedicated contact point is in place. Serbia has full access to the CEPOL Exchange Programme as well as to CEPOL's free-of-charge electronic learning system LEEd. It is recommended that authorities of Serbia, with the

assistance of CEPOL, design, prepare and organise targeted training to address firearms trafficking and environmental crime as priority training topics at national level.

Financial investigations are not a regular practice in every criminal investigation even if the situation has improved. Proactive criminal investigations are needed, including pre-seizure planning and a systematic tracking of money flows, aimed not only at asset recovery, but also at gathering circumstantial evidence of inexplicable wealth. In 2022, financial investigations were initiated in 145 cases (128 in 2021). In 2022, there were temporary confiscations in 5 cases and 4 cases of final **confiscation of assets** (6 temporary and no final confiscation in 2021). In the first half of 2023, four final decisions on temporary and four final decisions on permanent confiscation of property resulting from a criminal activity were made.

Extended confiscation is not systematically applied. However, even though results are yet to be seen, understanding and the investigation approach has improved and prosecutors are aware of the importance of consistently applying a ‘follow the money to find the crime’ approach. This should lead to better results in the future in both track records of final convictions and the track record of seizure and confiscation of assets.

Recommendations from last year’s report are still relevant, concerning analysis of the Law on the seizure and confiscation of the proceeds of crime and the manner in which financial investigations are conducted. The criminal procedure code (CPC) and the 2016 Law on seizure and confiscation of proceeds of crime (LSCPC) do not make a clear distinction between direct confiscation systems (‘material gain’ under the criminal code/CPC) and extended confiscation (‘assets’ under the LSCPC). A serious limitation to the application and effectiveness of the LSCPC lies in the fact that it only applies to a limited number of criminal offences and only if a certain threshold of material gain is reached. Third-party confiscation is not systematically used, in part because the LSCPC only allows it when assets have been transferred firstly for a manifestly inadequate price and secondly with the aim of preventing seizure. Furthermore, the law does not provide for a rebuttable presumption of fraudulent transaction (thus liable to third-party extended confiscation) when assets are transferred from the accused to a close family member. The provisions of the Law reduce the effectiveness of extended confiscation.

In practice, to establish that assets are disproportionate to lawful income, prosecutors, financial forensic experts and the Financial Investigation Unit frequently rely on open-source databases such as the land registry, tax administration, or city heating records. This approach does not involve a full forensic analysis of defendants’ property and hardly provides an accurate picture of a defendant’s lifestyle. Without an in-depth investigation or a lifestyle analysis, spending by the defendant may remain hidden (e.g. travel, buying of movable goods) which would otherwise reveal the assets to be more disproportionate to the defendant’s lawful income. The proactive role of the judges in following and encouraging this approach is therefore essential.

In 2022, 35 people were convicted for **illegal crossing of the state border and migrant smuggling** (29 in 2021) in the context of organised crime, and 89 under general jurisdiction (71 in 2021). Six organised criminal groups with a total of 52 suspects were prosecuted and 869 migrants identified.

As in the previous 2 years, no individuals were convicted for **trafficking in human beings** in the context of organised crime in 2022, whereas under general jurisdiction, 9 individuals were convicted (15 in 2021).

There were 14 convictions for mediation in prostitution related to trafficking in human beings under organised crime jurisdiction and 11 (3 in 2021) under general jurisdiction. Given the migratory flows through its territory, Serbia needs to build the capacity to detect possible third-country victims of trafficking in human beings.

In 2022, none of the victims of trafficking in human beings was granted a status of an especially vulnerable witness. It is essential to provide victims of trafficking in human beings with proper protection during trials, including granting them the status of an especially vulnerable witness. This is important not only to avoid re-victimisation but also to collect evidence of force, threat or exploitation, as required by the criminal code for this offence.

In 2022, the Centre for the Protection of Trafficking Victims received 138 new reports on potential trafficking victims; it formally identified 62 victims. Sexual exploitation is still the most dominant form (55%), followed by forced begging at 12.9%, multiple exploitation at 11.3%, forced marriages at 9.5% and labour exploitation at 6.4%. The percentage of children among the victims is extremely high and amounts to 40%. The majority of victims are Serbian. Foreign victims identified in 2022 were all women, from Bosnia and Herzegovina, Uganda, Cameroon, Congo and Tunisia.

Since autumn 2021, CSOs have been publicly drawing attention to a case of potential trafficking in human beings for the purpose of labour exploitation concerning Vietnamese workers, referring to alleged ‘deceptive’ and ‘coercive recruitment’ practices, such as debt bondage, and ‘coercion at destination’, such as confiscation of passports. No progress has been reported on this issue.

In 2022, five individuals (none in 2021) were convicted for **weapons-related offences (including trafficking in weapons)** in the context of organised crime. In 2022, 999 people were convicted in courts of general jurisdiction (735 in 2021).

The new draft law on weapons and ammunition, aiming at further alignment with the EU *acquis*, was finalised during the reporting period, and adoption is pending.

The strategy for small arms and light weapons control (2019-2024) is being implemented, as are related international obligations arising from the roadmap for a sustainable solution to the illegal possession, misuse and trafficking of small arms and light weapons and ammunition in the Western Balkans. The accompanying 2-year action plan (2019-2020) expired and a new one was prepared and submitted in July 2023 for public/e-consultation. As a follow-up to the mass shooting events that took place at the beginning of May 2023, Serbia, with technical assistance from the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), implemented another legalisation campaign. By 1 June, 41 376 firearms, 11 123 explosive devices and more than 2 million rounds of ammunition were handed over, which is more than 10 times the number of firearms turned in during four similar legalisation campaigns implemented between 2015 and 2020.

The instruction on the way of handling weapons, ammunition and explosive devices found on the crime scene by authorised officers and the Protocol for securing weapons found at the crime scene were adopted in May 2022.

The application “Stolen and missing weapons” is operational and regularly updated.

The ballistic laboratory is in the process of accreditation, expected in 2023.

The 2019-2023 strategy and action plan for the **fight against cybercrime** are being implemented. Training was given to strengthen the operational capacity of the Special Prosecutor’s Office for Cybercrime. More human resources are needed for investigations into credit card, e-commerce and e-banking abuses, and for combating illicit and harmful content on the internet.

In 2022, a total of 5 630 criminal cases were submitted to the Special Prosecutor’s Office for High-Tech Crime. During the reporting period, requests for gathering necessary information

were submitted against 196 individuals, investigation/evidential actions were undertaken against 245 individuals, indictment acts were filed against 108 defendants, and 94 defendants were convicted.

Concerning the ‘showing, procuring and possession of pornographic material and child pornography’, investigations/evidential actions were launched against 47 individuals in 2022. Indictments were filed against 40 defendants, and 50 individuals were finally convicted.

Serbia is a party to the Council of Europe Budapest Convention on Cybercrime and was among the 22 countries that signed its Second Additional Protocol on enhanced cooperation and disclosure of electronic evidence on 12 May 2022 and ratified it in February 2023.

The witness protection unit hired six more police officers. Technical capacities were improved by getting three special vehicles with a degree of protection.

In 2022, as regards the fight against **money laundering**, and based on indictments by the special prosecutor for organised crime, there were 3 final convictions (7 in 2021).

Serbia has a well-functioning central record of beneficial owners. In 2022, the Business Registers Agency filed a total of 2 121 (2 726 in 2021; 1 900 in 2020) requests to institute misdemeanour proceedings; the competent misdemeanour courts rendered 1 904 (502 in 2021) decisions. Serbia reported 1 563 suspicious transactions in 2022 compared with 2 053 in 2021 (2 276 in 2020).

Overall, the fight against money laundering and financing of terrorism should focus on the sectors most at risk for money laundering, including the financial sector and designated non-financial business and professions (e.g. real estate sector, casinos, lawyers, notaries, currency exchange offices). Unusual proliferation of assets or money administration inconsistent or not proportionate with regular business practices should be subject to preventive checks to detect links with criminal activities. The APML (the Serbian Financial Intelligence Unit) is well developed.

Serbia should step up its efforts on fighting **environmental crime** and create awareness about the phenomenon. Enforcement remains a key priority, including establishing a track record in alignment with the Environmental Crime Directive. The Ministry of the Interior set up the unit for environmental crime suppression and environment protection within the General Police Directorate. The unit is operational. In 2022, a total of 244 messages were exchanged via SIENA regarding environmental crimes. During the same period, there was one order to conduct an investigation (none in 2021), 16 indictments (13 in 2021), four first instance convictions (11 in 2021) and two final convictions (6 in 2021).

Additional effort should be put into the fight against **illicit trafficking of cultural property** and into protecting cultural heritage, and to bolster cooperation with countries in the region on fighting illicit trafficking of cultural goods.

Cooperation in the field of drugs

Institutional set-up and legal alignment

The national drug strategy expired at the end of 2021. It will be used until the new one is enacted. Work on the new policy document ‘*Operational plan for the prevention of drug abuse for period 2023-2027*’ is ongoing.

A working arrangement between the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) and the Office for Combating Drugs, the Ministry of the Interior and the Ministry of Health has been in force since December 2020, and cooperation extremely good. Serbia has a well-established national early-warning system to liaise with EMCDDA on

new psychoactive substances and new trends. This also applies to the associated risk assessment procedure and the subsequent control mechanism for adding new psychoactive substances to national drug control legislation. Serbia regularly updates and publishes reliable information on new psychoactive substances. In 2022, the list of psychoactive controlled substances was updated twice and a total of 42 new psychoactive substances were added to the list. All tables for the 2022 data reporting cycle were sent to EMCDDA within the deadline.

Serbia's National Drug Observatory is fully staffed and operational. The National Drug Observatory continued with implementation of its three core functions: data collection; monitoring, analysis and interpretation of the data collected; and reporting and dissemination. Serbia progressed on data collection, analysis and reporting though there is room for additional improvement to be fully aligned with the requirements and methodology of the EMCDDA.

The decree on the manner of preserving, sampling, storing and destroying psychoactive substances has been in force since August 2021, providing a necessary legislative framework for psychoactive controlled substances, i.e. chemical/biological material either seized or confiscated. However, the current legislation still requires that the entire seized quantity be kept as material evidence for court proceedings. A national contact point for the transmission and analysis of samples of controlled psychoactive substances has been appointed in July 2023.

As of 2021, four regional centres are operating as part of the Drugs Combating Service of the Department for Coordination, Cooperation and Drugs Abuse Prevention.

In February 2022, the Drugs Combating Service created two new job positions totalling 80. Not all positions have been filled and it is expected that only 73 will be filled by the end of 2023.

Implementation and enforcement capacity

In 2022, 34 individuals were convicted under the organised crime jurisdiction for the production, processing, sale or offering for sale of narcotics, and 766 under general competence jurisdiction. The Prosecutors' Office for Organised Crime filed indictments against 44 individuals.

In 2022, a total of 7.08 tonnes of various substances (including 61.22 kg of heroin) were confiscated, as well as significant quantities of ecstasy, amphetamine, etc. Some 1.08 tonnes of seized psychoactive substances and 2 722 pieces of various narcotic drugs were destroyed in 2022, and an additional 2.0 tonnes were destroyed in May 2023. The destruction of seized precursors remains an issue that needs to be regulated by new legislation. In 2022, a working group prepared the decree on the destruction of precursors, which remains to be adopted. By December 2022, 77 tonnes of precursors were collected, packed and properly stored, while awaiting destruction.

In May 2023, in a coordinated action with Europol and the Dutch police, an organised criminal group behind multi-tonne shipments of cocaine trafficked from Colombia, Brazil and Ecuador to the EU was dismantled. As a result, 13 individuals were arrested in Serbia and 0.7 tons of cocaine seized in the Netherlands, 1.2 tonnes in Belgium and 5 tonnes in Aruba. In addition to drugs, vehicles, firearms, explosives and about EUR 3 million were seized.

During the 2022 data collection exercise under the EMCDDA-IPA 7 project, Serbia provided, for the first time, data on all the security indicators: drug law offences, drug seizures, drug purity/potency, drug composition, drug prices, and cannabis cultivation sites. It furthermore demonstrated a good capacity to collect and store data on these indicators. Some of the indicators still need improvement with a view to being aligned with EU standards.

At the end of 2022, Serbia submitted the updated national drug situation overview.

A software programme is in operation that gives daily updates on quantities of seized drugs, and provides an e-communication channel on seized drugs with the National Forensic Centre on Seized Drugs. 'Security bags' were introduced to prevent any tampering with collected evidence. Since January 2021, seized drugs are stored centrally in five containers and in line with clear guidelines based on legal advice.

The government produced a number of documents as part of the programme for the prevention of the use of psychoactive substances, based on scientific evidence and in alignment with international standards. A comprehensive and all-involving prevention programme is still not in place.

Fight against terrorism

Institutional set-up and legal alignment

Following the expiry of the 2017-2021 national strategy for prevention and fight against terrorism, a new strategic document and accompanying action plan to cover all forms of radicalisation and violent extremism (irrespective of political, religious or ethno-nationalist root causes), in line with EU policies, remain to be adopted. A baseline study on all forms of radicalisation and violent extremism present in Serbia was adopted in October 2023. This study should be an annex to the new strategy.

A mechanism for regular monitoring and reporting on implementation of the strategy was never fully operational. Implementation reports on the activities envisaged under the expired 2017-2021 strategy are prepared but not yet adopted.

In July 2022, the Serbian Regulation on criteria for the identification of critical infrastructure and the manner of reporting entered into force, creating the conditions for implementation of the legislative framework for critical infrastructure. The process of identifying critical infrastructure is ongoing.

Following the adoption in June 2021 of the Law on the national database for the prevention and fight against terrorism, the work on establishment of the national database is in its final stage. Implementation of the Law should be closely monitored to prevent any potential abuse.

Implementation and enforcement capacity

Serbia regularly reports on implementation of the bilateral arrangement in the framework of the EU-Western Balkans Joint Action Plan on Counter-Terrorism for the Western Balkans. The sixth report was submitted in February 2023 and the seventh report in August 2023. Serbia does not participate regularly in the meetings of regional network of national P/CVE coordinators, chaired by the EU. Serbia appointed in July 2023 a new National Coordinator for the Prevention and Combating of Terrorism and the new members of the National Coordination Body for the Prevention and Fight against Terrorism. The new coordinator and the new National Coordination Body should step up timely and efficient implementation of the Joint Action Plan and participation in planned and agreed projects.

In 2022, there were no convictions concerning terrorism offences. Under general competence jurisdiction, one person was convicted for 'participation in war or armed conflict in a foreign country'. The Prosecutors' Office for Organised Crime filed an indictment against one person for the offence of 'public inciting to commission of terrorist offences' (Article 391a Criminal Code).

A regional network of P/CVE specialists was established. It is composed of prison, probation and other P/CVE practitioners and decision-makers, coming from local P/CVE coordination mechanisms or other institutions or organisations.

Activities aimed at preventing all forms of radicalisation and violent extremism, including those conducted in collaboration with civil society organisations, are still under-represented both in the national strategic framework and on the ground. Strategic communications campaigns to address the problem have not been developed.

Training started in May 2022 for the members of four local teams in charge of reintegration, rehabilitation and resocialisation of foreign terrorist fighters and their families.

A mapping of the groups most vulnerable to radicalisation has not yet been conducted. Measures undertaken to prevent and address violent extremism in sport do not yet appear to be sufficient. No concrete steps have been taken to explore possible connections between right-wing extremism and football ultras and hooliganism. Collaboration with civil society organisations in P/CVE activities is still extremely rare. The authorities have not yet put in place a consistent response to activities of far-right groups. Support from the Radicalisation Awareness Network, notably on strategic communications, could be increasingly requested.

The National Council for the Prevention of Negative Phenomena in Sports has been established. The main task is to coordinate activities to prevent violence and misbehaviour of spectators at sports events, doping in sports, match-fixing and other negative phenomena in sports, as well as to fulfil international commitments in these areas.

Additional efforts are needed to investigate and prosecute recruitment networks of foreign fighters, particularly in the context of Russia's war of aggression in Ukraine.

Authorities should improve capacity to address terrorist and extremist content online, increasing efforts to refer terrorist content to internet companies and enhancing efforts to empower civil society to develop effective counternarratives online.

Serbia remains a reliable cooperation partner for Europol and Eurojust. Serbia has an additional contact point for Eurojust – a national correspondent for terrorism matters. Serbia updates Europol on the foreign fighters' list and terrorism-related incidents and effectively uses SIENA for counter-terrorism. Cooperation with Europol has enabled Serbia to start addressing terrorist content online. It actively participated in the Europol 'Check the Web' project and uses SIRIUS platform for internet-based investigations. Moreover, the posting of a Serbian Liaison Officer at Europol has continued to prove very valuable for strengthening cooperation. Serbia continues to participate in the integrative internal security governance (IISG) mechanism.

In 2022, Serbia also took part in a number of INTERPOL operations and projects (e.g. Hotspot Mediterranean 2022) and actively participated in CEPOL activities.

Serbia continued to apply the approach to preventing and combating the financing of terrorism, based on risk assessment. The overall terrorism financing risk in 2022 was assessed as medium-to-low, while the risk of weapons of mass destruction proliferation financing was assessed to be low-to-medium.

Judicial cooperation in civil, commercial and criminal matters

Eurojust and Serbia have continued their good cooperation in criminal matters, notably through the Serbian Liaison Prosecutor (seconded in March 2020), by taking part in four joint investigative teams (JIT) supported by Eurojust in 2022, along with 12 coordination meetings. In 2022, Serbia acted upon 181 cases (including 100 requests from the previous reporting period). Assistance was requested from Serbia in 41 operational cases, while Serbia requested assistance through Eurojust in 40 cases (compared with 20 cases in 2022). Serbia is the second most-requested country in the region, and the fifth most-requested third country in Eurojust's network. Serbia appointed a representative to the contact group of the Western Balkan CRIM

JUST project. There is a need to discuss working arrangements for cooperation with the European Public Prosecutor's Office (EPPO). According to the 2022 EPPO Annual Report, Serbia was involved in one EPPO case in 2022 as place of criminal activity and financial damage (one in 2021).

Reporting continued on implementation of the 2007 Hague Convention on Child Support (HCCH), in force since February 2021. Serbia is considering the possibility of accession to the HCCH 2019 Judgments Convention (Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters). National legislation still needs to be aligned with the EU *acquis*. Following the adoption of constitutional amendments, initial steps were taken for amending the Criminal and Criminal Procedure Code, the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles. This would be the basis to proceed with the adoption of the new Law on Judicial Cooperation in Criminal Matters with EU Member States. Analysis of administrative/training and budgetary/financial requirements since 2021 still need to be followed up.

In 2022, Serbia worked on 3 413 new requests for mutual assistance in **civil** matters (1 925 incoming and 4 453 outgoing) and resolved 3 376 cases in total (including from the previous period). Among them, Serbia replied positively to 2 350 and negatively to 1 026 requests. The average duration of procedure for providing MLA was 388 days. For requests in **criminal** matters, Serbia worked on 4 871 cases in 2022 (3,487 incoming and 1,384 outgoing), resolving 4824 requests (4 200 positively and 901 negatively). Serbia continued its regular workflow, with an average duration of procedure (for providing MLA) of 388 days in civil and 486 days in criminal matters. There were no developments regarding the Montenegrin extradition request to ensure that former President of the State Union of Serbia and Montenegro serves his (final and enforceable) prison sentence.

Legal and irregular migration

Serbia contributed to the management of the mixed migration flows towards the EU and cooperated with the EU, EU Member States and its neighbours to implement the EU Action Plan on the Western Balkans presented by the Commission in December 2022. Serbia took in particular steps to further align its visa policy with the EU visa policy. Additional progress along all the pillars of the Action Plan is expected.

Serbia participates in the regional Anti-Smuggling Operational Partnership with the Western Balkans (launched in the EU-Western Balkans Justice and Home Affairs Ministerial meeting on 3 November 2022) to support law enforcement and judicial cooperation against criminal smuggling networks, and to increase border management capacities. Serbia also took part in the regional meeting of the Network of European Immigration Liaison Officers which took place in Tirana on 28-29 March 2023, to facilitate the exchange of operational information and intelligence and support the implementation of the Anti-Smuggling Operational Partnership.

Institutional set-up and legal alignment

Responsibilities for managing migration are shared between the Ministry of the Interior, the Commissariat for Refugees and Migration, and the following ministries: Labour, Employment, Veteran and Social Affairs; Foreign Affairs; Justice; Defence; Health; and Education, Science and Technological Development. They are coordinated by the government working group on mixed migration, with the Commissariat for Refugees and Migration acting as secretariat.

Amendments to the Law on foreigners and the Law on employment of foreigners were adopted in July 2023 aiming at further alignment with the EU *acquis*. The amendments to the Law on foreigners are linked to the deadline for extension of the temporary residence permit and its

extended duration. Furthermore, it is proposed that temporary residence will be issued in the form of a card and not in the form of a sticker in the passport. Amendments to the Law on employment of foreigners aim at unifying the procedure for obtaining a temporary residence permit and the procedure for obtaining a work permit.

In March 2022, the government adopted a decision providing facilitated access to its territory and granting temporary protection to all people having fled Russia's war of aggression against Ukraine. The decision was extended in March 2023 for another year. It allows access to the right of residence, identity documentation, the right to education, access to the labour market and healthcare in accordance with the regulations governing the rights of foreigners. It is largely in line with the EU Temporary Protection Directive. An updated response plan for people fleeing Russia's war of aggression against Ukraine, which includes reception and protection measures, was adopted by the government in March 2023.

The response plan for the management of mixed migration was updated in July 2022. It covers the main priority areas such as: border management and prevention of migrant smuggling; access to asylum; reception and assistance to vulnerable migrants; assisted voluntary return and reintegration in the countries of origin; and supporting local communities under high migratory pressure.

As for combating irregular migration, the 2022-2027 strategy for integrated border management and the 2022-2024 action plan, adopted in August 2022, put special emphasis on efficient registration of irregular migrants and on their processing, but also on coordination among institutions within the migration management system and on return procedures to either the country of origin or the country of previous entry.

In March 2023, Serbia became an observer in the European Migration Network through the signature of an administrative agreement between the Commissariat for Refugees and Migration, as national contact point, and the European Commission.

Serbia has 12 bilateral readmission agreements, including with Bosnia and Herzegovina, Montenegro and North Macedonia. A readmission agreement was signed with Azerbaijan in November 2022. Negotiations with Argentina, Belarus, Georgia, Türkiye and Ukraine are ongoing.

Efforts to establish cooperation with countries of origin of irregular migrants have been made with Afghanistan, Algeria, Iraq, Iran, Morocco and Pakistan. As no response was received from them, at the end of 2021, an emergency request was sent to the authorities of Pakistan, Iraq, Algeria and Morocco. The Iraqi authorities indicated that there is no readiness to conclude a readmission agreement; the others have not responded so far.

Implementation and enforcement capacity

The Western Balkan migratory route continues to be firmly established and to exert pressure on the entire region. Serbia played an active and constructive role in the management of mixed migration flows towards the EU and continued to cooperate effectively with its neighbours and EU Member States. Serbia, supported by the EU, continued to host and accommodate substantial numbers of third-country nationals.

According to the Commissariat for Refugees and Migration (KIRS), in 2022 a total of 124 127 migrants passed through the reception and asylum centres in 2022 which represents a sharp increase in comparison with 2021 (68 308). The length of the average stay went down to 16 days (30 in 2021) and the average number of people hosted in government centres on any one day increased from 4 684 in 2021 to 4 809 in 2022. For the same period, the Ministry of the

Interior reported that 12 852 irregular migrants had been apprehended within Serbia in 2022, of which 36% originated from Afghanistan and 29% from Syria.

In 2022, 51 017 migrants were prevented from entering at the border and 182 criminal charges (129 in 2021) were filed against 249 people (190 in 2021). This includes 6 criminal charges against 52 members of organised criminal groups, suspected of smuggling irregular migrants to Bosnia and Herzegovina, Croatia and Hungary.

Daily cooperation with Europol's European Migrant Smuggling Centre takes place at several levels, including through EMPACT (European Multidisciplinary Platform Against Criminal Threats). Serbia participated in several international operations aimed at combating both irregular migration and trafficking in human beings. Serbia has also established together with Hungary and Austria the operational task force "ladder" targeting violent migrant smuggling at the Hungarian-Serbian border.

As regards accommodation in open centres for irregular migrants, there are 11 reception/transit centres with a total capacity of 2 800 places in solid buildings; an additional 1 500 places for short stay could be made available in Rubb Halls. Including the 2 500 beds in asylum centres, the total number of available places amounts to 6 800. Since the number of migrants hosted in government centres in 2023 fell to 2 200 on average, two reception centres (Divlijana and Bogovadza) were closed and two centres temporarily shut down.

The Commissariat for Refugees and Migration is operating without a full complement of staff, while staffing in the reception centres remains fully dependent on external (EU) funding.

As regards detention capacities, the extension of the centre for foreigners in Padinska Skela is ongoing. It will provide an additional 60 places (bringing the total capacity to 110 places). In 2022, a total of 272 foreign nationals were placed in the detention centre for foreigners in Padinska Skela, mostly citizens of Afghanistan, Syria, Türkiye and India. The mobile centres in Dimitrovgrad and Plandiste for short-term detention, with a capacity of 100 places each, are used mainly in the context of readmission. In 2022, these facilities accommodated a total of 303 foreign nationals, mostly citizens from Afghanistan, Syria and Morocco.

In 2022, Serbia increased by 72 the number of police officers engaged to provide personal and facility security in detention centres.

The age and gender structure of irregular migrants is similar to previous years with a majority of young adult single males. The top three nationalities are Afghan, Syrian and Pakistani, representing 77% of accommodated individuals in 2022.

One of the most vulnerable groups of children are unaccompanied and separated children travelling alone or in a group of adults and often staying outside of the centres; they are the hardest to reach and link with needed services and resources. For those unaccompanied children accommodated in the asylum or reception centres, presence of adult beneficiaries in the same facilities poses additional protection risks. Appropriate accommodation and protection arrangements, especially in cases of unaccompanied and separated children, are exclusively dependent on external funding.

On average, in 2022, 126 unaccompanied and separated children were present on the territory of Serbia per month (5% more than in 2021), and a total of 2 688 (100% more than in 2021) throughout the year. In 2022, the Centres for Social Work issued a total of 1 048 decisions on guardianship. State-run social protection institutions accommodated 72 unaccompanied children while 22 unaccompanied asylum-seeking children were accommodated in NGO shelters.

Although the legislative framework for protecting refugee/migrant children is mostly in line with international standards, limited resources and implementation within the social welfare system create protection gaps. These include an overstretched guardianship institution, overstrained case management capacity dependent on external funding, and poor application of best interest assessment/determination procedures.

Serbia has continued to satisfactorily implement the EU-Serbia readmission agreement, which is facilitated by implementing protocols concluded with 21 EU Member States. However, Serbia should continue cooperating on readmitting irregularly staying third country nationals that reached the EU via Serbia, in application of the EU-Serbia readmission agreement. In 2022, 5 710 Serbian nationals were ordered to leave and 3 190 were effectively returned.

An assisted voluntary return and reintegration programme continues in Serbia, offering support to those migrants wishing to return to their countries of origin. With the support of the EU and EU Member States, the International Organization for Migration (IOM) is implementing the assisted voluntary return and reintegration (AVRR) programme, building the capacity of Serbia's return system and facilitating access to assisted voluntary return. In 2022, 130 people were returned to their country of origin, of which 53 to India, 13 to Cuba, 10 to Tunisia, 10 to Jordan, 8 to Pakistan and 6 to Iraq.

The Ministry of the Interior is in charge of forced return. Non-voluntary returns are sporadic and ad hoc. Comprehensive return management is still lacking in Serbia; this is a combination of several factors, including lack of cooperation with key countries of origin for non-voluntary returns/readmission, as well as institutional and operational gaps preventing the operation of non-voluntary returns. Serbia should resume systematic registration of migrants. As part of the registration process, screening for nationality, vulnerability and need for international protection should be carried out, as well as collecting information for risk analysis, on irregular migration and on other cross-border crime including trafficking in human beings and terrorism. The registration data should also include data to enable the authorities to potentially process individuals for voluntary and forced return in line with the national legal framework. Out of 3 286 requests, 1 754 were approved and 679 third-country nationals were returned to Serbia. The largest numbers of requests were submitted by Croatian and Romanian authorities for readmission of nationals from Burundi, Afghanistan, India and Cuba.

In 2022, Serbia submitted 1 657 requests to foreign authorities for the readmission of third-country nationals, of which 1 585 requests were approved and 191 individuals were returned from Serbia. The lack of enforceable bilateral readmission agreements with third countries is a serious obstacle, hindering Serbia's ability to manage returns effectively. In line with the EU Action Plan on the Western Balkans, Serbia should pursue its efforts to increase returns to their countries of origins of migrants with no right to stay.

Asylum

Institutional set-up and legal alignment

Serbia has the necessary institutions to manage asylum applications. The Asylum Office (AO), a separate unit within the Border Police Directorate, is in charge of determining status, while appeals against its decisions can be submitted to the Asylum Commission and subsequently to the Administrative Court of Appeal. The Asylum Commission is composed of representatives from different line ministries, including an independent expert and chaired by a representative of the Ministry of the Interior.

In 2022, the Asylum Commission rendered 62 decisions, but none of them granted international protection and only 10 appeals were upheld (i.e. the cases were referred back to the AO). The

third appeal authority, the Administrative Court, rejected all complaints. No applicants were heard by the appeal authorities. The Asylum Commission and the Administrative Court did not exert corrective influence over the decisions of the AO.

The Commissariat for Refugees and Migration is responsible for the reception of asylum seekers and integration of people granted international protection.

Serbia's legal framework is largely aligned with the EU *acquis*. Serbia needs to further adapt its legislation, notably as regards effective 'access to the procedure' (Article 36 of the Law on asylum and temporary protection), 'appeal bodies' (Article 21), 'rights and obligations of applicants/persons under international protection' (Articles 48-73), 'free legal aid' (Article 56), and 'safe third-country procedure' (Article 45). Amendments to the Law on asylum and temporary protection are under consultation.

Implementation and enforcement capacity

The number of asylum seekers remained very low in 2022. Serbia is still a transit country. Out of the 4 243 individuals who expressed the intention to seek asylum and obtained a registration certificate, only 320 officially lodged an asylum application. The absconding rate remains higher than 50%, while subsidiary statuses are accorded more extensively than refugee statuses.

In 2022, decisions were made on a total of 2 302 individuals. Only 10 asylum seekers received refugee status, 20 received subsidiary protection, while 62 had their asylum request denied. In 257 cases, the procedure was discontinued because the applicant absconded. For 1 164 citizens of Ukraine a certificate on registration of intention for temporary protection was issued and 1115 decisions on granting temporary protection were delivered.

Further alignment with the EU *acquis* and international standards, as well as more effective implementation, is still needed to ensure fair and fast asylum processing, especially regarding the length of the asylum procedure and an increase of the refugee recognition rate. Prompt identification of vulnerable asylum seekers needs to be continuously ensured by the competent authorities and at the earliest reasonable time; manifestly unfounded and founded claims need to be promptly processed.

The provision of information and access to legal counselling for asylum seekers at Nikola Tesla airport has improved. Sufficient safeguards to prevent refoulement should be included in the operating procedures of the border police. Independent monitoring could further ensure that border authorities are acting in line with the principle of non-refoulement and the prohibition of collective expulsion.

The quality of asylum decisions needs to be further improved through sustainable quality assurance mechanisms and harmonisation of the decision-making process. The AO needs to increase its capacity for actual handling of asylum applications. The Asylum Commission and the Administrative Court need to apply their corrective influence over the decisions of the Asylum Office more effectively and review cases on merits. Further advanced training is needed, including for adjudicators at the second and third instances, as well as ensuring standardised and sustainable training resources.

Additional capacity building for the Asylum Commission and the specialisation of judges in the administrative court could improve legal certainty. There is no state-funded free legal aid in the asylum procedure.

Serbia has a fully functioning biometrics database and a system for automated fingerprint identification, used within the Ministry of the Interior; both of these are used for registering asylum seekers. Irregular migrants who are not declaring their intention to seek asylum are not

registered and no status determination takes place. This contributes to the vulnerability of migrants transiting the country. Currently all police stations, but not all border crossing points, in Serbia have access to the automated fingerprint identification system. Serbia has developed a roadmap for enabling future operations in relation to the Eurodac and Dublin Regulations, containing steps on legal, strategic, technical and training-related preparations.

In accordance with the Law on asylum and temporary protection, the Commissariat for Refugees and Migration takes care of the material conditions for receiving asylum seekers. There are six centres for asylum with a total capacity of 2 500 places.

The basic legal framework for integration exists, including good practices of individual integration plans. However, major obstacles to integration in practice remain the quality of ID documents to facilitate their access to socio-economic rights and services, and the lack of issuance of travel documents. Also, the relevant legislation needs to be amended to provide refugees with access to permanent residency and citizenship. The funds needed for integration programmes for people granted asylum are provided in the budget on an annual basis. The funds provided for in the 2022 budget were sufficient to cover the current needs.

Serbia proposed amendments to the Law on citizenship according to which a foreigner may be granted Serbian citizenship after living in Serbia for only a short period of time. The applicant had to have a Serbian secondary school diploma or a recognised higher education diploma from a third country, be self-employed or employed by a Serbian company. Applicants with an approved right to asylum fulfilling the same criteria could apply for citizenship after three years of residence in Serbia.

While the EU respects the sovereign right of Serbia to decide on its citizenship and naturalisation policies, the Commission has expressed its concerns to the competent Serbian authorities as regards the possible security risks for the EU linked to the fast-track acquisition of visa-free travel rights for nationals of countries that would be otherwise visa required. Serbia should refrain from any amendment of its citizenship law that would provide the possibility of a fast-track acquisition of Serbian citizenship for third-country nationals who have resided for only a very short period in Serbia. Such a possibility risks undermining the EU visa policy since Serbian citizens are allowed to travel visa-free to the EU. Following the concerns raised by the EU the Government has withdrawn the proposal.

An updated roadmap for cooperation with the European Union Agency for Asylum (EUAA) is being implemented. Serbia participated as an observer in the reception network organised by the EUAA. A European migration liaison officer, responsible for the entire region, operates from Belgrade.

Visa policy

Serbia's visa policy is not yet fully aligned with the list of third countries whose nationals are subject to a visa for short stays in the EU. Nationals of the following countries that are on the EU visa-required list can still travel visa-free to Serbia: Armenia, Azerbaijan, Bahrain, Belarus, China, Indonesia, Jamaica, Kyrgyzstan, Kuwait, Kazakhstan, Mongolia, Oman, Qatar, Russia, Suriname and Türkiye.

In 2022, nationals of Burundi, Tunisia, India, Cuba and Türkiye in particular were using Serbian territory to undertake irregular migration towards EU Member States along the Western Balkans route. By September 2022, some 15% of all irregular border crossings in 2022 (compared with 4% in 2021) were accounted for by nationals who could travel visa-free to at least one Western Balkan partner.

In October 2022, the Serbian government decided to abolish the visa exemptions for Tunisia and Burundi nationals and, in December 2022, this was likewise decided for Guinea Bissau, India, Cuba and Bolivia. The President of India visited Serbia in June 2023 and a visa simplification mechanism was announced. In June 2023, the President of Cuba visited Serbia and an agreement on a visa-free regime for holders of official and diplomatic passports was signed.

The sixth report under the visa suspension mechanism (October 2023) noted that Serbia has taken action to address the Commission's previous recommendations. However, further efforts are needed on visa policy, border management, the fight against corruption and organised crime, and preventing and countering all forms of violent extremism.

The visa-free regime with the EU continued to be smoothly implemented. The number of first-time asylum applications from Serbia in the EU was 2 390 in 2022 (2 055 in 2021; 1 770 in 2020). In the first 5 months of 2023, the number of first-time applicants was 1 355.

The Serbian visa issuing system is partially in line with the EU visa code. For further compliance, Serbia has to adjust visa procedures and visa regimes to bring them into line with relevant EU regulations. The Serbian visa information system is operational in all diplomatic missions and consular posts. The issuing of visas at national border crossing points is exceptional. The Commission's sixth report under the visa suspension mechanism of October 2023 concluded that Serbia continues to meet the visa liberalisation benchmarks.

Schengen and external borders

Institutional set-up and legal alignment

The border police is a specialised civilian body and is part of the General Police Directorate within the Ministry of the Interior. The legal framework for border control is largely aligned with the EU *acquis* (latest changes in 2018). Continued efforts are needed on further legal alignment and implementation of EU requirements. Issues relating to national borders are regulated in the Law on border control.

In July 2023, the government adopted the Schengen action plan. The new 2022-2027 integrated border management (IBM) strategy and its action plan were adopted in August 2022. The strategy defines a new concept of integrated border management in light of the new EU policy on IBM and includes border control and border checks and State border surveillance (green border surveillance). Following adoption, the new Coordination Body for monitoring the IBM strategy and action plan was appointed in June 2023. Consistency between strategic documents in the border control area needs to be achieved.

Implementation and enforcement capacity

In 2022, 261 graduates from the Centre for Basic Police Training were admitted to the Border Police Directorate. The Border Police Administration is regularly planning professional training for border police officers, who, after successful completion of the training, are assigned to its organisational units. A common training programme and common risk analysis, in accordance with the common integrated risk analysis model (CIRAM) methodology, is implemented at national level. Further efforts are needed at regional and local level regarding the staffing and training of risk analysts.

The implementation of the IBM action plan is delayed.

Significant investment is needed in human, financial and technical resources for border control (second-line checks, border surveillance and equipment for the detection of forged documents), and in infrastructure at border crossing points, in line with Schengen requirements. Serbia

should also increase the capacity of all stakeholders in IBM to achieve interoperability with EU border management information systems. Serbia needs to intensify its efforts to implement the Directive on the obligation of carriers to communicate advance passenger data, and the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

Inter-agency cooperation is satisfactory, e.g. between border police and customs at border crossing points. Further improvements are needed on information exchange through mutual access to databases and a formalised and secure information exchange system. An anti-corruption preventive mechanism for Authorities involved in IBM (the Border Police, Custom Service, Veterinary Directorate and Directorate of Plant Protection) has been adopted, but further efforts are needed at regional and local level.

Serbian authorities have established solid cooperation links with the European Border and Coast Guard Agency (Frontex). The joint operation with the Serbian border police at the Serbian-Bulgarian border that started in 2021 was extended to include the Serbian-Hungarian border. The aim of this cooperation is to control irregular immigration flows, to tackle cross-border crime and to strengthen European cooperation. Progress has been made in the negotiations on the new status agreement between the EU and Serbia. Its conclusion will, in line with the new mandate of Frontex, enable deployment also at third-country borders, such as at the border with North Macedonia.

Based on the Police Cooperation Convention for Southeast Europe (PCC SEE), the Ministry of the Interior established a cooperation with all neighbouring countries. Joint patrols with neighbouring countries are ongoing with Hungary, North Macedonia and Romania. Information exchange takes place through joint contact centres. Serbia receives capacity building and border management assistance from EU Member States.

In 2022, a total of 23 control activities were carried out in the organisational units of the Border Police Administration. Disciplinary proceedings for serious violations were initiated against 121 police officers. The Internal Control Sector filed criminal charges against police officers suspected of the criminal offence of abuse of official position under Article 359 of the criminal code. A new preventive anti-corruption mechanism was adopted and training courses for participants of all IBM agencies were held. Leaflets on anti-corruption awareness were distributed at all border crossing points (including the airport).

The Interim Common Crossing-Points (CCPs) between Kosovo and Serbia continue to be operational. Only two of the six permanent CCPs have been established (Merdare and Mutivodë/Mutivode). Serbia still has not established permanent CCPs to be hosted by their side (Jarinje/Rudnica, Končulj/Dheu i Bardhë and Depce/Muçibabë), which led to a suspension of EU funds for this project in July 2018. In addition, Serbia needs to engage constructively to enable the construction of the third CCP hosted by Kosovo in the north of Kosovo at Tabavije/Bërnjak-Tabalije/Brnjak. Additional efforts are required from Serbia to close illegal roads and bypasses to ensure exclusive use of official crossing points for goods and persons entering into or leaving Kosovo.

2.3. ECONOMIC CRITERIA

<i>Table 4.1:</i>	2014-19	2020	2021	2022
Serbia - Key economic figures	average			
GDP per capita (% of EU-27 in PPS) ¹⁾	40	43	44	44
Real GDP growth	2.4	-0.9	7.5	2.3
Economic activity rate of the population aged 15-64 (%) , total	64.9	66.4	70.3	71.4
<i>female</i>	57.1	59.2	63.0	64.4
<i>male</i>	72.7	73.6	77.5	78.3
Unemployment rate of the population aged 15-64 (%) , total ¹⁾	15.4	9.5	11.4	9.7
<i>female</i>	16.2	9.9	12.4	10.1
<i>male</i>	14.7	9.2	10.6	9.4
Employment of the population aged 15-64 (annual growth %)	3.8	-0.2	2.6	2.3
Nominal wages (annual growth %)	3.9	9.4	9.4	13.8
Consumer price index (annual growth %)	1.9	1.6	4.1	12.0
Exchange rate against EUR	119.8	117.6	117.6	117.5
Current account balance (% of GDP)	-4.8	-4.1	-4.2	-6.9
Net foreign direct investment, FDI (% of GDP)	5.8	6.3	6.9	7.1
General government balance (% of GDP)	-1.6	-8.0	-4.1	-3.1
General government debt (% of GDP)	61.0	57.8	57.1	55.6

Notes :

1) Eurostat

Source: national sources

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

2.3.1. The existence of a functioning market economy

Serbia is **at a good level of preparation** and has made **some progress** in developing a functioning market economy. After a strong rebound in 2021 from the contraction induced by COVID-19, the Serbian economy decelerated substantially in 2022 impacted by the economic fallout from Russia's war of aggression against Ukraine, in particular as regards rising inflation via soaring energy and food prices. Consumer price inflation surged in 2022 and continued to rise in early 2023, reaching a peak of 16.2% in March 2023, which led the central bank to steadily tighten its policy stance. After widening sharply in 2022, the current account deficit decreased in the first half of 2023, in particular due to the lower cost and the lower volume of energy imports. Banking sector stability was maintained while lending growth decelerated substantially. High inflation helped improve the budget balance in 2022, despite very substantial capital transfers to state-owned energy utilities and further ad hoc fiscal support measures that were not always well targeted. Budget revenues also benefited from progress with tax administration reforms. The public debt ratio fell and public finances are expected to be anchored by a new set of fiscal rules. The unemployment rate decreased in 2022 and vulnerable categories of workers benefited from the recovery. However, structural problems persist, including a labour supply impacted by outward migration, persistent skills mismatches, and a gender employment gap. Ensuring timely implementation of the youth guarantee plan is expected to contribute to addressing the skills mismatch.

Major reforms of public administration (such as the wage system reform) and of the governance of state-owned enterprises (SOEs) continued to advance slowly, prolonging long-standing

inefficiencies. However, in 2023, there has been some acceleration of governance reforms, in particular in the energy sector. The regulatory and administrative burden for doing business has been reduced, but the private sector continues to be affected by a lack of transparency and predictability in the way business-related legislation is adopted. Structural challenges remain for State aid, competition and public procurement. The State retains a strong footprint in the economy and the private sector is underdeveloped and hampered by weaknesses in the rule of law, in particular regarding the tackling of corruption and judicial inefficiency. Last year's recommendations have been partially implemented and remain partly valid.

In the coming year, Serbia should in particular:

- plan a gradual deficit reduction in the 2024 budget and in the medium-term fiscal framework in line with Serbia's commitments in its Stand-by Arrangement (SBA) with the IMF and the new fiscal rules;
- continue the preparatory steps towards an appropriately designed public sector wage system reform; and
- continue the deployment of the SOE ownership and management strategy for 2021-2027 by implementing the remaining steps of the 2021-2023 action plan and by preparing a new time-bound action plan for 2024-2027.

Economic governance

The authorities have remained committed to macroeconomic stability and economic reforms. Reacting to lower domestic energy production and higher energy import costs in the context of Russia's war of aggression against Ukraine, the government provided very significant budget support to state-owned energy utilities in 2022 to mitigate the effects on domestic households and enterprises. To address steadily rising inflation rates throughout 2022, the National Bank of Serbia (NBS) tightened monetary policy by gradually raising its key policy rate from 1% in March 2022 to 6.2% in June 2023. Good progress has been made as regards the adoption of new fiscal rules and the e-invoicing reforms. Structural weaknesses remain in fiscal governance, in particular concerning the unreformed wage system and fiscal risk assessment, the business environment, public and tax administration, and in the way the State intervenes and manages its presence in the economy, in particular concerning state-owned enterprises (SOEs). Serbia has started the implementation of a new SBA with the International Monetary Fund (IMF) running from December 2022 to December 2024, worth approximately EUR 2.4 billion conditioned on the implementation of important economic reforms. The SBA replaced the non-disbursing Policy Coordination Instrument.

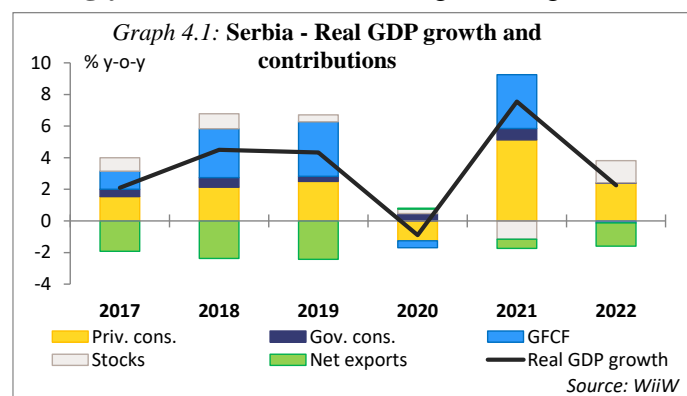
The policy guidance jointly agreed at the May 2022 Economic and Financial Dialogue between the EU and the Western Balkans and Türkiye has been partially implemented.

The authorities provided very substantial fiscal support in 2022 to mitigate the energy crisis and effectively planned further gradual fiscal consolidation. A new set of fiscal rules with debt-level-dependent deficit ceilings as a cornerstone was adopted. A new model of electronic fiscalisation and the transition to electronic invoicing have been successfully completed. The first steps in the action plan for the new state-owned enterprise ownership and management strategy have been substantially implemented. However, Serbia is still not prioritising investments in a harmonised manner based on relevant assessments, and issues remain in the areas of competition and State aid, as well as in the area of public procurement (see also Chapter 5 on public procurement and Chapter 8 on competition policy). The long-term energy and climate strategy is yet to be adopted in the course of 2023. The first auction on renewable energy was launched in June 2023. There was no measure to increase the adequacy of benefits

under the financial social assistance scheme to reduce poverty, while partial progress was made to facilitate school-to-work transitions. Implementation of structural reforms should be speeded up with the help of well-designed measures broken down into clear activities and timelines.

Macroeconomic stability

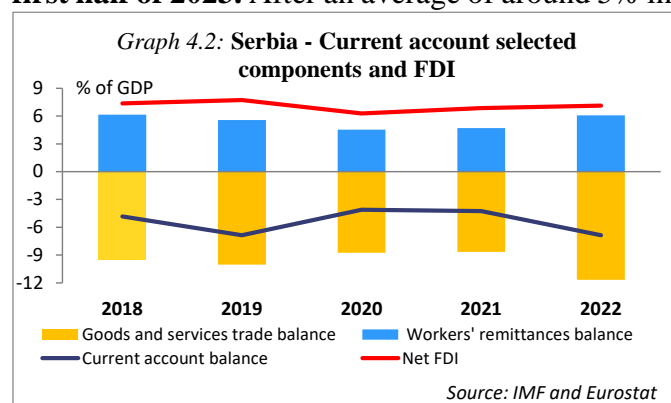
Economic activity remained relatively resilient through successive crises but decelerated strongly in 2022. After an average GDP growth rate of 3.6% in 2016-2019, a relatively mild



contraction by 0.9 % in 2020 and a strong rebound by 7.5% in 2021, output growth decelerated to 2.3% in 2022. The slowdown was especially strong in the second half of the year due the economic fallout from Russia's war of aggression against Ukraine, in particular on inflation via soaring energy and food prices. Growth was also impacted by reduced production capacity of electric utility

Elektroprivreda Srbije, dampening industrial output and increasing imports of electricity and coal. GDP growth in 2022 was mostly driven by private consumption and inventories, which were partially offset by negative contributions to growth of net exports and gross fixed capital formation. On the supply side, the services sector accounted for the bulk of annual growth, while agriculture and construction contributed negatively, primarily due to the drought and base effects from high construction activity in 2021. In the first half of 2023, real GDP expanded by 1.3% year-on-year, mostly driven by net exports and gross fixed capital formation, largely offset by negative contributions to growth from inventories, and from government and private consumption due to high inflation. After remaining broadly unchanged for most of the last decade, the income gap with the EU slightly narrowed in recent years as per capita GDP in purchasing power standards rose from 40% in 2018 to 44% of the EU average in 2021, remaining stable at 44% in 2022.

After a sharp widening in 2022, the current account deficit narrowed substantially in the first half of 2023. After an average of around 5% in the period from 2018 to 2020, the external



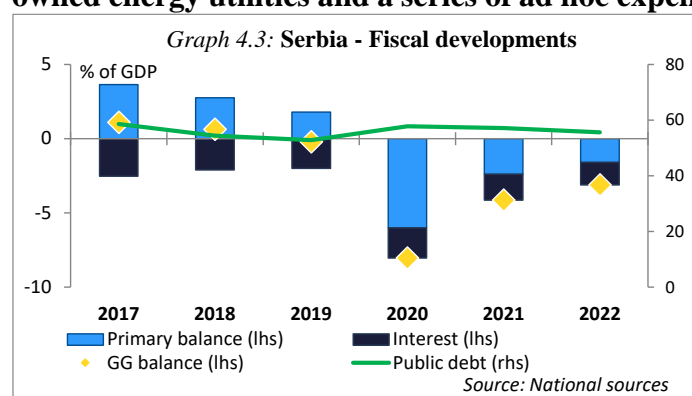
deficit widened sharply to 6.9% of GDP in 2022, from 4.2% in 2021. A substantial increase in the merchandise trade deficit (particularly due to high energy imports) and a higher primary income deficit (mainly reflecting increases in reinvested earnings and dividends) were only partially offset by a higher surplus on the secondary income balance (reflecting in particular increased worker remittances) and on

the services trade balance. The deficit was more than fully covered by net inflows of foreign direct investment that reached 7.1% of GDP in 2022 (after 6.9% of GDP in 2021). Decreased energy imports, partly related to higher domestic electricity production following the partial recovery of domestic production capacity, and the decrease in energy prices were among the main drivers of a sharp narrowing of the current account deficit by 82% year-on-year in the first half of 2023. After a gradual decline from 73.4% in 2015 to 61.4% in 2019, external debt

to GDP increased to 69.4% in 2022, reflecting in particular high public financing needs in 2020-2022. Official foreign exchange reserves have remained at more than twice the level of short-term external debt and solidly covered more than 5 months of imports of goods and services at the end of 2022 and early 2023.

Consumer price inflation surged in 2022 and continued to rise in early 2023 before starting a gradual decline in the second quarter of 2023. Following low and rather stable inflation for 7 consecutive years, and a pick-up to an annual average of 4% in 2021, consumer price inflation surged further to an annual average rate of 11.9% in 2022. This was the result of a steady increase throughout the year, reaching a level of 15.1% in November and December followed by a further increase to a peak of 16.2% in March 2023, well above the upper end of the central bank's target tolerance band of 3% \pm 1.5 pps. Inflation started to decline in the second quarter of 2023, down to 12.5% year-on-year in July. The strong increase in headline inflation continued to be driven by food and energy prices while core inflation also picked up steadily throughout 2022 and early 2023, peaking at 11.3% in March 2023. The NBS started to gradually raise its key policy rate in April 2022, bringing it up (in monthly steps of either 50 or 25 basis points) from 1.0% in March 2022 to 6.0% in April 2023, before pausing its tightening cycle in May 2023 ahead of further increases to 6.25% in June 2023. To stabilise the exchange rate in the face of alternating appreciation and depreciation pressures, the central bank continued to apply its policy of frequent interventions on both sides of the foreign exchange market.

The general government deficit decreased in 2022 as a high level of fiscal support to state-owned energy utilities and a series of ad hoc expenditure measures were largely offset by



the balance-improving effects of high inflation. Following prudent fiscal policies with budget surpluses in 2017 and 2018 and a balanced budget in 2019, sizeable COVID-19 crisis mitigation measures contributed to deficits of 8.0% of GDP in 2020 and 4.1% of GDP in 2021. The general government deficit decreased to 3.2% of GDP in 2022, helped by the effects of high inflation in terms of boosting

revenue and keeping spending increases below the rate of nominal GDP growth. The deficit thus turned out substantially below the revised target of 3.8% of GDP in the November 2022 amending budget, despite very substantial liquidity support to the state-owned energy utilities *Elektroprivreda Srbije* (EPS) and *Srbijagas* (amounting to a total of around 2.7% of GDP) and a series of ad hoc support measures to the private sector implemented throughout the year. This concerned in particular direct lump sum cash payments to young people aged between 16 and 30 (0.4% of GDP), increased family allowances and assistance for mothers to buy real estate (0.2% of GDP) and increased agricultural subsidies (0.2% of GDP). However, while this had been stipulated in the jointly agreed policy guidance in May 2022, no measure was taken to increase the coverage and adequacy of benefits for individuals and families under the financial social assistance scheme to reduce poverty. At the same time, the phasing-out in 2022 of the COVID-19-related 2021 fiscal support measures helped contain overall expenditure growth in 2022 at 11% year-on-year, which was lower than the 13.4% increase in revenue. Expressed as a share of GDP, total revenue increased by 0.1 pps, while total spending decreased by 0.9 pps due to very high nominal GDP growth. Part of the fiscal support could have been better targeted to the most vulnerable households and firms, also in view of the inflationary effect of non-

targeted transfers. Notwithstanding the crisis context, capital spending decreased only slightly from a record level of 7.5% of GDP in 2021 to 7.2% of GDP in 2022 and was budgeted at 6.8% of GDP for 2023. The 2023 budget targets a further 0.5 pps reduction of the fiscal deficit to 3.3% of GDP (as compared to the projected 2022 out-turn of the November 2022 amending budget) which would however correspond to a slight increase as compared with the 2022 out-turn of 3.2% of GDP. The September 2023 amending budget revised downwards the 2023 fiscal deficit target to 2.8% of GDP, using the fiscal space from reduced support to state-owned energy utilities and increased excise duties for a series of expenditure measures, including higher subsidies for agriculture, a one-off lump-sum payment to children and extraordinary pension and wage increases for teachers and nurses. Two days after the adoption of the amending budget, a new one-off payment to pensioners was announced.

Following a crisis-induced increase in 2020 and a moderate fall in 2021, public debt continued on a downward path in 2022. The general government debt-to-GDP ratio had fallen from a peak of over 70% in 2015 to 53% in 2019 and thus moved closer to the ceiling of 45% laid down in the fiscal rules of the budget system law. After an increase to 57.8% in 2020, as a result of the high COVID-19 crisis-induced deficit, and broad stabilisation at 57.1% in 2021, the debt ratio fell to 55.6% in 2022, particularly supported by high inflation. Due to less favourable conditions on international and domestic financial markets, Serbia did not issue any Eurobonds in 2022 to cover the increased financing needs related to costly energy imports, but concluded the EUR 2.4 billion 2-year SBA with the IMF with an immediate disbursement of EUR 1 billion in December 2022 and secured a bilateral loan from the United Arab Emirates of USD 1 billion, which was also disbursed in December 2022. On 19 January 2023, in view of some stabilisation of financing conditions on international markets, Serbia issued a USD 1 billion 10-year Eurobond and a USD 750 million 5-year Eurobond at coupon rates of 6.25% and 6.5%, respectively.

Fiscal governance reforms have progressed well, particularly as regards the adoption of revised fiscal rules. Revenue collection surpassed expectations in the 2 years preceding the COVID-19 crisis and performed well throughout 2020-2022, supported by increasing inflation and continuous improvements in the tax administration. Following a delay of several years (due in part to the COVID-19 crisis), a new system of fiscal rules was adopted in December 2022. The central rule consists of a general government deficit ceiling depending on the level of debt⁷. The deficit rule will however only enter into force in 2025 because specific deficit targets for 2023 and 2024 had already been agreed in the SBA with the IMF. The new rules also include a cap on the general government wage bill at 10% of GDP and a modified rule for pension indexation for which the calculation methodology will vary according to the ratio of pension expenditure to GDP. While their enforcement mechanism may need to be strengthened, the new rules are reasonably credible and binding due to their relative flexibility at lower debt levels / lower shares of pensions/salaries relative to GDP. However the announcement in June 2023 of an extraordinary pension increase in October 2023 going beyond the new indexation formula seriously weakens the credibility of the new pension indexation rule already in its first year of application. The public sector wage system reform has been postponed to 2025, but the new central electronic public wage and employment registry (Iskra) became operational for some sectors in 2022 and is planned to be rolled out to most of the public sector (except military, security and higher education institutions) by the end of 2023 as an important preparation for the reform. In the absence of a comprehensive wage system reform, another ad hoc extraordinary increase (25% as against the 12.5% general

⁷ 3% of GDP if debt is below 45% of GDP; 1.5% of GDP if debt is below 55% of GDP; 0.5% if debt is below 60% of GDP and 0% if debt is above 60% of GDP.

increase of public sector wages) has been implemented for military personnel as of January 2023 and a further ad hoc 5.5% extraordinary increase for some categories of workers in education and health as of September 2023 has been included in the September 2023 amending budget. Progress in addressing weaknesses in budget planning and implementation has been slow. The November 2022 amending budget was adopted using the urgent procedure, but the 2023 budget adoption was broadly in line with the normal legislative procedure (albeit with some delay). The September 2023 amending budget was again adopted under urgent procedure. Neither the 2022 amending budget nor the 2023 budget provided an adequate level of transparency regarding the breakdown of capital transfers and guarantees to SOEs, in particular to EPS and *Srbijagas*. The Fiscal Strategies are subject to frequent changes, sometimes within weeks after their adoption, thereby undermining the credibility of these strategic fiscal documents. There was a meaningful parliamentary debate on the 2023 budget and the government also submitted to Parliament the final annual budget execution report for 2021. The well-established Fiscal Council has continued to function properly and produce independent fiscal assessments and recommendations.

The macroeconomic policy mix has remained overall appropriate. It helped sustain macroeconomic stability and supported the resilience of economic activity in the face of successive shocks. Prudent fiscal policy before the COVID-19 crisis created the policy space for sizeable fiscal support to mitigate the impact of the COVID-19 and energy crises while maintaining macroeconomic stability. Monetary policy reacted to surging inflation via steady gradual monetary tightening. The acceleration of economic reforms and their full implementation remain key to ensure a sustainable recovery and further strengthen the economy's potential in terms of competitiveness and inclusive growth, thereby supporting real convergence with the EU.

Functioning of product markets

Business environment

Serbia has in recent years reduced the regulatory and administrative burden on businesses, but some weaknesses remain. Some business procedures have been significantly simplified and their cost reduced, but many burdensome administrative procedures remain, especially for small and medium-sized enterprises (SMEs). Local firms have to make 33 tax payments per year, twice as many as in the regional peers. The many parafiscal charges remain high and non-transparent, lacking rationalisation, thus undermining the predictability and stability of Serbia's tax system and hampering economic development. The business community generally considers the Law on foreign exchange transactions to be too restrictive in its design and unpredictable in its application. In 2022, the number of registrations of new legal business entities rose by 16.7%, while the registrations of solo entrepreneurs rose by 21.8%. In 2022, 19.4% more legal entities and 4.8% more entrepreneurs were deleted from the register than in 2021. The implementation of the action plan for the simplification of administrative procedures further advanced through the optimisation, digitalisation or discontinuation of administrative procedures as well as the establishment of a single public register of administrative procedures. In May 2023, Serbia introduced mandatory online company registration, which should contribute to reduce the costs and the time of setting up a company.

The legal framework is prone to unexpected and significant changes, which can be detrimental to business. Business predictability is negatively affected by the lack of full transparency in the adoption of legislation. Government decisions in a number of business-relevant areas are still often taken without proper consultation with businesses and social partners and under too short time constraints. This includes numerous temporary trade

restrictions and price caps introduced by Serbia throughout 2022 (*see also Chapter 30 on external relations*) with little or no notice, thus negatively impacting the stability of supply-chains, and further hampering the predictability for businesses and investors.

Further efforts are needed to improve the quality, independence and efficiency of the justice system. An efficient and independent judicial system is a prerequisite for a predictable investment- and business-friendly environment, and is necessary in order to encourage innovation, attract additional foreign direct investment, and secure tax revenues. Businesses also raise the issue of the lack of reliability in contract enforcement, as well as lack of expertise among judges, particularly in complex areas of law such as competition, intellectual property, or taxation, which leads to inconsistency in rulings. Moreover, the business environment remains hampered by red tape, political interference and limited public administration efficiency. Serbia ranked 101st out of 180 countries in the 2022 corruption perception index compiled by Transparency International, thus continuing the negative trend of rankings that have been steadily deteriorating since 2018 when Serbia ranked 87th.

Despite some progress, the widespread informal economy remains a major impediment to the development of a strong corporate sector and the consolidation of a functioning market economy. Driving forces behind the informal economy include high taxes and social security contributions on the lowest salaries leading to a notably regressive tax wedge, a lack of financial resources and favourable loans, para-fiscal charges, hidden tax fees and red tape. The consequences are tax evasion, market distortion, unfair competition and inefficient resource allocation. Notable investment has been made to reduce the size of the informal sector, but the pace of reform is slow. The full entry into force of the Law on fiscalisation and amendments adopted in December 2022, as well as the full implementation of the Law on electronic invoicing as of January 2023, has finalised the introduction of the e-fiscalisation and e-invoicing systems, which provide for real-time tracking of the issuance of fiscal receipts, thereby enabling the Tax Administration to better monitor and counter tax evasion. Taxpayers fully adopted the e-fiscalisation system by 1 May 2022. The new Law on e-invoicing entered into force on 1 January 2022 and after phased introduction achieved full enforcement of electronic invoicing on 1 January 2023. In March 2023, the government adopted the 2023-2025 Programme for Combating the Grey Economy. The Programme encompasses 23 measures aimed at strengthening the capacity of inspections and misdemeanour courts, improving tax supervision and reporting procedures and fiscal and administrative relief of legal businesses. Further improvements in anti-money laundering/combating the financing of terrorism are ongoing.

State influence on product markets

The legal framework in competition and State aid is largely in line with the EU *acquis*, but implementation needs to be improved. The Commission for Protection of Competition and the Commission for State aid control are operating as legally independent bodies. However, the Commission for State aid control has yet to be substantiated by a consistent and transparent track record. In the area of State aid, well-defined rules are not always implemented due to strong political pressure for financial assistance, channelled to SOEs and large foreign investors. These resources are often substantial and may have a significant impact on competition. State support is not sufficiently transparent, including in the 2023 budget. After a strong growth of reported State aid from 2% of GDP in 2019 to 5% of GDP in 2020, the share of State aid dropped to 3.5% of GDP in 2021. The share of COVID-19-related State aid dropped from 54.4% in 2020 to 28.7% in 2021. In view of strongly rising food and energy prices, the government has maintained a series of temporary price caps for basic food and fuel prices, as well as trade restrictions, since the end of 2021/early 2022, which were regularly prolonged or

adjusted throughout 2022 until the end of April 2023 with some exemptions (*see also Chapter 30 on external relations*).

Privatisation and restructuring

Albeit shrinking, the role of the State in the economy remains large and hampers competition while the governance of SOEs recorded limited progress and the restructuring of key utility companies is advancing only slowly. SOEs continue to dominate many sectors, including energy, transport, utilities, telecommunications, infrastructure, mining and extraction of natural resources. Their outsized presence deters private investment and innovation and impedes overall competitiveness. Furthermore, many of Serbia's SOEs do not apply adequate corporate governance rules and operate with low efficiency and high costs. Most public companies continue to rely on direct or indirect State subsidies, and their governance remains under strong political influence. The irregular appointment of acting managers for extended periods, instead of using the standard nomination process, which requires a public competition and certain minimum qualifications criteria, has yet to be addressed. The government continued the implementation of the 2021-2027 strategy on state ownership and management of SOEs, which aims at more sustainable and efficient management of these enterprises, albeit with significant delays. As part of the strategy and the ongoing IMF SBA, the government has committed to improve governance practices in SOEs. This is in particular expected to be tackled through the new Law on SOE management adopted in September 2023. The law has been developed in agreement with the IMF and based on OECD guidelines. The financial performance of SOEs has led to the build-up and materialisation of fiscal risks, particularly in the energy sector. *Srbijagas* is estimated to have received around EUR 1.3 billion in budget support in late 2021 and in 2022, while EPS reported to have suffered losses of up to EUR 630 million in 2022. Overall, SOEs still account for around a sixth of value added and formal employment in Serbia. In 2022, the number of SOEs yet to be addressed through either bankruptcy or privatisation was brought down from 62 to 60⁸. The implementation of the strategy for banks with state ownership continued. The State remains in control of key entities in the insurance sector. Serbia has yet to implement its action plan on gas unbundling adopted in May 2021 and to finalise the certification of *Transportgas Srbija* and *Yugorosgaz Transport* to open the wholesale gas market and third-party access to the gas transmission system.

Functioning of the financial market

Financial stability

Financial stability has been maintained and macro-prudential indicators remained sound. The banking sector's aggregate capital adequacy (regulatory capital to risk-weighted assets) stood at 20.2% at the end of 2022, well above the minimum of 8% set by the central bank. Liquidity remained high. The profitability of the banking system increased with improved returns on assets (1.9% at the end of 2022 compared with 1.2% at the end of 2021) and a jump in return on equity (13.9% at the end of 2022, compared with 7.8% at the end of 2021). The non-performing loan ratio further decreased by 0.6pps year-on-year to 3.0% by the final quarter of 2022 before moving up slightly to 3.2% by the end of the second quarter of 2023. The broad stability of the NPL ratio was also supported by regulatory changes in December 2022 to support the restructuring of debt, i.e. to extend the maturity of loans, for those impacted by the economic crisis. The authorities have continued to address legacy non-performing loans in the portfolio of the Deposit Insurance Agency. The central bank and the

⁸ A Strategic Partnership Agreement between the Serbian Government, majority Russian-owned NIS, and HIP-Petrohemija was signed in December 2021 and the transaction was finalised in June 2023.

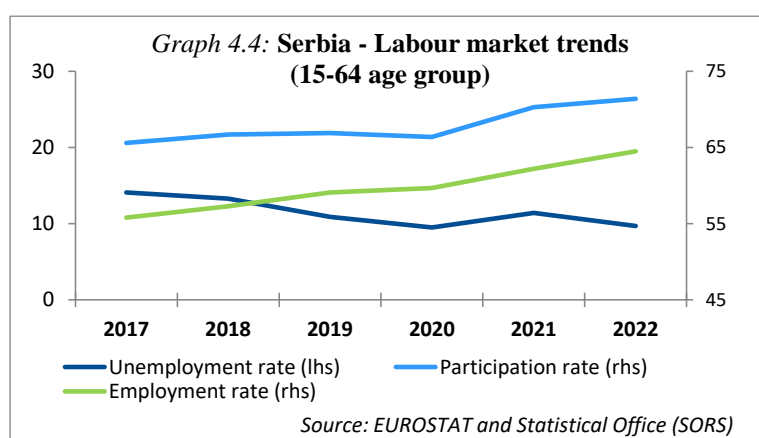
government continued to implement the 'dinarisation' strategy to boost the use of the local currency in the banking system. However, reflecting some remaining uncertainties related to the crisis, the share of dinar-denominated loans and deposits of both households and firms fell somewhat in 2022. While the share of dinar-denominated loans continued to decline in the first half 2023 (to 34.0% in June), the share of dinar-denominated deposits rose to 41.1%, thereby more than recovering from the temporary fall in 2022.

Access to finance

Impacted by monetary tightening, credit activity has slowed down. Credit activity expanded by 7.3% in 2022, but loan growth has been gradually slowing down to a year-on-year rate of 0.8% in June 2023, partly due to the significant increases in the key policy rates by the NBS and the ECB. Credit growth was mostly due to liquidity and working capital loans and housing loans respectively. Foreign-owned (EU-based) banks continued to dominate the financial system, holding around 85% of banking system assets. The continuing consolidation of the banking system via mergers and acquisitions has further reduced the number of banks from 22 at the end of June 2022 to 20 at the end of June 2023. Non-banking financial institutions continue to be largely absent, the legal framework for the leasing sector has still not been reformed, and there was no progress in establishing the legal framework for microfinance institutions.

Functioning of the labour market

The labour market confirmed its post-pandemic recovery, but outward migration and a steady population decline continue to weigh on labour supply. Following the detrimental impact of the COVID-19 pandemic, the labour market recovery continued in 2022, although at a decelerating pace. The unemployment rate decreased by 0.6 pps. year-on-year to 9.2% in Q4-



2022. This marks a return to the long-term trend of gradually falling unemployment. Several categories of vulnerable workers benefited from the recovery. Thus, the long-term unemployment rate was down by 0.6pps year-on-year to 3.9% in the fourth quarter of 2022, the youth unemployment rate decreased by 4.4 pps year-on-year to 24.3% in Q4-2022. The share of young people aged 15 to

24 not in employment nor in education or training (NEET) dropped to 11.9% in Q4-2022 (-3.7pps year-on-year) while in the population aged 15-29 the NEET rate decreased to 15.2% (-2.2pps year-on-year). The youth employment-related active labour market policy programme "My first salary" continued for a third cycle starting in late 2022 with around 9,000 participants. Women benefited most from improvements on the labour market (with unemployment rates standing at 8.8% for women against 9.5% for men in Q4-2022) yet continued to be far less active than their male counterparts (47.6% participation rate for women compared with 63.2% for men in the last quarter of 2022). In parallel, the rate of total informal employment in the fourth quarter of 2022 was down 0.9 pps year-on-year to 12.8%. Total registered employment in Serbia increased by 1.6% year-on-year, also supported by the issuance of work permits to foreign workers. However, in structural terms, the labour force may have peaked as the declining working age population is taking its toll on labour supply. A steady population

decline of around 0.5% every year, along with large-scale emigration across the occupational spectrum remains a key medium- to long-term challenge for economic development. In addition, persistent skills mismatches, the gender employment gap, inadequate activation of young people, and large regional disparities have continued to weigh on the functioning of the labour market. An evaluation of the strategy on economic migration for 2021-2027 and its corresponding action plan for the period 2021-2023 is needed to assess its impact on returnees and circular migration and to identify and take appropriate action.

Real wages have stagnated, mostly due to high inflation. The average real net wage decreased by 1.5% year-on-year in March 2023 as the average nominal net wage increase of 14.5% year-on-year was more than offset by high inflation. The authorities have continued to gradually reduce the overall tax wedge by increasing the non-taxable part of salaries from RSD 19 300 to RSD 21 712 as of 2023. However, the tax wedge is still disproportionately high for people with low salaries and therefore aggravates in-work-poverty. It also continues to be an impediment for the formalisation of labour. In line with expectations for the overall increase in wages, the government increased the minimum hourly wage by 14.3% in 2023, to RSD 40 020. Around one in six registered employees receives the minimum wage.

2.3.2. The capacity to cope with competitive pressure and market forces within the Union

Serbia is **moderately prepared** and has made **some progress** in coping with competitive pressures and market forces within the EU. The structure of the economy improved further and economic integration with the EU remained high. However, the quality and relevance of education and training does not fully meet labour market needs. Public investment has remained at a high level with the aim to address serious infrastructure gaps after years of underinvestment. SMEs still face a number of challenges, including an uneven playing field as compared with large companies and foreign investors. Last year's recommendations have been partially implemented and remain partly valid.

In the coming year, Serbia should in particular:

- further tailor education and training to labour market needs, in particular in the area of vocational education and training;
- ensure a harmonised approach for prioritising and monitoring all investments and basing investment decisions on feasibility studies, cost-benefit analysis and environmental impact assessments, and apply to all projects the principles of competition, equal treatment, non-discrimination and transparency in public procurement and State aid procedures in line with the EU *acquis*; and
- advance on the green energy transition in particular through decarbonising the industry especially in the energy sector; increase investments into renewables and energy efficiency supported by cost-recovering tariffs; accelerate implementation of the action plan on gas unbundling and decrease its energy dependence on Russia.

Education and innovation

Despite some progress, the quality and relevance of education and training does not sufficiently meet labour market needs. Public spending on education stood at around 3.3% of GDP in 2021, below the EU average of 4.7%. Pre-primary school enrolment (age 0 to 5 years) was at 47% in 2021, while compulsory education is almost universal although showing downward trends. The high proportion of early school leavers (young people aged 18-24 who at best completed primary education and did not pursue further education) continues to be a problem and amounted to 5.1% in the third quarter of 2022. Lower secondary school education

results for 15-year-olds lag behind the EU average, although Serbia's PISA rating is the best in the Western Balkans and its average scores are close to those of some EU Member States (Bulgaria, Greece and Romania). Higher education attainment in the population aged 25-34 (ISCED levels 5-8) stood at 33.9% in 2021. The authorities are gradually updating both the general and vocational pre-university curricula to make them more relevant to labour market needs, at the same time consolidating the national qualification framework set-up. The adoption of new qualification standards and/or modernisation thereof has continued at a slow pace, with a strong focus on higher education. Efforts have been made to expose students to work-based learning under both upper secondary and higher vocational education and training. As participation rates in lifelong learning are traditionally low (4.8 % in 2021), the offer of formal and informal learning would usefully be further diversified and promoted among both the working and non-working adult population.

Serbia has a relatively good scientific base but research and development spending remains low at around 1% of GDP. Government funding was stable at around 0.4 % of GDP. The lack of human resources for research and development and weak cooperation between businesses and academia continue to present problems. To increase innovation and scientific research, Serbia continues to support the Innovation fund and the Science fund that are running numerous specialised financing instruments and grant schemes. Five years after a science and technology park was established in Belgrade, three additional ones have been established in Novi Sad, Čačak and Niš but further support services for these institutions are still needed. The smart specialisation strategy, the industrial policy strategy, the strategy for the development of start-up ecosystems and the strategy for the development of artificial intelligence are all being implemented.

Physical capital and quality of infrastructure

Investment has remained high, with significant emphasis on road and rail infrastructure, but infrastructure gaps remain. Public investment decreased slightly from a record level while private investment broadly stagnated in 2022. The economy is attracting significant net foreign direct investment flows which stood at 6.9% of GDP in 2021 and 7.1% of GDP in 2022. Outward investments of Serbian companies abroad remained very modest. The share of total investment in the economy increased to 22.8% of GDP in 2022, up from 17.7% of GDP in 2017. However, physical infrastructure needs further upgrading and expansion. A continued high level of public investments is planned in 2023, particularly in railways, roads, including local and regional roads, energy infrastructure, and also environmental investments.

The institutional framework for public investment is weak. The 'user pays' principle is not sufficiently applied when it comes to maintaining existing infrastructure and implementing new infrastructure investment plans. The legislative framework for public investment management put in place in July 2019 provides a basis for a sounder project selection process, better prioritisation and more comprehensive planning across different tiers of the government. However, the framework allows too many exemptions to the rule, which significantly reduces its effective impact. Public procurement rules are not always fully compatible with EU standards, particularly in the case of intergovernmental agreements. Moreover, the existing public procurement rules are not always fully complied with, as also evidenced by an increasing number of irregularities.

The energy sector remains largely inefficient and highly polluting; the regulatory and green transition reforms are progressing slowly. Energy infrastructure is largely outdated and many individual heating systems use wood and coal as fuel, contributing to the energy sector being the main source of air pollution in Serbia. The decarbonisation of the energy sector, the need to increase the use of more renewable sources, and restructuring of SOEs

dominating the sector remain a big challenge, and investments in the green energy transition are progressing too slowly. In June, Serbia adopted amendments to the Law on renewables and launched the first call for auctioning of new renewable sources. Serbia has yet to adopt its national integrated energy and climate plan and an energy strategy. Electricity tariffs for households have been gradually increased including under the SBA agreed with the IMF. However, prices remain below market prices and should increase in line with the SBA to cover costs, and subsequently to support the necessary investment in infrastructure. Serbia remains dependent on its single gas supplier Gazprom and the Russian majority control of Serbia's gas infrastructure and oil industry continued. However, in order to reduce the dependence on Russian gas, work on the gas interconnector between Serbia and Bulgaria has advanced and construction of an interconnector with North Macedonia is under preparation. Implementation of the action plan for the unbundling of state-owned enterprise *Srbijagas* is still pending. The Balkan stream gas pipeline section in Serbia is operational but there is no third-party access.

Serbia has made good progress on digital transformation across the economy. Digitalisation remains a key priority for the government. The action plan under the 2023-2025 e-government development programme was adopted in April 2023, with the objective to improve the quality of public services by ensuring interoperability, efficient coordination, project management and legal certainty over e-government use, and to foster the use of open data. The e-government national portal is continuously upgraded with new services, serving as a one-stop shop for e-government services and as a central point of access for businesses and citizens. Serbia's communications infrastructure still requires systematic improvement of both regulation and investment. Broadband roll-out is too slow, preventing the uptake of e-government and business services, and slowing down the digital transformation of the economy. There was some progress with the connection of public institutions and 150 000 households to fast broadband and speeds of 100Mbps. Supported by the inflow of Russian citizens to Serbia, the robust growth of the information and communication sector continued, with exports of ICT services in 2022 valued at EUR 2.7 billion, an increase of 45% compared with 2021.

Sectoral and enterprise structure

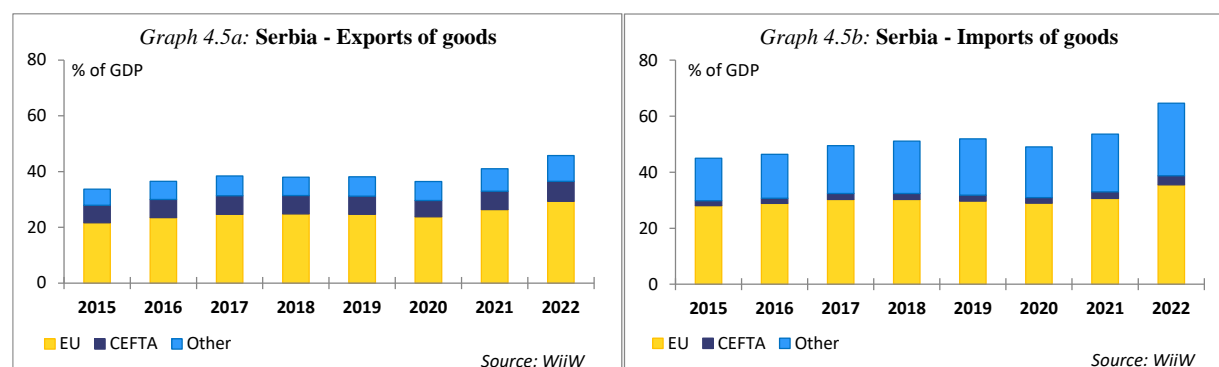
Manufacturing has decreased its weight in the economy over recent years while the share of construction and some services has risen and the share of agriculture has broadly stabilised. The manufacturing industry continues to be the single largest sector in terms of its share of GDP, at 13% in 2021, although on a declining trend over the years. It is followed by wholesale, retail and vehicle repair accounting for 11.8% of GDP in 2021, on an increasing trend. Services sectors dominate the economy, together providing more than 60% of total value added. Reflecting a new investment cycle, the construction sector increased its share in GDP from 3.0% in 2013 to 6.0% in 2021 (up from 5.4% in 2020), strongly supported by capital investments in infrastructure. The weight of the agricultural sector has broadly stabilised at around 6.3% of GDP since 2017 after a downward trend over the previous few years. The share of agriculture in total employment continued to fall steadily from about 20% in 2014 to around 17% in 2017 and further to around 15% in 2021. In 2022, construction and the agriculture sector had a negative impact on GDP growth, impacted in particular by increased costs of inputs, lower credit activity and the drought.

Small and medium-sized enterprises (SMEs) are the backbone of the Serbian economy. The SME sector provides close to 60% of total employment and turnover in the economy, and around 50% of the value added. SMEs are particularly active in construction, accommodation and food services, retail, and real estate. The authorities are implementing several programmes to support SME development, focusing on boosting innovation, finance, and

internationalisation. Loans to SMEs accounted for about 60% of total corporate loans in December 2022. Their cost of borrowing has increased significantly due to increases in the key policy rates to combat inflation, and remains significantly higher than that of large companies. SMEs still face a number of challenges, including an unpredictable business environment, a lack of non-bank financing and high tax compliance costs. SMEs often face an uneven playing field as large enterprises and foreign investors often have direct lines of communication to the government and benefit much more from state subsidies, thus enjoying an advantage over domestic SMEs.

Economic integration with the EU and price competitiveness

Economic integration with the EU remained high. The EU remains Serbia's biggest trading and investment partner, accounting for 58.7% of its total trade and for 32.9% of foreign direct investment inflows in 2022. Total bilateral trade between the EU and Serbia increased significantly, by 27.7% year-on-year, from EUR 30.6 billion in 2021 to EUR 39.1 billion in 2022. Serbian imports from the EU grew at a somewhat faster pace than exports to the EU, with the EU registering a surplus of EUR 3.7 billion in 2022. After the EU, Serbia's main trading partners in 2022 were the signatories of the Central European Free Trade Agreement (10.3% of total trade), China (8.7%), Russia (5.8%) and Bosnia and Herzegovina (5.3%). Foreign direct investment inflows, of which typically around two thirds originated from the EU in 2010-2020 (and close to 90% from Europe), have partially shifted towards growing inflows of around one quarter from China in 2021-2022. Notwithstanding ongoing remedy efforts via online health and customs clearance, transit facilitation through international cooperation agreements and the regional green corridor (EU, CEFTA, Western Balkans and Türkiye), there are still significant bottlenecks at border crossing points with neighbouring EU countries; these hamper the potential for deeper trade relations and economic integration with the EU. Trade openness, after a steady increase from 92% of GDP in 2014 to 111.5% in 2019, decreased to 103.9% in 2020 due to the COVID-19 crisis, before rebounding strongly to 115.6 % in 2021 and 137.6% in 2022.



The real effective exchange rate has been on an appreciating trend in recent years. The dinar-euro nominal exchange rate remained broadly stable in 2022 and the first half of 2023, as pressures on the dinar were successfully neutralised by the central bank. As regards the CPI-based real effective exchange rate REER, after a depreciation in the period 2014-2016 cumulatively by almost 9%, 2017-2018 saw an REER appreciation of around 7%. After depreciating slightly in real terms in 2019 (0.2%), the dinar continued to appreciate, by 3.5% cumulatively in 2020-2021 (almost in equal amounts in both years). The appreciation trend continued in 2022 (1.1%) and accelerated strongly in the first half of 2023 due to the significant inflation differential with main trading partners. The unit labour cost (ULC)-based REER depreciated cumulatively by around 8% in the period 2014-2016, while in the period 2017-2019 REER appreciated by around 17% cumulatively, mostly due to wage growth in the private

sector. The trend has continued in recent years, resulting in ULC-based REER appreciation of almost 8% in 2020, 4% in 2021 and 9% in 2022. According to the latest IMF external sustainability assessment (done in June 2023), the exchange rate was considered broadly consistent with the fundamentals.

2.4. PUBLIC PROCUREMENT, STATISTICS FINANCIAL CONTROL

Chapter 5: Public procurement

EU rules ensure that the public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.

Serbia is **moderately prepared** in the area of public procurement. **Some progress** was made with the repeal of the Law on special procedures for linear infrastructure projects, which seriously undermined the effective implementation of the Law on public procurement. Serbia needs to ensure that exemptions from the Law on public procurement are in line with the EU *acquis* and the Stabilisation and Association Agreement, including notably in the context of intergovernmental agreements. The capacity of the Public Procurement Office, the Commission for Public-Private Partnerships and Concessions, the Republic Commission for Protection of Rights in Public Procurement Procedures and the Administrative Court needs to be further strengthened.

In the coming year, Serbia should in particular:

- further align with the 2014 EU Directives on public procurement, in particular by adopting amendments to the Law on public-private partnerships and concessions and by ensuring that projects financed from public funds are subject to public procurement procedures; and
- ensure that procurement rules under intergovernmental agreements concluded with third countries comply with the public procurement principles, in line with the EU *acquis*.

Institutional set-up and legal alignment

Serbia's **legal and institutional frameworks** on public procurement are broadly aligned with the EU *acquis*. The adoption of amendments to the Law on public-private partnerships and concessions to align with the EU Directive on concessions is still pending. In July 2023, the Parliament enacted the Law repealing the Law on special procedures for linear infrastructure projects from 2020, which provided for the exemption of linear infrastructure projects of 'special importance for the Republic of Serbia' from the application of the Law on public procurement. In July 2023, the Serbian government adopted a Decree on the selection of a strategic partner for the implementation of a project of construction without management and maintenance of self-balanced large-scale solar power plants with battery systems for electrical energy storage in the Republic of Serbia, which introduces derogations from the Law on public procurement and the Law on public-private partnerships and concessions. Additionally, in October 2023, Parliament adopted the Law on special procedures for the implementation of the international specialised exhibition EXPO Belgrade 2027, which exempts projects from the application of the Law on public procurement.

The public procurement development programme for 2019-2023 was implemented through the action plan for 2022. A new action plan for 2023 was adopted.

The **Public Procurement Office** (PPO) conducts compliance supervision of the Law on public procurement and maintains the public procurement portal. The PPO is also in charge of proposing implementing legislation.

Implementation and enforcement capacity

In 2022, the **public procurement market** increased by around 18% in terms of total value of concluded contracts, from EUR 4.75 billion in 2021 to EUR 5.6 billion. Its share in GDP also grew from 8.9% in 2021 to 9.3% in 2022. The average number of bids per tender remained at 2.5. The share of tenders with only one submitted bid remained very high, falling slightly from 52.6% in 2021 to 51.6% in 2022. The Serbian government committed to reduce this share to 47% by 2024. The share of contracts awarded to foreign bidders remained particularly low at 1% of the total value of contracts.

Regarding **monitoring of contract award and implementation**, the proportion of negotiated procedures without prior publication of a notice fell significantly from 7.7% in 2021 to 0.97% in 2022. The share of open procedures increased from 91.3% in 2021 to 98.8% in 2022. The use of the best price-quality ratio criterion remained low at 4% in 2022, while the lowest price criterion remained dominant in 96% of conducted public procurement procedures. New functionalities of the public procurement portal were introduced in 2022, with the aim to increase transparency and efficiency. Workshops and webinars have been organised to train bidders and contracting authorities to use the e-procurement portal. The number of requests submitted by the PPO to the relevant courts to initiate misdemeanour procedures increased significantly from 143 in 2021 to 429 in 2022.

The exemptions from the Law on public procurement on the basis of intergovernmental agreements fell significantly to 0.5% of the total value of exemptions in 2022, or EUR 33 million, compared with EUR 735 million reported in 2021. However, given the large volume of big infrastructure projects that have been concluded on the basis of intergovernmental agreements, the reported total value of exemptions is low. The State Audit Institution found irregularities in cases covering 18.88% of the value of public procurement contracts inspected in 2022. These findings raise concerns and need to be closely followed.

The **capacity to manage public procurement processes** remained stable. The PPO had 42 employees in 2022, down from 44 in 2021. A total of 398 public procurement officers were certified on the basis of the Law on public procurement.

The Commission for Public-Private Partnerships and Concessions approved a total of 253 public-private partnership project proposals, including 86 with concession elements, mostly in the urban transport, sanitation and urban planning sectors. The Commission remains understaffed.

Efficient remedy system

Legislation on the **right to legal remedy** is broadly in line with the EU *acquis* and is enforced by the Republic Commission for Protection of Rights in Public Procurement Procedures, an independent state body. The Republic Commission solved 709 cases on requests for the protection of rights in 2022. Public procurement procedures were partially or fully annulled in 349 cases (49% of all solved cases). The number of contracting authorities not complying with decisions of the Republic Commission remains stable at below 1% of the overall decisions taken. The Republic Commission took decisions in 52 cases on complaints about decisions of contracting authorities in 2022. It imposed one financial fine on contracting authorities not complying with its decisions while annulling two contracts in 2022.

Regarding the Republic Commission's **implementation capacity**, the number of staff decreased from 52 in 2021 to 46 in 2022, nine of whom are elected officials. Due to limited specialisation and training, the Administrative Court's capacity to deal with the complexity, diversity, and overall quantity of cases and lengthy legal proceedings, remains weak.

Cooperation between the PPO and the Republic Commission with the Administrative Court on exchange of knowledge and information needs to be strengthened.

Chapter 18: Statistics

EU rules require Member States to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are in place for the methodology, production and dissemination of statistical information.

Serbia is **moderately prepared** in the area of statistics. **Good progress** was made during the reporting period with the population and housing census in October 2022 and preparations for the next census on agriculture, planned to start in October 2023, in line with EU and international standards. Overall, Serbia continued to submit statistical data to Eurostat. The compilation of macroeconomic statistics in line with the European System of Accounts (ESA) 2010 continued to improve. However, a new statistical law has still not been adopted. Last year's recommendations remain largely valid.

In the coming year, Serbia should in particular:

- adopt a new statistical law to increase the independence of the statistical office;
- continue preparations and carry out the census on agriculture in line with the relevant EU legislation and international standards; and
- continue to improve the compilation of macroeconomic statistics in line with ESA 2010.

The legal framework for **statistical infrastructure** is largely in line with the European Statistics Code of Practice. A new law on official statistics, which should enhance the professional independence of the Statistical Office of the Republic of Serbia (SORS) and improve the alignment of the Statistical System with the Regulation (EC) No 223/2009, still needs to be adopted. The National Coordination Board of Official Statistics includes representatives of all responsible producers of official statistics. Serbia continued to integrate systems for administrative data through cooperation agreements and database linkages with a number of Serbian institutions and registers. The administrative capacity of SORS still needs to be strengthened, as its operations remain hampered by the lack of sufficient and adequately skilled staff. SORS continued to increase submission of data to Eurostat, but the coverage of data submission needs to be further expanded. The main classifications (NACE Rev. 2, ISCO-08) are aligned with the EU *acquis*. Registers are updated regularly.

Concerning **territorial classification**, Serbia continued to compile regional accounts and submit them to Eurostat, including the 2022 transmission. Serbia provided regional accounts data at statistical level 2 and 3 but the number of years is not yet uniform across variables.

Regarding **macroeconomic statistics**, SORS continued to compile data on quarterly and annual GDP at current and constant prices, and in chain-linked volumes. Seasonally adjusted quarterly national accounts are sent to Eurostat. Quarterly non-financial sector accounts have yet to be compiled; only non-financial annual sector accounts are transmitted to Eurostat and published. Serbia has further advanced work on compiling supply-use and input-output tables; the country delivered all relevant ESA 2010 tables in this area. SORS sends good-quality monthly data on international trade in goods, in accordance with the required breakdown by mandatory partner country. The compilation of data on trade by enterprise characteristics was submitted to Eurostat but more work is needed to meet all requirements set out in the compilers guide on trade by enterprise characteristics. The National Bank of Serbia (NBS) compiles the monthly and quarterly balance of payments, as well as data on the quarterly international investment position. As regards government finance statistics (GFS) and excessive deficit

procedure (EDP), Serbia should continue efforts to further adhere to ESA 2010. SORS continues to provide EDP on regular basis twice a year. Progress was observed in coverage of the questionnaire related to the excessive deficit procedure notification tables. In particular, Serbia should intensify efforts to improve the data quality of the EDP table 2. SORS still considers the non-financial accounts of government finance statistics as provided to Eurostat as experimental and not fit for publication. Despite this, other Serbian non-financial accounts of general government data, less aligned with international standards, is being published nationally and internationally. Quick progress in publishing the data being provided to Eurostat is strongly encouraged in order to establish fiscal transparency. The NBS set up the system for compiling annual financial sector accounts statistics. Progress was made by SORS and the NBS in providing quarterly non-financial accounts of general government and quarterly general government gross debt. Continued efforts are needed to produce the complete data required by the ESA 2010 transmission programme, notably by developing quarterly financial accounts and financial balance sheets.

With regard to structural **business statistics** (SBS), Serbia has implemented the EU *acquis* to a great – but not yet fully – extend. Serbia transmits SBS data and metadata to Eurostat in good quality and in the required technical format. More work is needed to achieve full coverage and punctuality. Most of the data on internal tourism and some data on national tourism are collected and transmitted. For inland waterway, road and railway transport, data is collected but needs to be further aligned with the EU *acquis*. A few test datasets for road freight transport have been transmitted and Serbia is currently designing their complete road freight transport survey. Serbia continued to communicate some figures on all six datasets of the Eurostat/ITF/UNECE Common Questionnaire. In 2023, Serbia for the first time transmitted transport statistics at regional level, providing a significant set of data. Air transport statistics are highly compliant and a few improvements need to be made to reach full compliance. Serbia continued to provide in a timely manner the mandatory research and development (R&D) data and statistics on the government budget allocation for R&D, for some of which transmission is voluntary. Serbia also continued to provide the regional data. The Community Innovation Survey is conducted regularly every 2 years and the data is sent to Eurostat. The annual surveys on information and communication technology (ICT) fully meet EU standards and are carried out regularly, covering households/individuals and businesses. Serbia is fully compliant for most of the short-term business statistics indicators.

Serbia partially complies with the EU *acquis* on **social statistics**. The survey on income and living conditions is carried out regularly, in compliance with EU standards, and data is sent to Eurostat. Serbia is fully compliant in social protection statistics and provides Eurostat with European system of integrated social protection statistics (ESSPROS) data and metadata of good quality and coverage, in accordance with the legal deadlines. Labour market earnings and labour cost statistics are broadly in line with the EU *acquis*. Serbia carries out the labour force survey (LFS) in accordance with the regulations and sends good-quality micro data to Eurostat (annual and quarterly), and LFS quality reports based on the new LFS questionnaire. Further progress is still needed to produce good statistics on job vacancies. Concerning the healthcare expenditure statistics, Serbia provided compliant data for reference year 2021 for the first time in 2023. Serbia is fully compliant as regards the European health interview survey. Statistics on external migration and asylum are collected by the Ministry of the Interior. They are only partly aligned with the relevant EU requirements so further alignment is needed. Serbia provides most of the required education statistics. The population and housing census, postponed from 2021 due to the COVID-19 pandemic, took place successfully in October 2022 without major incidents. The dissemination of results from the census started in December 2022. Final results were published in May 2023.

Regarding **agricultural statistics**, Serbia is highly compliant in producing crop statistics. Animal production statistics, including milk and milk product statistics are fully compliant with applicable EU regulations. Serbia continued the preparatory work for the agriculture census which is planned to take place from October to December 2023 (postponed due to the COVID-19 pandemic). SORS still needs to develop, produce and submit to Eurostat supply balance sheets, economic accounts for agriculture and agriculture price statistics in line with the Eurostat methodology.

Annual and monthly **energy statistics** are produced and sent for all relevant energy sources. Serbia transmits good-quality data on **waste statistics** to Eurostat. Only the dataset on number and capacity of disposal landfills is yet to be completed. Some **environmental accounts data** is produced. transmits complete data on physical energy flow accounts , albeit quality can further improve. Serbia transmits complete data on **environmental taxes accounts** with good quality, and should continue to work to improve the quality of **environmental goods and services sector accounts**. Serbia transmits incomplete data on **air emissions accounts** and the quality needs improvement. In general, the quality of environmental accounts data improved, but further efforts are needed in this area. Serbia reports some **water statistics** and those statistics do not have legal basis. Serbia is also making progress in the area of pesticide statistics but does not yet deliver data on pesticide statistics, fertiliser consumption or gross nutrient balances.

Chapter 32: Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and protect the euro against counterfeiting.

Serbia is **moderately prepared** in the area of financial control. **Limited progress** was made in the reporting period, notably with the continued implementation of public internal financial control (PIFC). However, last year's recommendations have not been met. Therefore, these remain valid. A midterm approach on PIFC, consistent with the Law on the planning system, is being implemented. Overall, additional efforts are needed to embed managerial accountability in the administrative culture and to strengthen the functioning of internal control and internal audit. High-level political support remains critical for the required shift to performance management and implementation of PIFC reforms in entire public sectors.

In the coming year, Serbia should in particular:

- ensure full coherence of the PIFC legal basis with the general legal framework;
- establish an effective internal audit function in all central budget institutions; and
- adopt a managerial accountability roadmap and ensure its effective implementation.

Public internal financial control (PIFC)

A **strategic framework** for PIFC is broadly in place, under the 2021-2030 PAR strategy and the 2021-2025 public financial management (PFM) reform programme. PIFC is comprehensively covered as a separate pillar embedded in the PFM reform programme. In addition, further PIFC measures are envisaged by the local self-government system reform programme for 2021-2025 and the public policy management and regulatory reform programme for 2021-2025. The development of managerial accountability is included in the accountability and transparency pillar of the PAR strategy and the public policy management and regulatory reform programme. The full establishment of analytical units in ministries and

proper implementation of midterm planning must foster effective consolidation of strategic, operational and financial management functions and increase managerial accountability. In 2022, a total of 22 institutions adopted and published their medium-term plans for the period 2022-2024, in line with the Law on the planning system.

In the reporting period, Serbia continued to focus on operationalising the principle of **managerial accountability** through the preparation of a draft managerial accountability roadmap. Weaknesses in performance management and lines of accountability between independent bodies and their parent institutions persist.

The capacities to implement **internal control** standards, including risk management, have to be further increased at both central and local government level and be integrated in the administrative culture. Serbia has continued to implement the obligation for heads of institutions using public funds to sign an annual statement on the status of their internal control systems. The establishment of an irregularity reporting system for budget beneficiaries in line with the guidelines on irregularity management needs to be ensured in practice. The Ministry of Finance has a centralised budget inspection function that needs to be strengthened. Mapping the entire national inspection environment and ensuring its proper role and scope remains a priority.

Internal audit practice is broadly in line with international standards. However, not all institutions that are required to establish an internal audit unit have done so and many internal audit units do not have a sufficient number of auditors. Most central institutions carry out audits according to strategic and annual audit plans. Internal audit recommendations need to be implemented in a timely manner and the quality assurance of internal audit further developed.

The **central harmonisation unit** continued to focus on system development and dissemination of methodological guidance. It has continued to conduct internal audit and internal control quality reviews. The quality of the unit's annual report on the state of PIFC implementation is improving. However, its use as a tool to improve PIFC needs to be enhanced, and timely publication needs to be ensured.

External audit

Serbia's **constitutional and legal framework** provides for the independence of the State Audit Institution (SAI) in line with the standards of the International Organization of Supreme Audit Institutions. The SAI's financial independence was respected during the 2022 budget approval.

The SAI's **institutional capacity** to carry out its core audit tasks is adversely affected by the continued focus on the detection of errors and filing of misdemeanour and economic offence and criminal charges against individuals. This affects its capacity to undertake its core audit task. The appropriateness of this requirement in the SAI law should be reviewed in the medium term. The long-standing issue of not having suitable business premises is yet to be resolved.

The **quality of audit work** is constantly improving with the support of the dedicated sector for audit methodology and quality control. In 2022, the SAI continued to improve its working methodology. It has maintained focus and improved capacity for performance audits with 14 performance audits carried out in 2022. In 2022, the SAI produced 284 audit reports, including 98 compliance audit reports, 93 financial statement reports, 24 financial statement and compliance audit reports, 24 compliance and performance audit reports, 14 performance audit reports, and 31 reports on the audit of response reports. Since 2019, the SAI has been publishing responses to the audit reports and post-audit reports.

The SAI increased the **impact of its audit work** by monitoring the implementation of its recommendations and cooperation with stakeholders, improving the overall transparency of its

work, and increasing its communication with the media. The SAI activity report was discussed both in the relevant parliamentary committee and in the plenary. The SAI's internal audit unit has only one employee and is still to be properly staffed.

Protection of the EU's financial interests

Serbia has achieved a high degree of **EU *acquis* alignment**, but full alignment with the EU Directive on the fight against fraud to the EU's financial interests by means of criminal law still needs to be ensured. The strategic plan for combatting fraud and managing irregularities in handling financial resources of the European Union in the Republic of Serbia for the period 2021-2023 is in place. The **anti-fraud coordination service (AFCOS)** in the Ministry of Finance has eight employees, falling short of the planned 13. In 2022, AFCOS conducted three administrative checks, compared with seven in 2021 and eight in 2020.

In January 2023, the Serbian government adopted a Decision on the establishment of the network for combatting fraud and for managing irregularities in handling financial resources of the EU, to reflect changes within the institutions represented in the AFCOS Network. Serbia continued its **good cooperation with the European Commission** during investigations, including the follow-up of recommendations. During the reporting period, Serbia reported 12 irregularities via the irregularity management system, of which seven were classified as suspected fraud. Serbia should maintain its efforts in further developing a solid track record on cooperation in investigations and reporting of irregularities.

Protection of the euro against counterfeiting

In this area, Serbia has achieved a high degree of **EU *acquis* alignment**. The legislation foresees that the National Bank of Serbia carries out the **technical analysis** and provides specialised training for the licensed entities that authenticate euro coins and process euro banknotes. The central bank has formal **cooperation agreements** with the European Commission on coins and with the European Central Bank on banknotes. Regional cooperation with other central banks is ongoing. The central bank continued to develop its administrative capacities by participating in several international and domestic seminars, conferences and workshops, primarily as a follow-up to the Pericles 2020 programme.

3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Good neighbourly relations and regional cooperation form an essential part of Serbia's European integration process. They contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past.

Serbia maintained its engagement in a number of regional cooperation initiatives, such as the Central European Free Trade Agreement (CEFTA), the Energy Community, the Transport Community, the South-East European Cooperation Process (SEECP) and the Regional Cooperation Council. During the reporting period, disagreements with Kosovo over the implementation of the Dialogue agreement on Kosovo's representation and denomination in regional cooperation initiatives have hampered the smooth functioning of these initiatives. In December 2022, Serbia hosted the biannual General Assembly of the Parliamentary Assembly of the Black Sea Economic Cooperation⁹.

⁹Serbia also actively participates in the Adriatic-Ionian Initiative, the European Union Macro-Regional Strategies for the Danube Region, the Adriatic and Ionian Region, the Regional School of Public Administration (ReSPA) and the Brdo-Brijuni process.

The **EU-Western Balkans Summit** in December 2022 took place, for the first time in the region, in Tirana. The summit focused on support to the region in the fields of energy and migration, and on youth cooperation, roaming, green lanes and overall progress on implementing the Economic and Investment Plan.

On the **Common Regional Market**, a political breakthrough was achieved at the Berlin Process Summit in November 2022, where leaders from the Western Balkans adopted the three mobility agreements on higher education qualifications, on professional qualifications and on free movement with identity cards. Serbia ratified all three mobility agreements in April 2023 and deposited the related ratification notifications. A number of important decisions agreed at technical level within CEFTA remain blocked.

There are no outstanding issues concerning Serbia's respect for the **Dayton/Paris Peace Agreement**. Serbia continues to support Bosnia and Herzegovina's territorial integrity and its path to joining the EU. As envisaged by the Dayton agreement, Serbia continues to develop special relations with *Republika Srpska* entity, as well as to publicly promote such relations. Regular and frequent meetings were held between the Serbian leadership (President, Prime Minister, Speaker, Ministers, including the Minister for European Integration) and the leadership of *Republika Srpska*. In August 2023, a session of two governments and of the Cooperation Council was held in Banjaluka. Serbian authorities also met the new High Representative for Bosnia and Herzegovina who visited Belgrade in October 2022 and February 2023.

Serbia has continued to closely cooperate with Bosnia and Herzegovina, Croatia, Montenegro and Serbia under the **Sarajevo Declaration Process**, which aims to find sustainable solutions to refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. Within the framework of the Regional Housing Programme, 6 894 housing units had been built, purchased or reconstructed by end of August 2023 in Serbia, able to accommodate about 20 680 individuals. Significant challenges remain regarding the economic and social integration and well-being of many families, which is required to ensure the sustainability of return, but also to ensure adequate protection and opportunity in cases of no return.

The unresolved fate of **missing persons** who disappeared during the conflicts in the 1990s remains a key issue to be solved in the Western Balkans. In July 2023, there were still 9 781 missing persons as a legacy of the conflicts. Serbia participated in the work of the Missing Persons Group (MPG) under the framework plan, and the Serbian government Commission on the Missing Persons also engaged in activities with the International Committee of the Red Cross (ICRC) and the International Commission on Missing Persons (ICMP) to promote bilateral cooperation with Croatia, Bosnia and Herzegovina and Montenegro in the resolution of missing person cases. In June 2023, rules of procedure for cooperation between Montenegro and Serbia were formally signed with a view to implement the bilateral cooperation protocol. Bilateral cooperation with Croatia on these issues resumed on an informal basis, with a number of meetings in January and March 2023, as part of broader efforts to improve bilateral relations. The Belgrade delegation to the ICRC-chaired working group on missing persons remained engaged in 2022 and 2023, including in assessing possible gravesites in Serbia and Kosovo. No session of the working group took place after April 2021 as the Kosovo delegation refuses to hold new meetings until the Serbian delegation changes its head. Nonetheless, lower levels of the mechanism (sub-working group on forensic issues and analytical team) continued to work on concrete cases and sites. In May 2023, the leaders of Serbia and Kosovo, in the context of the EU-Facilitated Dialogue, endorsed the Declaration on Missing Persons committing to

full implementation of respective commitments in this area, and improving their cooperation under the ICRC-chaired working group.

Serbia remained overall committed to maintaining good **bilateral relations** with other enlargement countries and neighbouring EU Member States.

Relations with *Albania* remained good overall. In September 2022, a memorandum of understanding on cooperation in the energy sector was signed. In July 2023, Albanian Prime Minister visited Belgrade and Serbian Prime Minister visited Tirana for a regional meeting.

Relations with *Bosnia and Herzegovina* are good and overall stable. The new Minister of Foreign Affairs of Bosnia and Herzegovina visited Serbia in February 2023 and met all Serbian leaders. Border demarcation issues need to be resolved and the countries still need to reach an agreement on two dams on the Drina River and a part of the Belgrade-Bar railway, which crosses into Bosnia and Herzegovina.

Relations with *Montenegro* are overall stable. The Serbian President attended the inauguration ceremony of the new Montenegrin President, who visited Serbia in July 2023. In September 2022, the Prime Minister of Montenegro visited Serbia. Serbian media outlets have a strong footprint in Montenegro's media landscape. The participation of mayors and heads of local assemblies of six municipalities from Montenegro and representatives of the former Democratic Front at the Serbian Parliament's Committee for Diaspora and Serbs in the region sparked controversy in Montenegro. In August 2023, Serbia banned the entry of a former Montenegrin Deputy Prime Minister on alleged security grounds.

Relations with *North Macedonia* are good. In March 2023, the Prime Minister of North Macedonia visited Belgrade and three memorandums of understanding were signed. They concern measures promoting the movement of people and goods, cooperation in the mining and energy sector, and a project to establish an interoperable electronic tolling system. In April 2023, a memorandum of understanding on cooperation in EU integration was signed.

Relations with *Türkiye* are very good. In January 2023, the Serbian Minister of Foreign Affairs visited Ankara. In December 2022, a Turkish parliamentary delegation was in Belgrade. In March 2023, Serbia donated EUR 1.5 million of assistance to Türkiye and Syria following the devastating earthquake. In June 2023, the Serbian First Deputy Prime Minister and the Minister for Foreign Affairs, in the capacity of special envoy of the Serbian President, attended the inauguration of the Turkish President. In August 2023, the two Presidents met in Hungary in the margins of a wider event.

Serbia has not joined the sanctions against the Russian Federation, but it supports the territorial integrity and sovereignty of *Ukraine* (for more details see Chapter 31). Serbia provided humanitarian assistance and energy equipment to Ukraine. In August 2023, Serbian President had the first official bilateral meeting with his Ukrainian counterpart in Athens, following a brief and informal meeting between the two in the margins of the European Political Community summit in the *Republic of Moldova* in June 2023. In February 2023, allegations of Serbian football fans' involvement in an attempted *coup d'état* or destabilising activities promoted by Russia in Moldova created short-lived tensions that were quickly resolved at the highest bilateral level. Serbia's relations with *Georgia* are overall good. A memorandum of understanding between Serbia and Georgia is in place on cooperation in the area of European integration. Trade exchanges with the three countries are underdeveloped.

Relations with neighbouring **EU Member States Romania** and **Bulgaria** are overall good and with **Hungary** very good. In June 2023, a Strategic Cooperation Council with Hungary was established and held its first session; 12 agreements were signed. Relations with **Croatia**

improved. In January 2023, the Ministers of Foreign Affairs of the two countries met twice, and Serbia appointed a State Secretary in the Ministry of Foreign Affairs as the national coordinator for addressing open issues with Zagreb. The Croatian and Serbian Prime Ministers met twice, in January 2023 in Croatia and in June 2023 in Serbia, in the margins of their informal visits to the other country to meet representatives of their respective national minority.

4. NORMALISATION OF RELATIONS BETWEEN SERBIA AND KOSOVO

The EU-facilitated Dialogue on normalisation of relations between Kosovo and Serbia continued in the reporting period with regular meetings at the level of Leaders and Chief Negotiators. After months of intense negotiations and with the support of key partners, the Parties reached an Agreement on the Path to Normalisation in Brussels on 27 February 2023, and agreed on its Implementation Annex in Ohrid, North Macedonia, on 18 March 2023. As part of the Agreement, the Parties took note that the Agreement and the Implementation Annex will become integral parts of the respective EU accession processes of Kosovo and Serbia.¹⁰

Both Kosovo and Serbia are yet to start implementation of their respective obligations stemming from the Agreement, which are valid and binding for the Parties and part of their European paths. The Parties are urged to start engaging more constructively and start implementation without further delay or precondition. This includes the establishment of the Association/Community of Serb Majority Municipalities (A/CSM). Kosovo is expected to start the process leading to the establishment of the A/CSM based on the European proposal presented to the Parties on 21 October 2023 and Serbia is expected to support this process and start delivering on their key obligations from the Agreement in parallel. Formalities, including related to adoption, should not stand in the way of making progress in implementation. The Parties further have an obligation to fully implement all past Dialogue Agreements. The constructiveness of the Parties is assessed based on their implementation performance. The European Council on 26 October 2023 regretted the lack of implementation by both Parties of the Agreement on the path to normalisation and its Implementation Annex as well as other agreements reached in the EU facilitated dialogue, led by the High Representative and supported by the EU Special Representative.¹¹ Normalisation of relations is an essential condition on the European path of both Parties and both risk losing important opportunities in the absence of progress. Despite the conclusion of the Agreement on the Path to Normalisation, the Dialogue has been hampered throughout the reporting period by a number of negative developments and crises in the north of Kosovo triggered by actions of one or both Parties. Kosovo has executed a number of such actions in the north of Kosovo, including the increased presence of Kosovo's special police and expropriation of land, which have created widespread

¹⁰ Implementation Annex to the Agreement on the Path to Normalisation of Relations between Kosovo and Serbia: This Annex constitutes an integral part of the Agreement. Kosovo and Serbia fully commit to honour all Articles of the Agreement and this Annex, and implement all their respective obligations stemming from the Agreement and this Annex expediently and in good faith. The Parties take note that the Agreement and the Implementation Annex will become integral parts of the respective EU accession processes of Kosovo and Serbia. The Parties note that immediately after the adoption of the Agreement and this Annex, the EU Facilitator will start the process to amend the Chapter 35 benchmarks for Serbia to reflect Serbia's new obligations stemming from the Agreement and this Annex. The agenda of Kosovo's Special Group on Normalisation will equally reflect Kosovo's new obligations stemming from the Agreement and this Annex. The Parties agree to endorse the Declaration on Missing Persons, as negotiated under the EU-facilitated Dialogue, as a matter of urgency. To implement Article 7, Kosovo launches immediately negotiations within the EU-facilitated Dialogue on establishing specific arrangements and guarantees to ensure an appropriate level of self-management for the Serbian community in Kosovo, in compliance with relevant previous Dialogue agreements as determined by the EU Facilitator. The Parties agree to set up a Joint Monitoring Committee, chaired by the EU, within 30 days. The implementation of all provisions shall be ensured and supervised by the Joint Monitoring Committee. To implement Article 9, the EU will organise a donor conference within 150 days to set up an investment and financial aid package for Kosovo and Serbia. No disbursement will happen before the EU determines that all provisions of the Agreement have been fully implemented. Kosovo and Serbia agree that all Articles will be implemented independently of each other. The order of the paragraphs of this Annex is without prejudice to the order of their implementation. Kosovo and Serbia agree not to block implementation of any of the Articles. All discussions related to implementation of the Agreement will take place under the EU-facilitated Dialogue. Kosovo and Serbia recognise that any failure to honour their obligations from the Agreement, this Annex or the past Dialogue Agreements may have direct negative consequences for their respective EU accession processes and the financial aid they receive from the EU.

¹¹ <https://www.consilium.europa.eu/media/67627/20241027-european-council-conclusions.pdf>

discontent among the local Kosovo Serb population and negatively affected the Dialogue. The mass resignation of Kosovo Serbs from Kosovo institutions – police, judiciary, and administration – in November 2022, roadblocks in the north of Kosovo in reaction to arrests of Kosovo Serbs in December 2022, as well as the boycott of early local by-elections in April 2023 by Kosovo Serbs further damaged the Dialogue and exacerbated the negative atmosphere around it. As a result of the Kosovo Serbs leaving all Kosovo institutions in November 2022, by-elections took place in the four Kosovo Serb majority municipalities in the north of Kosovo on 23 April 2023. While the elections were held in line with the legal framework of Kosovo, not all parties and communities made use of their democratic right to participate and vote in the elections, resulting in a record low turnout, which does not offer a long-term political solution for these municipalities.

While there had been no progress in the implementation of the Energy Roadmap adopted in June 2022, the tentative agreement in August 2023 between the commercial companies KEDS and Elektrosever on the scope of functions potentially marks a significant step forward in the implementation of the Roadmap. The Parties are now expected to quickly enable the signing of the outstanding commercial and technical agreements between the two companies to ensure that people living in the four Kosovo Serb-majority municipalities in the north start paying for the electricity they consume.

During the reporting period, the Parties agreed on and endorsed the political declaration on Missing Persons in May 2023. The Parties are encouraged to start implementation of the declaration immediately and, as the first step, agree to the Terms of Reference for the Joint Commission that is to be established as per the declaration.

When it comes to the state of play on implementation of past Dialogue agreements:

- The withdrawal of Kosovo Serbs from Kosovo institutions in November 2022 and the boycott of local elections in the north of Kosovo in April 2023 violate Serbia's Dialogue obligations and they constitute severe backsliding in Serbia's compliance to the April 2013 "First agreement of principles governing the normalisation of relations" and direct violation of the Justice Agreement of 2015. Serbia is urged to encourage Kosovo Serbs to return to the institutions immediately and Kosovo to enable this return to happen. Since November 2022, neither Party has taken any steps in this regard. The recruitment of new Kosovo Serb police cadets undertaken by the Kosovo Police while welcomed, did not follow the procedures in line with Dialogue agreements.
- There has still been no further progress on the implementation of the August 2015 Agreement. While the EU welcomes the presentation of a first draft Statute of the A/CSM to the High-level Dialogue in May 2023, the draft presented is not in line with the relevant Dialogue Agreements. A European proposal for the establishment of the A/CSM in Kosovo was presented to the Parties on 21 October 2023. Formalities, including related to adoption should not stand in the way of making progress in implementation. Kosovo and Serbia are now urged to engage constructively on the establishment of the A/CSM with no further delay, conditions or obstructions. This obligation forms a part of the implementation of the Agreement on the Path to Normalisation of Relations, which the Parties are expected advance on, without delay or precondition, as recalled by the European Council in October 2023. The issue of Serbia-run structures needs to be addressed in this same context.
- The works on the Mitrovica Bridge have long been completed and Serbia is expected to engage constructive to allow the bridge to be opened to vehicle traffic without obstruction. Any decision on opening of the Bridge has to be agreed and coordinated in the Dialogue.

- As regards the technical Dialogue agreements (2011-2012), some are not or only partially being implemented. Until sustainable solutions are found, both Parties need to remain committed to the continued implementation of the agreement on representation and participation of Kosovo in regional forums and not block the work of regional forums over bilateral disputes. The implementation of the cadastre and acceptance of university diplomas agreements is still pending due to non-implementation by Serbia. Serbia also has yet to address the issue of re-located Serbian administrative customs structures with Kosovo denomination that operate from within Serbia, and to cease the issuance of documentation or affixing of stamps with denomination that contravenes the related agreement.
- On IBM, the Interim Common Crossing-Points (CCPs) between Kosovo and Serbia continue to be operational. Only two of the six permanent CCPs have been established (Merdare and Mutivodë/Mutivode). Serbia still has not established permanent CCPs to be hosted by their side (Jarinje/Rudnica, Končulj/Dheu i Bardhë and Depce/Muçibabë), which led to a suspension of EU funds for this project in July 2018. In addition, Serbia needs to engage constructively to enable the construction of the third CCP hosted by Kosovo in the north of Kosovo at Tabavije/Bërnjak-Tabalijs/Brnjak. Additional efforts are required from Serbia to close illegal roads and bypasses to ensure exclusive use of official crossing points for goods and persons entering into or leaving Kosovo. Serbia also must allow resumption of the joint technical IBM meetings at all levels.
- On Freedom of Movement, after months of tensions, Kosovo and Serbia agreed in November 2022 that Serbia will stop issuing new licence plates with Kosovo cities' denominations, and that Kosovo will suspend any further actions related to re-registration of vehicles. The full implementation of the Freedom of Movement agreements is still pending. This also requires the Parties to find a permanent solution to the issue of licence plates in compliance with the relevant Dialogue agreements. Lack of such solution has continued to cause tensions in the north of Kosovo during the reporting period.
- Both Parties need to fully respect the Telecoms Agreement and not put its hitherto successful implementation at risk. Kosovo needs to ensure that MTS d.o.o has a business licence for the functions that have been agreed as part of the Agreement to enable the company to continue providing mobile and landline telephony services. MTS d.o.o needs to engage constructively and in line with the Kosovo law to enable this to happen.
- The processing of the Mutual legal assistance requests has been stopped by Serbia. Serbia needs to resume the processing immediately, in line with the relevant Dialogue Agreement.
- Both Parties need to respect the Arrangements for Official Visits more consistently. Kosovo needs to allow the visits of the Serbian Chief Negotiator and other Serbian government officials when they are announced and conducted in line with the Arrangements, which has not always been the case during the reporting period.

Overall, Serbia has remained engaged in the Dialogue, but it needs to demonstrate more serious commitment, invest more efforts and make compromises to take the normalisation process forward. Serbia needs to uphold its Dialogue commitments and commit to the full implementation of all past Dialogue agreements and the Agreement on the Path to Normalisation of Relations. Moving forward, Serbia also needs to make further substantial efforts to avoid actions that undermine stability and rhetoric that is not conducive to dialogue. Serbia also needs to create a conducive environment for the conclusion of the legally-binding normalisation Agreement with Kosovo, including in its international relations. Serbia is expected to engage more constructively to enable negotiations on the comprehensive legally-

binding normalisation Agreement to start and show flexibility in order to make rapid and concrete progress. Reaching such an Agreement is urgent and crucial so that Kosovo and Serbia can advance on their respective European paths. An important requirement for negotiations on the comprehensive legally-binding Agreement is for the Parties to implement the Agreement on the Path to Normalisation swiftly and efficiently and without any conditions or obstructions.

The reporting period was marked by multiple crises and violent incidents in the north of Kosovo. The most serious crisis during the reporting period occurred on 24 September 2023, when Kosovo Police was attacked by heavily armed individuals, who were surprised in the midst of a major weapons' smuggling operation, leaving one police officer dead and three wounded. During the operation the attackers had taken several pilgrims hostage while barricading themselves in the Serbian Orthodox Monastery of Banjska/Banjskë, which they left behind when fleeing. During the ongoing investigation into the events large amounts of military-grade weapons were seized. In the following days the Deputy Leader of Srpska Lista, through his lawyer, announced that he prepared and coordinated the attack. He was questioned by Serbian authorities, shortly detained and released with his passport confiscated. The Serbian government pronounced a day of mourning "over tragic events", which was largely observed as commemoration of the attackers. In the days following the attack, Serbia increased its military presence in the vicinity of Kosovo, which was subsequently reduced. The perpetrators of the attack need to be apprehended and swiftly brought to justice and Serbia is expected to fully cooperate and take all the necessary steps in this regard. The attack should not serve as an excuse for either side to divert attention from the EU-facilitated Dialogue. Kosovo and Serbia must pursue sustained de-escalation efforts, as well as ensure the holding of new elections in the north of Kosovo as soon as possible, with the active participation of Kosovo Serbs.

Prior to it, another serious escalation took place in May 2023, when the newly elected Kosovo Albanian mayors were installed in the municipal buildings in the north of Kosovo, against the clear recommendation of the international community, which triggered protests by Kosovo Serbs. Some turned violent and led to unacceptable and unprovoked attacks against citizens, KFOR soldiers, law enforcement and representatives of media, which are yet to be condemned, investigated, prosecuted and acted upon by Serbia. Several arrests of Kosovo Serbs by Kosovo Police in relation to their alleged involvement in the violence of 29 May in Zvečan/Zvečan, which did not systematically and fully adhere to the legal requirements, are of concern.

To find a way out of the cycle of crises, the Parties are expected to meet the requests of the EU, as per the statements by the High Representative on behalf of the EU from 3 June 2023¹² and 19 September¹³ related to de-escalation on the situation on the ground, enabling new early elections with unconditional participation of Kosovo Serbs, return to the Dialogue and implementation of all Agreements. The European Council expressed on 26 October 2023 that failure to de-escalate the tensions will have consequences.¹⁴

5. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

¹² <https://www.consilium.europa.eu/en/press/press-releases/2023/06/03/statement-by-the-high-representative-on-behalf-of-the-eu-on-kosovo-and-latest-developments/>

¹³ <https://www.consilium.europa.eu/en/press/press-releases/2023/09/19/belgrade-pristina-dialogue-statement-by-the-high-representative-on-behalf-of-the-european-union-on-expectations-from-serbia-and-kosovo/>

¹⁴ <https://www.consilium.europa.eu/media/67627/20241027-european-council-conclusions.pdf>

CLUSTER 2: INTERNAL MARKET

This cluster covers free movement of goods (Chapter 1), freedom of movement for workers (Chapter 2), right of establishment and freedom to provide services (Chapter 3), free movement of capital (Chapter 4), company law (Chapter 6), intellectual property law (Chapter 7), competition policy (Chapter 8), financial services (Chapter 9), and consumer and health protection (Chapter 28). Four chapters have been opened, namely chapters 4, 6, 7 and 9. Opening benchmarks are yet to be met on chapters 1 and 8. This cluster is key for Serbia's preparations for the requirements of the EU's internal market and is of high relevance for early integration and the development of the Common Regional Market.

Progress was limited in most areas within the cluster. No progress was registered in the area of free movement of capital.

In the coming period, Serbia is invited to focus on the following areas: adopting an action plan to ensure compliance with Articles 34-36 of the Treaty on the Functioning of the European Union and a strategy and action plan for implementing the *acquis* on free movement of goods; enhancing cooperation with EU Member States on coordination of social security systems; adopting the Law on services; liberalising capital movements in line with obligations under the Stabilisation and Association Agreement (SAA); aligning with the *acquis* on company law, particularly on takeover bids; aligning the copyright and related rights legislation with the EU directives on collective rights management and on orphan works; aligning the existing fiscal State aid schemes with the EU *acquis* and improving the track record in the area of competition and State aid; continue to align the banking regulation with the revised versions of the Capital Requirements Regulation and the Capital Requirements Directive (CRR/CRD); and further aligning with the EU consumer protection and health protection *acquis*, including on substances of human origin, tobacco and medicines for human and veterinary use.

Chapter 1: Free movement of goods

The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these rules creating unjustified barriers to trade.

Serbia is **moderately prepared** in the area of free movement of goods. **Limited progress** was made on last year's recommendations by adopting implementing legislation on the classification, labelling and packaging of chemicals (CLP), and by further aligning with the EU *acquis* on eco-design. Other recommendations from last year's report remain valid.

In the coming year Serbia should in particular:

- finalise and adopt an action plan to ensure compliance with Articles 34-36 of the Treaty on the Functioning of the European Union (TFEU), and a strategy and action plan for implementing the EU *acquis* in this chapter for sectoral ('new approach' and 'old approach') and horizontal legislation and relevant organisations;
- align with the latest market surveillance *acquis* by adopting the law on market surveillance;
- provide adequate administrative, financial and human resources capacity for market surveillance, the agency for the homologation of vehicles, and for implementation of the European Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

General principles

On the **general principles**, Serbia still needs to adopt a strategy and an action plan to implement the EU *acquis* related to this chapter for sectoral ('new approach' and 'old approach') and horizontal legislation, and for relevant organisations.

Non-harmonised area

On **horizontal measures**, Serbia still needs to adopt, and then start to implement, an action plan ensuring compliance with **Articles 34-36** of the Treaty on the Functioning of the European Union (TFEU). Serbia partly aligned with the EU *acquis* on mutual recognition.

Harmonised area: quality infrastructure

The quality council, an expert advisory body established to further promote and improve quality infrastructure, did not provide recommendations on quality infrastructure-related activities during the reporting period. Shortages in human resources for the quality infrastructure institutions dealing with standardisation have been addressed, while the Accreditation Body of Serbia (ATS), market surveillance, the agency for homologation of vehicles and REACH would benefit from further strengthening.

In 2022, the government adopted the Regulation on notification and information of technical regulations, conformity assessment and standards, aiming to fully align with the EU *acquis* on information in the field of technical regulations. Overall, further efforts need to be made to raise awareness and understanding of quality infrastructure among business and consumers in Serbia.

On **standardisation**, there are 176 active national standardisation technical committees in the Institute for Standardisation of Serbia. In the reporting period, the Institute adopted 99.39% of the European Committee for Standardisation (CEN) standards, 97.33% of the European Committee for Electrotechnical Standardisation (CENELEC) standards, and 100% of the European Telecommunications Standards Institute (ETSI) standards. 8.3% of European standards and deliverables were adopted by the 'translation method'.

The number of **conformity assessment** bodies in Serbia is currently 774. Out of these, 19 are designated and registered for carrying out conformity assessment in accordance with technical legislation. Although the obligations regarding certificates of conformity were repealed by Serbia in February 2022, by amending the Law on products for general use, a small number of certificates of conformity continue to apply to imports of goods such as drones, construction products such as cement, steel for the reinforcement of concrete, and for screws. During the reporting period, the Accreditation Body of Serbia (ATS) awarded 28 new accreditations, revoked eight and suspended four.

Serbian legislation remains partly aligned with the EU *acquis* on **accreditation**. In October 2022, the European co-operation for Accreditation formally confirmed that the ATS remains a signatory in the field of calibration, testing including medical testing, inspection, certification of management systems, certification of products, processes and services, and certification of persons, and confirmed that the ATS is compliant with requirements in the field of proficiency testing providers.

In the field of **metrology**, Serbian legislation remains partly aligned with the EU *acquis*. During the reporting period, the Directorate of Measures and Precious Metals (DMDM) published 172 new calibration and measurement capabilities in various fields. The number of internationally recognised standards for calibration and measurement stands at 34.

On **market surveillance**, Serbia's legislation remains to be aligned with the latest EU *acquis*. Although aided by its IT platform (e-Inspektor), the market surveillance inspectorate, which has 458 systemised positions, has reduced the number of staff to 322 employees. Its financing and budget still require additional resources. In the reporting period, the market surveillance and inspection authorities carried out 5 825 inspections and ordered 627 corrective and restrictive measures for non-compliant or unsafe products. The sanitary inspection has removed approximately 34 tonnes of unsafe imported products off the market.

Harmonised area: sectoral legislation

In the area of '**new and global approach**' **product legislation**, Serbia adopted implementing legislation designed to fully align with the EU *acquis* on eco-design. Serbian legislation on cableways, radio equipment, gas appliances, construction products, civil explosives, pyrotechnic articles, medical devices and *in vitro* medical devices remains partially aligned with the EU *acquis*.

In the area of '**old approach product legislation**', some progress was made on alignment with the Classification, Labelling and Packaging Regulation (CLP), through the adoption of implementing legislation. The administrative and inspection capacity for implementing the EU *acquis* for vehicle homologation requires strengthening. Serbia is partly aligned with the EU *acquis* on detergents. It is not aligned with the EU *acquis* on motor vehicles, two or three wheeled vehicles, tractors, non-road mobile machinery emissions, fertilisers, and drug precursors.

On **procedural measures**, in May 2023 Serbia adopted a national control list for **dual-use goods** designed to be aligned with the EU *acquis*, and in May 2023 published a national control list of **weapons**. Serbian legislation on firearms and medicinal products pricing remains to be aligned with the EU *acquis*.

Chapter 2: Freedom of movement for workers

Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

Serbia is **moderately prepared** in the area of freedom of movement for workers. Serbia made **limited progress** in this area by continuing to carry out preparations for joining the European network of employment services (EURES).

No new bilateral agreements with EU Member States on coordination of social security systems have been concluded. Therefore, last year's recommendation remains valid.

In the coming year, Serbia should in particular:

- step up cooperation with EU Member States on coordination of social security systems;
- initiate preparations for joining the European Labour Authority.

Regarding **access to the labour market**, the procedures for issuing work permits to EU citizens, who are currently covered by rules for third-country nationals, need to be further simplified. In 2022, a total of 35 173 work permits were issued, of which 2 101 to EU citizens.

Serbia's National Employment Service (NES) has continued to carry out preparations for joining the European network of employment services (**EURES**), notably by initiating preparations for adapting the work processes of NES to EURES requirements. Two new migration service centres were opened in Subotica and Vranje, in addition to the seven existing ones. NES organised EURES-related training sessions for the staff of its migration services centres and completed the reengineering of its information system.

Serbia needs to initiate preparations for joining the **European Labour Authority**.

Regarding the **coordination of social security systems**, bilateral agreements are in place with 20 EU Member States. No new bilateral agreements were concluded. Overall, legislative, technical and administrative conditions for social security institutions to cooperate with their counterparts in EU Member States need to be further improved.

There were no developments on the **European Health Insurance Card**.

Chapter 3: Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.

Serbia is **moderately prepared** in these areas. **Limited progress** was made on the right of establishment and freedom to provide services, with the continued screening and alignment of sectoral laws with the EU *acquis* and the further strengthening of the capacity of the postal services inspectorate. Nevertheless, last year's recommendations remain valid.

In the coming year, Serbia should in particular:

- adopt the horizontal Law on services, complete alignment of sectoral laws with the horizontal law and the EU *acquis*, and establish a point of single contact via a portal that offers online information to service providers, including on all relevant administrative procedures;
- complete alignment with the EU postal *acquis*; and
- continue alignment with the EU *acquis* on mutual recognition of professional qualifications, including on the directives on recognition of professional qualifications and on a proportionality test before adoption of new regulation of professions.

In the areas of the **right of establishment** and **freedom to provide cross-border services**, the horizontal Law on services, aiming to align with the EU Services Directive, remains to be adopted. Serbia has continued with the screening and alignment of sectoral laws with the draft horizontal law and the EU Services Directive. During the reporting period, Serbia concluded the screening process of 15 laws, 15 implementing laws and 8 regulations in the field of environmental protection. No point of single contact has been established; its establishment and functioning are dependent on the adoption of the horizontal Law on services.

The Law on **postal services** is aligned with the 1997 and 2002 Postal Services Directives and partially with the 2008 Postal Services Directive, as it maintains a reserved area for the provision of universal service. Serbia is currently preparing to complete the alignment of its national legislation with the 2008 Postal Services Directive and the Regulation on cross-border parcel delivery services. In 2022, Serbia also concluded an analysis for the implementation of the Regulation on cross-border parcel delivery services, as envisaged under the action plan of the strategy for the development of postal services for the period 2021-2025, which will inform preparations for amending the Law on postal services. The Regulatory Agency for Electronic Communications and Postal Services is the independent national regulatory authority in the field of postal services. In October 2022, a new Ministry of Information and Telecommunications was formed, including a department for postal inspection. The upgraded administrative capacity of the postal services inspectorate is sufficient to ensure compliance with the current Law on postal services and monitor the national postal market. Serbia should

complete the regulatory alignment with the EU postal *acquis* and continue preparing for implementing the new postal market rules, in view of amending the postal law.

In the field of **mutual recognition of professional qualifications**, national legislation is largely aligned with the EU *acquis*. A preliminary list of 50 regulated professions, drafted with EU support, is still pending adoption. Serbia has adopted the three agreements, reached in 2022 in the framework of the Berlin Process, on recognition of professional and academic qualifications. Further alignment is still needed on the relevant sectoral legislation.

Chapter 4: Free movement of capital

In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.

Serbia is **moderately prepared** on free movement of capital. **No progress** was made during the reporting period. Last year's recommendations remain valid.

In the coming year, Serbia should in particular:

- liberalise capital movements in line with its obligations under the Stabilisation and Association Agreement, in particular by removing the remaining restrictions on the acquisition of agricultural land by EU nationals, and by adopting amendments to the Law on the elements of property law relations, to ensure equal treatment on the acquisition of property rights; and
- demonstrate, through a track record, increasing effectiveness in monitoring, supervision, financial intelligence, investigation and reporting.

In the field of **capital movements and payments**, Serbia has liberalised many capital transactions. Certain restrictions on capital movements remain for reasons of public policy and macro-financial stability. These must be justified, targeted and proportionate and should be gradually lifted. There are still some restrictions and authorisation requirements regarding the possibility of residents to engage in deposit operations abroad. The agricultural law still does not provide EU citizens and Serbian citizens with the same conditions in terms of acquiring agricultural land. Amendments to the legislation on elements of property law relations, which will aim at providing EU citizens with the same treatment as Serbian nationals regarding the acquisition of real estate, are still being drafted. Against this background, Serbia is not complying with its obligations under the SAA.

On **payment systems**, no changes were made to align the Law on multilateral interchange fees and special operating rules for card-based payment transactions with the EU *acquis* and SAA obligations (*See Chapter 8 – Competition policy*). The National Bank of Serbia continued with the preparatory activities to fully align the Law on payment services and relevant by-laws with the Payment Service Directive 2 (PSD 2). Serbia has currently 12 licensed payment institutions and 4 electronic money institutions providing payment services.

On the **fight against money laundering and terrorism financing**, Serbia is still reporting to MONEYVAL about the implementation of the outstanding 2016 mutual evaluation report recommendations. Serbia will remain in enhanced follow-up and is expected in 2023 to report back to MONEYVAL on progress to strengthen its implementation of anti-money laundering and counter-terrorist financing measures. The 2022-2024 action plan accompanying the national anti-money laundering/countering the financing of terrorism strategy is being implemented.

The rulebook on internal organisation and job classification in the Administration for the Prevention of Money Laundering (APML) was amended in December 2022 to reflect internal organisational changes. Its administrative capacity decreased further to 28 employees against the envisaged 42 members. In 2022, 1 563 suspicious transactions were reported.

Chapter 6: Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.

Serbia has a **good level of preparation** in company law. **Limited progress** was made with the mandatory electronic filing of applications for incorporation for joint-stock and limited liability companies, and for limited and general partnerships. Further alignment is needed in the company law area. Therefore, last year's recommendation remains valid.

In the coming year, Serbia should in particular:

- further align with the EU *acquis* on company law, particularly on takeover bids; and
- start working on aligning national legislation with the EU *acquis* on cross-border conversions, mergers and divisions and on the use of digital tools and processes in company law.

As regards **company law and corporate governance**, Serbia's legislation is largely aligned with the EU *acquis*. Adoption of a new law on takeovers of joint-stock companies and related legislation to align with the *acquis* on company takeovers is still pending. Further alignment is needed with the directives on the use of digital tools, the directive on cross-border operations (mergers, divisions, conversions), and the directive on gender equality on boards of directors.

Serbia's Corporate Governance Code is based on EU best practice and OECD principles. The Serbian Business Registers Agency acts as a one-stop shop where companies obtain a unique registration and tax identification number and online access to company information. It also provides for electronic registration of the formation of limited liability companies. In May 2023, the electronic filing of applications for incorporation became mandatory for joint-stock and limited liability companies, and for limited and general partnerships. Company information in the business register is stored electronically in a database, which should be technically ready to interconnect with the EU Business Registers Interconnection System upon EU accession. Serbia's Law on companies defines the formation of a European Company and European Economic Interest Grouping; as yet there are no plans for alignment regarding the statute for a European cooperative society.

Regarding **company reporting**, under the Law on accounting and related financial reporting rules, companies must compile financial statements and submit them to the Serbian Business Register Agency. More than 5 400 accounting services providers have been registered in the new Register of Accounting Services Providers, in compliance with the Law on accounting. There are sanctions for the non-publication of individual and consolidated financial statements. Moving forward, Serbia will need to harmonise its legislation to align with the 2022 EU Directive on corporate sustainability reporting. Implementation of the 2021 Law on capital market began in January 2023, following adoption by the Securities Commission, in July 2022, of a set of implementing legislation. The Law is partially aligned with the EU Transparency Directive for listed companies. The Securities Commission is the Officially Appointed Mechanism for the central storage of regulated information. It is also the body responsible for quality assurance and public audit oversight. Implementation of the Law on auditing is

discussed by the audit public oversight board and relevant action plans are revised on an annual basis.

Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting.

Serbia has a **good level of preparation** on intellectual property rights. **Limited progress** was made with slightly improved statistics on enforcement and the launching of an electronic interface for the submission of requests for the protection of intellectual property rights to the Market Inspectorate. Last year's recommendations remain valid.

In the coming year, Serbia should in particular:

- align the copyright and related rights legislation with the EU directives on collective rights management, on orphan works and on certain permitted uses of certain works and other subject matter protected by copyright and related rights, for the benefit of persons who are blind, visually impaired or otherwise print-disabled; and
- strengthen enforcement by improving capacities and further increasing the coordination of different stakeholders.

Preparations of a new Law on **copyright and related rights** continued, with the aim to ensure full alignment with the *acquis* on collective rights management and orphan works. The new law also aims to fully implement the Marrakesh Directive. Serbia has yet to align with the EU Directives on copyright and related rights in the Digital Single Market (DSM Directive) and on online transmissions of broadcasting organisations and retransmissions of television and radio programmes (SatCab II Directive).

On **industrial property rights**, the supplementary protection certificate manufacturing waiver started to apply from 2 July 2022. The Intellectual Property Office remains relatively well staffed and efficient in registering trademarks.

On **enforcement**, the number of employees in the Market Inspectorate specialising in the field of intellectual property remained unchanged at 40 inspectors. In October 2022, their area of work expanded to include identification of infringements in computer software, taking over the competence from the Tax Administration, which employed four inspectors for these tasks. To strengthen the capacity of the Market Inspectorate, a department for IPR enforcement and prevention of illegal trade and a special unit for IPR enforcement were created. The number of software legality checks carried out by the Tax Administration slightly decreased in 2022. The overall amount of counterfeit and pirated goods confiscated and destroyed by the Market Inspectorate increased significantly in 2022 (321 362, compared with 61 747 in 2021). The number of procedures carried out by the Market Inspectorate, both *ex officio* and following requests submitted by economic operators, increased year-on-year. The number of customs officers specialised in intellectual property protection remained stable at 12 employees in 2022. The number of items detained by the Customs Administration increased substantially in 2022 (1 134 213, compared with 145 866 in 2021), as well as the number of destroyed items (159, compared with 48 in 2021). The latest amendments to the Regulation on the conditions and method of implementation of measures for the protection of intellectual property rights at the border entered into force in January 2023. Due to inadequate specialisation and the increasing

number of incoming cases, the capacity of the judiciary to handle intellectual property rights cases remained limited.

Work to further align with the EU Directive on the enforcement of IPR is ongoing. The coordination body for the enforcement of intellectual property rights held one meeting in 2022, while the working groups established informal cooperation, notably in testing the electronic platform for information exchange among IPR enforcement institutions. However, the platform remains to be launched. The Market Inspectorate launched an interface for electronic submission of requests for protection of intellectual property rights.

Chapter 8: Competition policy

EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of a dominant position, and rules on concentrations between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.

Serbia is **moderately prepared** in the area of competition policy. **Limited progress** was made on legislative alignment of State aid rules with the EU *acquis*, in the form of the adoption of implementing legislation. However, last year's recommendations on the alignment with the EU *acquis* and obligations under SAA of the fiscal State aid schemes and the Law on multilateral fees and special operating rules for card-based payment transactions have not been met.

In the coming year, Serbia should in particular:

- align the existing fiscal State aid schemes and work towards aligning the Law on multilateral interchange fees and special operating rules for card-based payment transactions with the EU *acquis* and SAA obligations;
- ensure that the notification and standstill obligations are systematically respected for all State aid measures and establish a solid track record in the implementation of laws on protection of competition and State aid control; and
- finalise the inventory and define an action plan for the alignment of all existing State aid schemes identified as incompatible with the SAA obligations.

Antitrust and mergers

The **legislative framework** is broadly in line with Articles 101 and 102 TFEU and related provisions of the SAA. The current Law on protection of competition provides for an *ex ante* control of mergers. Three block exemption regulations providing further alignment with the EU *acquis* remain to be adopted. The legislative framework is yet to be fully brought in line with EU guidelines and communications in this area. No progress was made in aligning Article 9 of the Law on multilateral interchange fees and special operating rules for card-based payment transactions with the EU *acquis* and the relevant provisions of the SAA.

Regarding the **institutional framework**, the Commission for Protection of Competition (CPC) is the independent authority responsible for implementing the legal framework. Over the past years, the CPC has built a reputation as an operationally independent institution. However, the transparency of the institution's work needs to be strengthened and decisions should be systematically published.

The **enforcement capacity** of the CPC is adequate with 59 employees, of whom 33 are case handlers with an appropriate level of expertise. On **implementation**, the CPC has continued to

investigate a significant number of antitrust cases. In 2022, the CPC adopted 3 decisions on restrictive agreements and 2 on abuse of dominant position. A total of 8 dawn raids in the context of 3 cases were conducted in 2022. The leniency programme was not used. The level of imposed fines remained stable at around EUR 1 million in 2022. There were no mergers prohibited and no merger decisions with remedies in 2022. The CPC published 2 sector enquiries in 2022 concerning the markets of online food delivery platforms and other postal services. The CPC issued 10 opinions on draft legislation in 2022. The practice of consulting the CPC on all relevant legislation should continue and its opinions should be systematically taken into account. In 2022, the number of CPC decisions upheld by appeal courts dropped to 9, down from 14 in 2021. The capacity and specialisation of the judiciary to deal with complex competition cases remains modest and needs to be improved significantly. Advocacy activities picked up in the reporting period with promotion of the CPC's competition compliance programme, but they still need to be further stepped up.

State aid

Regarding the **legislative framework**, the Law on State aid control is broadly in line with the EU *acquis* and the relevant provisions of the SAA. Five new decrees were adopted during the reporting period, on the content and form of State aid notifications, on conditions and criteria for compliance of State aid granted to undertakings operating in the railway sector, on conditions and criteria for compliance of state aid to undertakings operating in the air transport sector, on conditions and criteria for compliance of aid for accelerated investments in sectors strategic for the transition towards a net-zero economy and on conditions and criteria for the compliance of state aid granted in the form of guarantees. The temporary framework on State support to the economy in the context of the COVID-19 crisis partially expired on 30 June 2022. Remaining provisions in force are broadly in line with the EU temporary framework.

During the reporting period, the Commission for State Aid Control (CSAC) adopted four guidelines on assessing the compliance of state aid for research, development and innovation, on assessing whether the transaction constitutes state aid, on assessing the compliance of state aid for environmental protection and energy sector and on assessing the compliance of special cases of state aid to undertakings operating in the air transport sector. However, implementing legislation should be further aligned with the EU *acquis*. The existing State aid schemes, most notably the fiscal State aid schemes established by the Laws on corporate income tax, on personal income tax and on free zones, are not yet aligned with the EU *acquis*. CSAC prepared its 2022 annual report on the inventory of State aid schemes. It also submitted to the Commission an updated inventory of State aid schemes not aligned with the *acquis*. However, the Commission's comments on the inventory are yet to be fully taken on board and an action plan with a clear timetable for alignment of the schemes identified as incompatible remains to be adopted by the government. Furthermore, the regional aid map is yet to be drafted.

On the **institutional framework**, CSAC is responsible for implementing the Law on State aid control. The law provides that CSAC is accountable to the Parliament and secures its legal independence. However, the operational independence of CSAC needs to be demonstrated by establishing a transparent track record that shows consistent and satisfactory implementation of the law.

CSAC's **enforcement capacity** should be further strengthened. It has only 20 full-time employees from a total of 23 members of staff including the president, 4 council members and 11 case handlers; this is significantly fewer than the 27 budgeted employees.

The **implementation** of the Law on State aid control should be further strengthened. In particular, the notification and the standstill obligations are still not respected systematically,

and State aid is occasionally provided to economic operators, particularly foreign investors, without prior approval by CSAC. The number of decisions taken upon notification dropped to 105 in 2022, from 139 in 2021. The number of decisions adopted in *ex post* procedure increased to 7 in 2022, from 2 in 2021. CSAC significantly increased the number of negative decisions to 6 in 2022, from 1 in 2021. The number of conditional decisions increased to 3 in 2022, from 1 in 2021. There were no appeals of CSAC's decisions in the reporting period. The electronic platform to help monitor compliance regarding the cumulation of aid has yet to be completed. The Government adopted CSAC's reports on State aid granted in 2020 and 2021 with delay, whereas the 2022 report has yet to be adopted. CSAC should ensure the strict enforcement of its State aid rules, also with regard to the implementation of State aid rules in large projects carried out in cooperation with third countries. Advocacy activities among aid-granting authorities need to continue as awareness of State aid rules remains to be addressed systematically.

Liberalisation

Provisions on financing of services of general economic interest are included in two decrees adopted in October 2021, one on public service compensation to undertakings entrusted with responsibility for the provision of services of general economic interest and one on *de minimis* aid for provision of services of general economic interest. Enforcement of competition rules for public companies needs to be intensified. There is no evidence of the existence of commercial monopolies within the meaning of Article 37 TFEU.

Chapter 9: Financial services

EU rules aim to ensure fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.

Serbia remains **moderately prepared** in the area of financial services. **Limited progress** was made with the start of the application of the Law on capital market, following the adoption of a set of implementing legislation. The country should make further efforts to align with the financial services *acquis*, focusing on the priorities identified based on the current state of play. Last year's recommendations remain valid.

In the coming year, Serbia should in particular:

- continue to align the banking regulation with the revised versions of the Capital Requirements Regulation and the Capital Requirements Directive (CRR/CRD);
- align national legislation with the revised version of the EU Bank Recovery and Resolution Directive (BRRD); and
- continue to work towards full alignment with the Solvency II Directive.

On **banking and financial conglomerates**, Serbia has largely implemented the Basel III standards. The banking sector's prudential ratios are regularly monitored by the National Bank of Serbia (NBS), following adoption in 2016 of amendments to the decision on reporting requirements for banks. Alignment of national legislation with the revised version of the EU Bank Recovery and Resolution Directive (BRRD) and with parts of BRRD 1 (notably on the establishment and use of a dedicated resolution fund financed with contributions from banks) is still to be completed. The gap analysis regarding alignment of the national legal framework with the relevant EU banking *acquis* is still ongoing overall.

The current administrative capacity of the NBS in this area is adequate.

Regarding **insurance and occupational pensions**, the drafting of the new Law on compulsory traffic insurance is still under way. Preparatory work continues in the context of aligning with the Solvency II Directive, in line with the strategy for implementation. Certain provisions were already implemented regarding qualitative requirements under pillar 2, but further work is still to be carried out to ensure full alignment with the EU *acquis*. Alignment is still to be completed as regards the Directive on the activities and supervision of institutions for occupational retirement provision in the areas of cross-border activities, investment rules and regulation of technical provisions.

In the area of **financial market infrastructure**, Serbia has focused on the implementation of its Capital Market Development Strategy 2021-2026. The 2021 Law on capital market has been applied since January 2023, following adoption by the Securities Commission, in July 2022, of a set of implementing legislation. With its implementation, Serbia aims to align with the Directive on settlement finality in payment and securities settlement systems.

On **securities markets and investment services**, the Law on capital market aims at aligning the Serbian regulatory framework with the Markets in Financial Instruments Directive (MiFID II). Serbia's legal framework has a high level of alignment with MiFID II, Prospectus Regulation and Market Abuse Regulation and a low level of alignment with the MiFIR framework. The administrative capacity of the Securities Commission in this area remains weak. On investment funds, the Law on open-ended investment funds with public offering is partially aligned with the Directive relating to undertakings for collective investment in transferable securities (UCITS). The 2020 Law on alternative investment funds is largely aligned with the Directive on alternative investment fund managers, although further work is needed towards full alignment.

In the area of **sustainable and digital finance**, the Law on digital assets has been in force since 2021. The NBS and the Securities Commission are the two competent authorities for licensing services related to digital currencies and tokens. Serbia is not currently developing a national sustainable finance strategy, but the NBS monitors the developments in the field of ESG.

Chapter 28: Consumer and health protection

EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, as well as medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats including communicable diseases.

Serbia is **moderately prepared** in consumer and health protection. **Limited progress** was made concerning the use of the newly established online platform for alternative dispute resolution, awareness-raising on consumer rights, and the quality control of medicines. The recommendations of the previous report remain valid.

In the coming year, Serbia should in particular:

- strengthen the overall managerial capacity, human resources and financial sustainability of the public health insurance fund, and of the relevant authorities for consumer protection, market surveillance and sanitary inspection;
- further align its legislation with the *acquis* on substances of human origin, on patients' rights in cross-border healthcare, on tobacco control, and on medicines for human and for veterinary use.

Consumer protection

On general aspects of **consumer protection**, Serbia now has two ministries dealing with this area: the Ministry of Internal and Foreign Trade and the Ministry of Youth and Tourism. The amended Law on consumer protection, adopted in September 2021, has contributed to a higher number of out-of-court procedures and mediation between traders and consumers. The newly established national council for consumer protection provided opinions and suggestions on the 2023-2024 Action Plan of the Strategy for Consumer Protection but did not hold any sessions in the reporting period. Serbia initiated 806 misdemeanour orders based on violations of the Law on consumer protection.

There are 12 registered consumer organisations in the national registry. In 2022, 10 consumer organisations' projects were selected to receive financing in four administrative regions, with various programmes to be implemented in the field of consumer protection. At the end of the reporting period, Serbia had 35 alternative dispute resolution (ADR) bodies. An ADR online platform launched on the website of the Ministry of Internal and Foreign Trade considerably helped with the resolution of ADR cases.

In March 2023, the National Bank of Serbia became a full member of the International Financial Consumer Protection Organisation FinCoNet. In 2022 and 2023, in its capacity as an ADR body in charge of financial institutions, the National Bank of Serbia (NBS) resolved a total of 4 783 complaints, of which 3 714 related to banks and payment service providers and 1 069 to insurance companies, while in the case of individual consumer complaints related to banks as service providers, the NBS resolved 1 413 complaints. The NBS resolved 23 mediation proceedings resulting in agreement among parties.

There was no change in the mode of cooperation between ministries and consumer organisations. Consumer protection organisations would benefit from further promotion to the general public of their work on the protection of consumer interests and rights. The authorities' administrative capacity still needs strengthening for consumer protection, inspection services for consumer protection and for product safety issues. Serbia's legislation is designed to be aligned with the *acquis* on consumers rights, while further legislative alignment is required with the Consumer Protection Cooperation Regulation.

There were no developments in the reporting period regarding **product safety-related issues**. On market surveillance, the sanitary inspection's administrative capacities need to be strengthened. The product safety council did not hold any sessions. In the reporting period, the market surveillance and inspection authorities conducted 5 825 inspections and ordered 627 measures for non-compliant or unsafe products. In the reporting period, the National Register of Consumer Complaints registered 22 216 complaints, of which 68% related to goods and 32% to services. The sanitary inspection has removed approximately 34 tonnes of unsafe imported products off the market.

On **non-safety-related issues**, Serbia's legislation remains partly aligned with the *acquis* on consumer protection. Further alignment with the EU *acquis* is needed regarding package travel and linked travel arrangements, the sale of goods, cooperation between national authorities responsible for enforcing consumer protection laws; multiannual consumer programmes; online resolution of consumer disputes; contracts for the supply of digital content and services; and alternative resolution of consumer disputes. Furthermore, the latest changes to EU consumer legislation introduced by the Directive on better enforcement and modernisation of Union consumer protection law and mortgage credit directive have yet to be implemented.

Public health

In the area of **public health**, Serbia's healthcare legislation is partly aligned with the EU *acquis*. The sustainability of the public health insurance fund still needs to be ensured. The national plan for human resources in the health sector has still not been fully implemented. Compliance with EU health indicators is not yet achieved and the EU-funded centralised electronic health record system, completed in 2015, is still not being used.

Tobacco control legislation remains partly aligned with the EU *acquis*. A strategy on tobacco control remains to be adopted, including an action plan on alignment with the EU *acquis* in this field and with the World Health Organisation Framework Convention on Tobacco control. Serbia should intensify inspections in this area.

Serbia is partly aligned with the *acquis* on **blood, tissues, cells and organs** in regard to transplantation of cells and tissues, and on human organ transplantation. EU-level quality, safety standards and inspection services remain to be fully developed. The ongoing strengthening of the administrative capacity in the Directorate of Biomedicine is a welcome development, and the recruitment process should be swiftly completed.

On **cross-border healthcare**, Serbia is partly aligned with the *acquis* on the application of patients' rights. Surveillance and response capacity for **serious cross-border health threats, including communicable diseases**, remains limited and requires modernisation. Serbia reports surveillance data on several communicable diseases to the European Centre for Disease Prevention and Control (ECDC) surveillance system according to the EU surveillance standards (EpiPulSe / TESSy). While Serbia adopted a new digital health programme in 2022, a centralised health information and communication system remains to be implemented.

In the area of **communicable diseases**, further attention is needed on effective and sustainable financing of disease-specific strategies, including the national HIV/AIDS strategy. Awareness-raising, particularly on the importance of child vaccination, is also needed. While Serbia has a national surveillance system for anti-microbial resistance in humans, the prescription of antibiotics needs to be more strictly controlled to strengthen the fight against anti-microbial resistance. Ongoing work on upgrading the quality control and standardisation of laboratories needs to be completed.

Health promotion necessary to help prevent **non-communicable diseases** remains limited. **Cancer screening** for colorectal, breast and cervical cancers continues to progress at a slow pace and is not performed in a systematic manner in many regions of the country. The national institute for radiology and oncology maintains the cancer register.

Community-based **mental health** services remain underdeveloped, with low accessibility. While Serbia has a 2019-2026 programme for mental health protection, it remains to be costed and fully implemented. There has not been any progress on **nutrition and physical activity**.

Serbia's legislation is still only partly aligned with the *acquis* on **medicines for human and veterinary use**, and on **preventing drug abuse**. Serbian legislation on pricing of **medicinal products** is still not aligned with the EU *acquis*. While a national programme to reduce the harmful effects of alcohol and alcohol-induced disorders was adopted in 2017, it remains to be implemented. In September 2022, Serbia adopted implementing legislation aiming to improve the quality control of medicines and medical devices.

On **health inequalities**, access to healthcare services remains an issue for persons with disabilities, persons living with HIV, children and adults who use drugs, prisoners, women involved in prostitution, LGBTIQ persons, internally displaced persons and Roma.

Serbia needs to fully implement the specific Operational plan for **prevention of corruption** in the areas of health. This includes the adoption of amendments to the legislation in the health

sector in accordance with the analysis of risks to corruption in the Law on medicines and medical devices.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers chapters 10 (Digital Transformation and media), 16 (Taxation), 17 (Economic and monetary policy), 19 (Social policy and employment), 20 (Industrial policy), 25 (Science and research), 26 (Education and culture), and 29 (Customs). Five chapters are open (chapters 17, 20, 25, 26 and 29) and two are provisionally closed (chapters 25 and 26). No opening benchmarks are left to be met on any of the chapters within this cluster. This cluster and the reforms concerned have significant links to Serbia's Economic Reform Programme.

Progress was achieved in all of the areas under this cluster, particularly in the areas of: social policy and employment through the adoption of a new law on health and safety at work; digital transformation and media through further alignment with the European Electronic Communications Code; economic and monetary policy through the adoption of a new set of fiscal rules to anchor fiscal policy; taxation through developments in the areas of e-fiscalisation, e-invoicing and excises; enterprise industrial policy through adoption of strategy new law on state ownership and management of business entities owned by the Republic of Serbia and education, through taking continued steps towards ensuring compliance of the quality assurance system in higher education with the recommendations of the European Association for Quality Assurance in Higher Education (ENQA).

In the coming period, Serbia is invited to particularly focus on the following areas: adopt legislation in line with the media strategy; further align its electronic communications legislation with the updated EU regulatory framework; ensure full financial and operational independence of the regulators for electronic communication and postal services (RATEL) and for electronic media (REM); make progress towards alignment in the areas of VAT, excise duties and direct taxation; increase the level of transparency for capital transfers and guarantees to state-owned enterprises in the State budget; ensure adequate financial and institutional resources for employment and social policies; make further efforts to improve the predictability of the business environment; increase national funding for research and innovation; ensure full compliance of the policy and institutional framework for quality assurance in higher education with the recommendations of the ENQA; and further upgrade relevant IT systems.

Chapter 10: Digital transformation and media

The EU supports the proper functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.

Serbia is **moderately prepared** in the field of digital transformation and media. **Limited progress** was made by means of the adoption of the Law on electronic communications, digitalisation in the area of e-government, and in aligning with EU digital Single Market objectives. Construction of ultra-fast broadband infrastructure in rural areas and support to the digitalisation of schools continued. Serbia joined the Digital Europe Programme in June 2023. The recommendations of the last report remain largely valid.

In the coming year, Serbia should:

- further align its electronic communications legislation with the updated EU regulatory framework, including the Broadband Cost Reduction Directive;
- ensure full financial and operational independence of the regulators for electronic communication and postal services (RATEL) and for electronic media (REM) in

compliance with the EU *acquis*, and urgently encourage the regulators to work proactively and fully carry out their mandates;

→ adopt the Law on electronic media, in line with the EU's Audiovisual and Media Services Directive, and in consultation with the relevant stakeholders.

In the field of **electronic communications and information technology**, the Law on electronic communications, aiming to align with the European Electronic Communications Code, was adopted in April 2023. Changes to the election of management board members for the Regulatory Agency for Electronic Communications and Postal Services (RATEL) aim to provide an additional degree of independence; however, the regulator's operational and financial independence remains to be ensured. Some steps were taken to improve the regulator's administrative capacity, but further efforts are needed, including through staff retention measures. Serbia maintains a salary cap for RATEL employees.

The first phase of the EU-funded ultra-fast broadband communication infrastructure roll-out in rural areas, aiming to connect around 90 000 households and 600 schools with fast broadband, is ongoing, while the second phase has been signed and a third phase is under consideration. The working group for drafting the Law on broadband in alignment with the Broadband Cost Reduction Directive was set up; however, the law remains to be adopted.

No progress has been noted concerning the implementation of **competitive safeguards**. Ongoing issues remain to be addressed, including access for users and operators to infrastructure including optical fibres, ducts and public operators' infrastructure and dark fibres, and remaining restrictions imposed by environmental and municipal planning legislation, in particular at local government level. The working group tasked with identifying and providing recommendations to remove these obstacles has not provided any output to date. Several legal disputes and proceedings are ongoing involving **Telekom Srbija** – whose majority stakeholder is the State – and private companies, both in Serbia and abroad.

Serbia is yet to adopt secondary legislation on minimum conditions for issuing individual operator licences for spectrum use for the **5G frequency auction**. The date of the auction was postponed to the fourth quarter of 2023.

The 112 European emergency number calling system, developed through a donation from the Chinese government and operational as of July 2023, remains to be fully implemented according to EU standards.

In the field of **cybersecurity**, Serbia possesses the relevant legal framework and has a functioning national computer emergency response team (nCERT); however, capacities should be strengthened and upgraded. Work is under way to further align Serbia's legislation with the EU *acquis* on cybersecurity, including with the NIS2 Directive.

On **regional integration**, Serbia continued to pursue the Western Balkans digital agenda policy priorities. Serbia participated in the 2nd Ministerial EU-Western Balkans Regulatory Dialogue held in June 2023, signing the Digital Europe Programme association agreement on the occasion. In June 2023, Serbia took part in a High-Level Cybersecurity Conference organised by the Regional Cooperation Council, as part of an EU cyber capacity building regional project for the Western Balkans. It is important that Serbia now signs and implements the Memorandum of Understanding on a 5G roadmap for digital transformation, taking into account the EU toolbox of risk mitigation measures on the security of 5G networks. Following the introduction of the Roam Like at Home regime in the region in July 2021, in December 2022 a Roaming Declaration was signed, which enabled the first reduction of roaming charges

between the EU and Western Balkans as of 1 October 2023. The glidepath for the reduction of data roaming price caps was announced in May 2023.

In the field of **digital transformation**, Serbia adopted the e-Government Development Programme with the implementing 2023-2025 Action Plan in April 2023. The number of databases connected to the new government service information system has increased, as has the number of services at the upgraded national e-government portal, now featuring approximately 340. The uptake in the number of e-citizens amounts to approximately two million. As for open data, Serbia has significantly improved the number of datasets available by the Statistics Office and on the country's open data portal in machine-readable formats. Serbia has not yet aligned with the EU's Open Data Directive. However, Serbia has an open data policy in place with an action plan for measures to support the publication and reuse of open data. Serbia is encouraged to remain aligned with the European Interoperability Framework.

Regulation of the broader digital economy environment continued. The Laws on e-fiscalisation and e-invoicing are being implemented, **e-commerce** increased further with the number of online transactions growing by 25.76% year-on-year, while cases of various forms of electronic platform, SMS or email abuse are handled by the Supreme Public Prosecution and Special Prosecution Office for High Tech Crime. In the e-commerce domain, alignment with the Digital Services Act and Digital Markets Act needs to be stepped up, to provide predictability for the business community. The ICT sector has continued its rapid growth, with exports in 2022 totalling EUR 2.7 billion, which constitutes an increase of 45% year-on-year.

In April 2023, Serbia adopted the Ethics Guidelines for the Development, Implementation and Use of Reliable and Responsible AI, based on UNESCO's recommendation on the ethics of artificial intelligence, which aim to align with EU guidelines on the ethical use of **artificial intelligence**.

In **audiovisual policy** after increasing delays, Serbia relaunched media legislation reforms as part of the media strategy implementation. In January 2023, work started on drafting amendments to the Law on electronic media, which must strengthen the independence and transparency in the work of the Regulatory Authority for Electronic Media (REM), effectively safeguard media pluralism, and clarify the procedure for issuing licences for the provision of audio-visual media services. Public consultations on the draft law were launched in September 2023. Overall, positive steps were taken to strengthen the independence the regulatory body for electronic media (REM). However, the legislative process was not finalised fully in line with the EU *acquis* and European standards. Full alignment with the revised European Audiovisual and Media Services Directive within the required timeline is needed to ensure continued participation in the MEDIA and cross-sectoral strands of the Creative Europe programme.

The **Regulatory Authority for Electronic Media** (REM) fails to demonstrate its independence in a consistent manner and to exercise its mandate to the full in safeguarding media pluralism and professional standards, which is an essential element of the Audiovisual and Media Services Directive. In August 2022, following the allocation of the four media service licences for television broadcasting with national frequency to their previous holders, despite receiving warnings from REM for violating their legal obligations during the previous period, REM published a call for the allocation of a fifth license. However, the deadline as provided for in the published call has long passed and the fifth license has still not been awarded, with no credible justification given.

In May 2023, in the context of the tragic mass shootings, REM appeared before the Parliament's Committee for Culture and Information to present its report on media monitoring for the period October 2022 to March 2023, reflecting also on the topic of violence in media. REM concluded that all of the media, except one, overall met the provisions set out in the Law on electronic media. During the reporting period, several TV channels with national frequencies, including TV Pink and Happy TV, fell short of their own commitments and obligations on programming for children, culture and education, based on which they had obtained a (renewed) national frequency. In May 2023, REM awarded cable and IPTV licence to the publisher of a print tabloid, which frequently breaches the ethical code of conduct, according to the Press Council. In June 2023, one member of the REM Council resigned due to disagreements with the work and conduct of the regulator.

The Law on **public broadcasters** is yet to be amended, as required by the media strategy. Radio Television Serbia (RTS) was again not included in state budget funding for 2022, in line with the media strategy, while Radio Television Vojvodina (RTV) received state budget support, enabled through the amended Law on temporary financing of public media services. The position of RTV managing director was filled in October 2023 following a lengthy appointment process. Some RTS employees held a strike demanding better employment conditions, while the president of the management board filed a criminal complaint against the director and another editor, under suspicion of fraud.

On **media literacy**, Serbia organised and participated in a number of activities as part of the media strategy, including workshops for public administration institutions, as well as producing guidelines for the business community.

Chapter 16: Taxation

EU rules on taxation cover value-added tax, excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.

Serbia is **moderately prepared** in the area of taxation. **Limited progress** was made with further activities in the implementation of the Tax Administration transformation programme and developments in the areas of e-fiscalisation, e-invoicing and excises. Last year's recommendations remain valid.

In the coming year, Serbia should in particular:

- continue with the implementation of the Tax Administration transformation programme, notably procuring and starting the implementation of an integrated information system to support the Tax Administration's new business model, and increase its human resources; and
- further align with the EU *acquis* in the areas of VAT, excise duties and direct taxation.

In the area of **indirect taxation**, in December 2022, the Law on fiscalisation was amended. This aims at modernising the process of **VAT** collection and increasing the efficiency of the control and fight against the informal economy, to ensure better implementation and alignment with the wider legal framework. Amendments to the Law on tax procedure and tax administration harmonised the laws with the provisions of the Law on personal income tax, the Law on fiscalisation and the provisions of the Criminal Procedure Code, combatting tax evasion. Amendments to the Law on VAT harmonised processes with the Law on fiscalisation and the Law on electronic invoicing. The Law on electronic invoicing was extended and became mandatory for all business-to-business transactions in January 2023. **Excise duties** on alcohol and tobacco remain under the EU minima, though the latter is updated twice a year.

Unlike in the EU, Serbia's excise duty on energy does not apply to gas, oil, coke or coal. The Law on excise duties has yet to be fully aligned with the EU *acquis*. In September 2023, Serbia adopted a law amending the Law on excise duties to update the rates and include natural gas in its scope. An effective system to control and monitor the movement of excisable products is not yet fully in place.

With regard to **direct taxation**, in December 2022, amendments were adopted to the Law on personal income tax, the Law on contributions for compulsory social insurance and the Law on corporate income tax. Financial intermediaries are required to report to the Tax Administration regarding recipients of savings income. The changes aim to further improve the business environment and to reduce the informal economy. Business associations continue to emphasise the need for further improving processes for public consultations, including on specific fiscal secondary legislation. Parafiscal charges remain numerous, high and non-transparent, lack rationalisation and thus undermine the predictability and stability of Serbia's tax system.

Regarding **administrative cooperation and mutual assistance**, Serbia has double taxation agreements with 26 EU Member States (no agreement with Portugal). Serbia remains committed to apply OECD base erosion and profit shifting minimum standards. While it has signed the Convention on Mutual Administrative Assistance in Tax Matters, Serbia has not yet committed to automatically exchange financial account information based on the OECD Global Standard, although it has chosen to do so on a bilateral basis with one third country.

Efforts to improve **operational capacity and computerisation** of the Tax Administration and to fight tax evasion, notably on VAT and excise duties, resulted in better tax collection. This included the continuation of efforts to improve business processes, improved risk assessment practices, and better capacity-building for existing staff. The Tax Administration still lacks administrative capacity and adequate staffing. However, three public competitions were organised and a total of 77 employees were recruited in 2022. Given the high number of retirees and competitive pressure from the private sector, recruiting and retaining qualified staff remains an important issue. The Tax Administration transformation programme for the period 2021-2025 is being implemented, with the adoption of a change management plan and a general business model for the Tax Administration (including improving its IT systems and infrastructure), as well as a range of other activities. Further efforts are needed to improve the predictability and consistency of tax decisions and to provide timely, high-quality services to taxpayers. Appeal procedures against Tax Administration decisions remain lengthy.

Chapter 17: Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

Serbia is **in between a moderate and a good level of preparation** in the area of economic and monetary policy. **Some progress** was made on last year's recommendations with the adoption of a new set of fiscal rules to anchor fiscal policy.

In the coming year, Serbia should in particular:

- further align the legislation on the National Bank of Serbia (NBS) with the EU *acquis* to ensure its full independence;
- further align the budget system law with Directive 85/2011 in the field of macroeconomic and fiscal projections, a three-year expenditure perspective, transparency, and accounting and statistical reporting;
- increase the level of transparency for capital transfers and guarantees to state-owned enterprises in the State budget.

On **monetary policy**, the legal framework for the NBS is well developed. Under applicable law, price stability is the NBS's principal objective, fully in line with the primary objective of the European System of Central Banks. Serbia's legislation does not contain provisions that can be regarded as establishing privileged access of the public sector to financial institutions. However, further amendments to the Law on the NBS and the Law on public property are required in order to ensure the full functional, institutional, personal and financial independence of the NBS and the prohibition of monetary financing, in line with the EU *acquis*.

Regarding **economic policy**, further alignment with the Directive on Requirements for budgetary frameworks is needed through amendments to the Law on the budget system regarding macroeconomic and fiscal projections, a three-year expenditure perspective, transparency, and accounting and statistical reporting. The implementation of the budget process remained broadly unchanged as the 2023 budget was adopted in line with the budget calendar. However, the parliamentary debate on the draft budget was called under urgent procedure, having a negative impact on the quality of the debate (*see also Public financial management under the political criteria*). In addition, amending budgets were adopted in November 2022 and September 2023, both under urgent procedure. Moreover, neither the amending budget nor the 2023 budget provided an adequate level of transparency regarding the breakdown of capital transfers and guarantees to state-owned enterprises. The government continued to frequently introduce *ad-hoc* measures with an additional fiscal impact not included in the regular budgetary planning framework, such as extraordinary pension and wage increases and one-off payments to certain categories of the population.

The alignment of fiscal reporting with the European system of national and regional accounts (ESA 2010) continued to improve but has yet to be completed. Programme budgeting needs to be strengthened and administrative and IT capacity bolstered. In December 2022, Serbia adopted a new system of fiscal rules through amendments to the Law on the budget system. The revised law defines a general government deficit ceiling as a share in GDP, includes a cap on the public wage bill at 10% of GDP, and has a modified rule for pension indexation. However, in June 2023, the government announced an extraordinary pension increase in September 2023 outside the new rule for pension indexation which seriously affects the credibility of the new pension indexation mechanism. While the deficit correction enforcement mechanism may need to be further strengthened, the new deficit rule can be considered reasonably credible and binding. The deficit rules is expected to effectively enter into force in 2025, as deficit targets for 2023 and 2024 have been defined under Serbia's Stand-by Arrangement with the International Monetary Fund agreed in December 2022. The Fiscal Council is an independent institution, which continued to provide independent fiscal

assessments and recommendations and to actively participate in debates on economic and fiscal policy.

The 2023-2025 **Economic Reform Programme** (ERP) was submitted on time. As in previous years, its analytical diagnostics were solid. The ERP is broadly aligned with the reform priorities identified by the Commission and its structural reform part remains largely unchanged from the previous year, reflecting delays in implementation. The ERP still fails to effectively address underlying structural weaknesses in the rule of law, which continue to negatively impact the business environment. The macroeconomic and fiscal frameworks are sufficiently comprehensive and integrated with the overall policy objectives, providing an adequate basis for policy discussions.

Chapter 19: Social policy and employment

EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at EU level.

Serbia is **moderately prepared** in the area of social policy and employment. Serbia made **some progress** on last year's recommendations by adopting a new law on health and safety at work. The new law is partially aligned with the EU *acquis*. However, a Youth Guarantee coordinator was lacking for part of the reporting period and the Youth Guarantee implementation plan was not yet adopted. Budget allocations for active labour market policies (ALMP) as a percentage of GDP did not increase in 2023. The drafting of a new labour law has yet to be initiated. There was no measure to increase the coverage and adequacy of benefits for individuals and families under the financial social assistance scheme, which aims to reduce poverty.

Most of last year's recommendations have not yet been implemented and remain valid. In the coming period, Serbia should in particular:

- conduct a functional review of ALMP and of the workload of National Employment Service advisers to ensure adequate financial and institutional resources for employment and social policies and target more systematically the young, women and long-term unemployed, and start piloting the Youth Guarantee in Serbia;
- initiate consultations on a new labour law, including provisions on foreign seconded workers in line with the EU *acquis*, and avoid further delays in implementing the action plan for Chapter 19;
- improve the coverage and adequacy of social benefits for people below the poverty threshold, including financial social assistance and child allowance, and address the issue of the high caseload of social welfare centres.

In the field of **labour law**, the 2014 law remains only partially aligned with the EU *acquis* and the drafting of a new law has yet to be initiated. The proportion of undeclared work was stable (13.2% in 2021; 13.6% in 2022). There are currently 230 labour inspectors. The recruitment of additional labour inspectors to reach the target of 360 inspectors by Q4 2020, in line with the Chapter 19 action plan, is delayed and postponed to Q4 2025. In 2022, 16 cases of child labour were identified by labour inspectors, down from 39 in 2021. According to the latest child labour survey (2021 data) from the International Labour Organization (ILO), the child labour prevalence rate stands at 9.5% for 5–17-year-olds and 9.3% for 5–14-year-olds. Boys (11.7%) are more likely to be involved in child labour and in hazardous work than girls (7.2%), and most child labour is found in agriculture. Most children report to be involved in child labour to contribute to family income, to acquire skills or to help in family business. Serbia needs to

address the recommendations of the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) who urged the authorities, in its report published in June 2023, ‘to intensify their efforts to prevent and combat trafficking for the purpose of labour exploitation, including by strengthening the capacity of labour inspectors, proactively and thoroughly investigating allegations of trafficking for labour exploitation involving foreign workers’. The law on inspection oversight does not comply with the relevant ILO conventions that were ratified by Serbia, notably to ensure that labour inspectors are empowered to enter workplaces freely and without giving notice.

In the area of **health and safety at work**, a new law adopted in April 2023 is partially aligned with the EU *acquis*. The number of workplace fatalities decreased slightly in 2022 (56 casualties, down from 61 in 2021), with most cases occurring in the construction industry.

Social dialogue remains weak, in particular regarding the involvement of social partners in policy developments relevant to them. A new law on the right to strike has yet to be adopted; the current law of 1996 is not in line with international standards. Serbia still needs to adjust the legal framework and strengthen the capacity of social partners to foster collective bargaining. Sectoral collective agreements are typical in the public sector, with 12 currently concluded agreements. However, hardly any have been concluded in the private sector, with only two sectoral collective agreements. The minimum hourly wage was increased by 14.3% in January 2023 by means of a government decision, as consensus could not be reached within Serbia’s Economic and Social Council. The latter needs to be consulted in due time on new policy initiatives and draft laws in order to be able to fulfil its statutory role.

On **employment policy**, the employment rate (20-64-year-olds) rose from 66.7% in 2021 to 69.3% in 2022. Youth unemployment (15-24-year-olds) decreased from 26.4% in 2021 to 24.4% in 2022 but remains high. The share of young people not in employment, education or training (NEET 15-29-year-olds) also decreased from 18.8% in 2021 to 15.1% in 2022. The introduction of the Youth Guarantee in Serbia aims to address youth unemployment, support labour market integration and ensure that no young person is left behind. A Youth Guarantee coordinator was lacking for part of the reporting period and the Youth Guarantee implementation plan was not yet adopted. Serbia continued to implement the My First Salary programme, which aims at activating young people without prior work experience. The two previous cycles of this programme covered over 17 000 young people and the new cycle reached over 9 000 people in 2022, a majority of whom had secondary education (76%). Since the entry into force of the law on social entrepreneurship, the Council for Social Entrepreneurship has met on a regular basis. As of June 2023, 11 social enterprises had registered. Budget allocations for active labour market policies did not increase in 2023 and continued to be far too low to cover the number of jobseekers, with spending around 0.1% of GDP. As a result, only 23.5% of the registered unemployed benefitted from active labour market policies in 2022 and fewer than 5% overall had access to subsidised activation measures. Workers from across the occupational spectrum continued to emigrate, contributing to, among other factors, a 1.3% decrease in working age population in 2022. Serbia continued to implement the 2021-2027 economic migration strategy to encourage the return of expatriated workers and attract foreign experts. According to the data of the National Employment Service, the largest workforce deficits are in the fields of economy, law and administration, trade, catering and tourism, geodesy and construction, mechanical engineering, and metal processing.

There were no developments as regards preparations for the **European Social Fund** (*see also Chapter 22 - Regional policy and coordination of structural instruments*).

In the area of **social inclusion and social protection**, in 2022, according to the latest survey on income and living conditions (SILC), the at-risk-of-poverty or social exclusion rate was

28.4% (EU-27 21.7%). As in previous years, there is more poverty in rural than in urban areas. The at-risk-of-poverty rate shows that individuals aged 18-24 were the most exposed to this risk (27.7%), and individuals aged 65 and over (22.7%). The at-risk-of-poverty-rate for children (0-17) was 20.8% in 2021. Only 2.7% of the population were covered by financial social assistance (FSA) benefits. Serbia adopted a support package to help vulnerable families and businesses cope with the energy crisis. However, there was no measure to increase the coverage and adequacy of FSA benefits for individuals and families to reduce poverty. Monthly financial social assistance for three-member households was RSD 15 806 (about EUR 136) while the minimal average basket and at-risk-of-poverty threshold were RSD 39 623 (EUR 337) and RSD 43 315 (EUR 368) respectively. Therefore, the benefit accounted for around 40% of the minimal basket and was far below the at-risk-of-poverty threshold of 60% of the median income. Public expenditure on social protection and budget transfers as a share of GDP have been gradually decreasing in recent years. In 2022, out of total public expenditure of 46.8% of GDP (47.4% in 2021), social transfers accounted for 13.0% of GDP (13.6% in 2021), of which pensions accounted for 9.0% of GDP (9.7% in 2021). Furthermore, the number of beneficiaries of poverty-targeted programmes decreased while those of categorical programmes increased. According to the authorities' ex post analysis of the first year of functioning of the social card register, in use since April 2022, this register has helped social welfare staff identify both 'errors of inclusion' and 'errors of exclusion' in individuals' eligibility to social assistance benefits. However, CSOs raised concerns on the risks of Roma and other vulnerable individuals – such as individuals performing seasonal or part-time work - being unduly excluded from the benefits if their specific circumstances, in addition to the data automatically processed by the social card register, are not sufficiently assessed by social welfare staff prior to a decision being made. In addition, it could be challenging for these vulnerable individuals to exercise their right to appeal an exclusion decision.

A new strategy for social protection and amendments to the law on social welfare are still pending. The quality and coverage of social services need to improve, and oversight and regulatory mechanisms, monitoring and evaluation need to be strengthened. Means-tested social assistance programmes, with strict eligibility criteria, do not sufficiently reach the poor. There are significant regional variations in coverage, and a large share of children living in poverty are not covered by any benefit. The capacities of the social protection system were slightly increased by recruiting 230 new staff in 2022; however, according to the estimate of authorities, an additional 700-1 000 staff are lacking. The system of earmarked transfers to the local level, introduced in 2016 by the Law on social welfare, is still not implemented systematically and transparently.

In the area of **deinstitutionalisation**; an action plan and funding, to accompany the strategy adopted in January 2022, is significantly overdue. In the field of **non-discrimination in employment and social policy**, most complaints received by Serbia's Commissioner for Equality are still related to the area of employment. Measures aimed at promoting the employment of Roma have yet to deliver results (*see also Chapter 23 – Judiciary and fundamental rights*).

In the area of **equal opportunities for women and men in employment and social policy**, the position of women on the labour market in Serbia remains unfavourable in comparison with the position of men. The employment rate for men (20-64-year-olds) and their activity rate are both 13.9 percentage points higher than those for women. The gender pay gap is 8.8% in Serbia. A pay gap also exists in modern occupations, such as the ICT field where the gap is even higher at 9.1%. The economic analysis of the monetary value of unpaid care work shows that its contribution to the national GDP is about 21.5%. Only 25% of women in Serbia are real estate

owners. Although the legislation grants both maternity and paternity leaves, gender-based stereotypical preconceptions persist about childcare and household work being a woman's responsibility. Women worked 2.5 hours more per day than men on care work for children and older people. This is one of the largest gaps in the field of time (16.2 points) between the EU-27 and Serbia in the 2021 gender equality index. The legislation is not fully aligned with the EU *acquis* with regards to maternity, paternity and parental leave rights. This includes further defining these rights in Serbian legislation in line with their definitions and purpose in the EU *acquis*. The lack of state services for childcare in rural areas also increases the amount of unpaid household work for women.

Chapter 20: Enterprise and industrial policy

EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).

Serbia is **moderately prepared** on enterprise and industrial policy. **Limited progress** was made with the adoption of a new law on the governance of state-owned enterprises.

Last year's recommendations nonetheless remain largely valid.

In the coming year, Serbia should in particular:

- further improve the predictability of the business environment, with the emphasis on ensuring direct involvement of businesses in the process of regulation;
- adopt a new action plan for the implementation of the industrial strategy; and
- reallocate budgetary resources for foreign direct investment incentives to financial and technical support to SMEs.

With regard to **industrial policy**, Serbia has been implementing the strategy for industrial development 2021-2030, together with the related action plan for 2021-2023. Serbia has yet to adopt its annual report on the implementation of the industrial strategy covering 2022. The conclusions of this report should feed into Serbia's new action plan for the subsequent period. The action plan should also take into account new circumstances relevant to industry, for example the EU Carbon Border Adjustment Mechanism and ensure a solid system of evaluation indicators and benchmarks to support the strategy's implementation.

On **enterprise policy**, Serbia adopted in October 2023 a new strategy and action plan to support the development of SMEs, entrepreneurship and competitiveness, replacing the strategy for 2015-2020. Serbia should initiate its implementation in line with the related action plan. Serbia's legislation is largely aligned with the EU *acquis* on combatting late payments in commercial transactions. However, work needs to continue towards full alignment, as Serbia is still to align its rules on payments, indemnity interest rates, expedited recovery procedures and compensation with the EU Directive in this area. In September 2023, Serbia adopted a new Law on the management of companies owned by the Republic of Serbia, as part of the implementation of the strategy on state ownership and management of business entities owned by the Republic of Serbia. Progress on governance reform and the restructuring of industrial state-owned enterprises is lagging. The privatisation of Petrohemija was finalised in June 2023. Two companies were dissolved, bringing the number of companies in the privatisation portfolio down from 62 in June 2021 to 60 in June 2023 (*see also The existence of a functioning market economy*).

Businesses in Serbia continue to identify corruption and issues in the upholding of rule of law as key obstacles to **investment** and economic development. Serbia should continue to increase predictability in the business and administrative environment, in particular for SMEs.

Performance measurement for policymaking activities should be developed, and more emphasis should be put on implementing the ‘think small first’ principle. The regulatory impact assessment with the SME test needs to be systematically carried out when drafting laws and implementing legislation. Implementation of the multiannual administrative reform is ongoing, which aims to optimise and improve the transparency of all administrative procedures. The digital e-consultation portal for public participation in legislative processes is increasingly used. However, considerable scope remains to mainstream its use among public institutions, particularly at the local level. Continued and effective communication on this tool is crucial to ensure that businesses are properly consulted and informed about regulatory changes in a timely manner.

On **enterprise and industrial instruments**, Serbia continues to use budgetary subsidies for newly created jobs as an incentive for foreign direct investments. This approach is not consistent with its industrial policy goal of privileging value added over labour cost, and with the continued need to better integrate SMEs into domestic and international supply chains. The budget for SME measures is growing but remains modest compared to the amounts of State aid and tailor-made services offered to large investors. The lack of specialised support and advisory services for businesses limits the possibilities of domestic companies to modernise and qualify as suppliers to multinational enterprises. Favourable loans and guarantees for SMEs are provided by the Ministry of Economy and the Development Fund through joint programmes with commercial banks. These programmes provide financial support for the purchase of equipment, financial support to start-ups, and financial support for development projects. Nevertheless, access to finance by start-ups remains an impediment to their growth. On 21 September, Serbia signed the association agreement on its participation in the Single Market Programme.

In **sectoral policies**, current support for investment continues to prioritise manufacturing.

Chapter 25: Science and research

The EU provides significant support to research and innovation. All Member States can participate in the EU’s research and innovation programmes and benefit from them, especially where there is scientific excellence and solid investment in research and innovation.

Serbia is at a **good level of preparation** in the area of science and research. **Limited progress** was made with an increase in efforts to support cooperation between businesses and academia. The national level of investment in research remains low. Last year’s recommendations remain valid.

In the coming year, Serbia should in particular:

- increase its national funding for research and innovation;
- align with the European Research Infrastructure Consortium Regulation; and
- follow up on the actions of the new European Research Area.

On **research and innovation policy**, the main priorities of the European Research Area are implemented through the 2021-2025 strategy for development of a start-up ecosystem and its action plan for 2021-2023. Measures introduced to increase the number of start-ups and opportunities for private investors, technology transfer and economic growth include improvement of tax laws for start-ups and creation of a start-up portal aimed at facilitating

business and providing access to potential investors and funds. With the implementation of the Law on innovation activity, the register of subjects of the national innovation system is now managed under the Innovation Fund. This enables companies to register easily and obtain better access to funding sources. The Science Fund is fully operational as a funding mechanism.

The national level of investment in research remains low at 0.99% of GDP in 2021 (0.91% in 2020), with only one third of this amount coming from the private sector. Serbia should continue to integrate into the new European Research Area in accordance with its plan to increase investment into research and innovation by 50% over the next five years. Serbia has a smart specialisation strategy in place for the period of 2020-2027. However, it needs to adopt and implement the related action plan for 2023-2025.

Regarding EU **framework programmes** and international cooperation, Serbia has been successfully participating in Horizon Europe, EUREKA and the European Cooperation in Science and Technology (COST). In February 2023, Serbia completed the national ratification process of the Horizon Europe Association Agreement. With support from Horizon 2020, a new building of the BioSense Institute was opened to serve as a regional centre of excellence in the field of nanotechnologies, biosensors and digital agriculture.

Regarding innovation measures, the Serbian Innovation Fund and the science and technology parks continue to be active with increasing financial contributions. The Innovation Fund's Katapult Accelerator for start-ups currently supports 39 companies. Further integration into the new European Innovation Agenda and activities of the European Innovation Council is strongly encouraged.

Serbia is an emerging innovator in the European innovation scoreboard. However, private sector research and innovation expenditure remains too low. While public support for cooperation between businesses and academia has improved, further efforts are needed.

Chapter 26: Education and culture

The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policies through the 'open method of coordination'. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

Serbia is at a **good level of preparation** in the area of education and culture. **Some progress** was made on implementing last year's recommendations, by consolidating the national qualifications framework (NQF) system and taking some steps to ensure compliance of the quality assurance system in higher education with the recommendations of the European Association for Quality Assurance in Higher Education (ENQA), and by amending a number of laws in the field of education. Last year's recommendations remain largely valid.

In the coming year, Serbia should in particular:

- increase participation in early childhood education and care, in particular of children from disadvantaged backgrounds;
- continue with the operationalisation of the NQF system, with additional focus on the quality and scope of non-formal education, as well as higher education; and
- ensure full compliance of the policy and institutional framework for quality assurance in higher education with the recommendations of the ENQA.

In the area of **education and training**, Serbia has yet to adopt a new action plan for 2024-2026 on the implementation of the 2030 education strategy. In September 2023, Serbia adopted

amendments to three framework laws in the area of education: the Law on the national qualifications framework, the Law on secondary education, and the Law on higher education. Amendments to the Law on educational inspection were also adopted.

The level of spending on education in Serbia was 3.3 % of GDP in 2021, below the EU average of 5 %. The student population has continued to decrease due to negative demographic trends and emigration. Enrolment and completion rates in pre-university education remained high, whereas enrolment in secondary education lagged behind that of primary education. The coverage of children with preschool education slightly increased in 2021 to 65.5 %, down from 63.7 % in 2020. The enrolment rate in mandatory preschool education remained stable at 97.3 % in 2022 as compared to 97.8% in 2021. Further efforts are needed to achieve equitable preschool education for the most disadvantaged children, by strengthening governance and expanding the scope and quality of infrastructure and services. In 2022, the rate of early school leavers decreased to 5 %, down from 6.3 % in 2021, while lifelong learning participation in 2022 dropped further to 3 %, down from 4.8 % in 2021.

The digital transformation of the education system continued, including in developing infrastructure and teacher digital competencies. In higher education, ICT programmes exist in 51 institutions that in total result in 1 000 graduates from these programmes annually. The pre-university level curricula includes to mandatory subject to develop digital skills and competencies, including computer science. However, while the development of the education management information system has progressed, it requires further consolidation, including capacity-building of staff to use data for policymaking and monitoring purposes. Serbia has yet to incorporate green and environmental topics into its curricula. Work to reform the general secondary education curriculum continued with the completion of the fourth year of elective programmes, including for classes with a stronger focus on specific fields. No significant change took place as regards the low take-up of vocational education and training (VET). Serbia should continue modernising and streamlining qualifications standards to improve VET relevance and further develop the national work-based learning model for VET. The share of recent graduates from VET benefitting from exposure to work-based learning during their vocational education and training was 17.1 % in 2022. The number of secondary VET graduates who entered higher education dropped slightly in 2022 to 73.8 % (85.5 % boys, 64.9 % girls) , down from 75 % in 2021. The employment rate of VET graduates (aged 20-34) remained low at 66.6 % in 2022 (58.4 % girls, 72.9 % boys). Regional training centres for training, reskilling and upskilling in the context of lifelong learning have started to be set up. However they are yet to become operational and capacities need to be strengthened. In November 2022, Serbia established an Office for Dual Education and a National Qualifications Framework tasked with coordinating and monitoring policies. Serbia remains committed to the Osnabruck Declaration on VET as an enabler of recovery and just transitions to digital and green economies.

Concrete operational steps are still pending to strengthen the policy and institutional framework for quality assurance in higher education, in line with the recommendations of the European Association for Quality Assurance in Higher Education (ENQA) on better governance and quality assurance principles. The Serbian national accreditation body has yet to apply for renewed membership of ENQA, following its suspension in early 2020. The attainment of tertiary level qualifications for persons aged 25-34 (ISCED levels 5-8) slightly decreased to 33.4% in 2022, down from 33.9 % in 2021, remaining significantly below the 2030 EU target of 45%. The sector, higher education in particular, remains vulnerable to corruption.

The institutional set-up under the NQF should be further strengthened. There is a slow increase in the number of developed qualification standards in secondary VET. Higher education is yet

to see the development of qualification standards and the way it will link with quality assurance procedures in higher education. In order to have a meaningful impact on students' skills development, and in order to address the continued broad skills mismatch on the labour market, this must be followed by the development of modernised curricula, teacher training and delivery in classrooms. The lack of opportunities for reskilling and upskilling in Serbia is a key obstacle to higher youth and adult employment and activity rates. The introduction of the validation system of non-formal and informal learning is progressing slowly and is yet to be scaled up systematically. Efforts to create a more favourable environment for standardising and expanding career guidance and counselling services should be intensified.

Progress was made in increasing the participation of disadvantaged students at all levels of education. The implementation of measures to reduce drop-out rates and segregation needs to be strengthened, especially at local level. The set-up of assistive technology resource centres needs to become functional to provide relevant additional support services for inclusive education. It is necessary to remove obstacles to the engagement of teaching assistants for children with disabilities as a new service in the education system. As required by Serbia's Law on gender equality, efforts should be intensified to develop teaching materials and empower teachers to build student competencies related to gender equality, health, reproductive health, mental health, sex education, and prevention of, and response to, all forms of gender-based violence, including sexual abuse. Serbia needs to make further efforts, including through legislative amendments, to strengthen local mechanisms for prevention of, and protection against, violence and discrimination. In the education system, there is also a need to address the many underlying factors contributing to the criminal behaviour of children, including mental health issues, traumatic experiences, or the availability of specific services for vulnerable children, including the availability of services for mental health issues.

Serbia continued to participate in several international assessments, by conducting a Trends in International Mathematics and Science Study (TIMSS) and an International Computer and Information Literacy Study (ICILS) in 2023, as well as piloting a Teaching and Learning International Survey (TALIS). The introduction of final examinations in secondary education has been postponed for the 2025-2026 school year. The institutional, financial and logistical preparations for its introduction should be accelerated and the reform should be timely communicated to stakeholders.

In 2022, Serbia continued its participation in the Erasmus+ programme as an associated country for the period 2021-2027. Overall, Serbian institutions are participating in almost 800 projects (decentralised actions) with 430 Serbian organisations involved. In addition, Serbia participated in various initiatives such as the Erasmus Days and the European Youth Week. Serbia is successfully implementing the new cycle of the Erasmus+ programme, including the new DiscoverEU component, and the first call for proposals for mobility projects in the field of sport. Serbia is participating in the European Education Area working groups 2021-2025.

In the area of **culture**, Serbia's cultural policy is implemented under the 'Strategic priorities for the development of culture of the Republic of Serbia from 2021 to 2025'.

Serbia has yet to adopt a Strategy of Cultural Development of the Republic of Serbia, pursuant to Article 19 of the Law on culture and in accordance with the guidelines of the Secretariat for Public Policies.

Serbia is implementing measures under the UNESCO Convention on the protection and promotion of the diversity of cultural expressions and is also member of the Convention's Intergovernmental Committee.

In April 2023, the watermills of Bistrica in Petrovac na Mlavi were listed as one of the top seven most endangered cultural heritage sites in Europe for 2023.

Serbia actively participates in the Creative Europe programme. Serbia's Creative Europe Desk successfully implements activities, in line with the 2022-2024 action plan, through providing information and advisory assistance to the institutions and organisations that plan to apply for funds across Serbia. In June 2023, the Ministry of Culture notified the European Commission of the immediate replacement of the Head of the Creative Europe Desk for Serbia.

In December 2022, Novi Sad completed its activities under the European Capital of Culture (ECOC) programme, which included the restoration of five landmark cultural heritage sites. As a follow-up exercise, the Serbian Ministry of Culture launched the 'National Capital of Culture', which will last for 4 years. It aims at decentralising the cultural offer and instigating local cultural development, and mainstreaming culture in local strategic development programmes. The project has identified the city of Čačak as the national capital of culture in 2023.

In February 2023, Serbia adopted a youth strategy to 2030 and in July an action plan on its implementation until 2025. Serbia has yet to adopt the delayed action plan for the implementation of the youth guarantee mechanism. The national youth council was revived and involves youth representatives that advocate for the rights of the young generation in Serbia. However, despite increased efforts, youth policy and support mechanisms remain unevenly developed at local level. The revision and/or preparation of local youth action plans in line with the provisions of the planning system law should be accelerated. The trend of emigrating young and skilled people continued. Unemployment and inactivity rates among young people remain high.

Serbia actively participates in the Erasmus+ for sport programme.

Chapter 29: Customs union

All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementing and enforcement capacity, and access to the common computerised customs systems.

Serbia has a **good level of preparation** in the area of customs union. **Limited progress** was made with the adoption of further amendments to existing legislation aimed at further alignment with the EU *acquis*. No progress was made on last year's recommendations, which therefore remain valid.

In the coming year, Serbia should in particular:

- further upgrade the customs processing system by integrating risk management; and
- further develop the national customs IT system to enable integration with the EU systems.

Serbia's **customs legislation** remains largely aligned with the EU *acquis*. In December 2022, Serbia adopted amendments to the customs law and to two regulations, one on customs procedures and customs formalities, and one on customs enforcement of intellectual property rights. These amendments aim at further alignment with the relevant *acquis*. Serbia is a party to the Common Transit Convention, applying EU rules on transit movements. Serbia should play a constructive role under this Convention. Rules on customs enforcement of intellectual property rights remain broadly in line with the EU *acquis*. The Regional Convention on pan-Euro-Mediterranean (PEM) preferential rules of origin is applied in Serbia. Serbia's customs tariff nomenclature for 2023 was harmonised with the EU combined nomenclature in

November 2022. During the reporting period, Serbia issued 11 new certificates for authorized economic operators, bringing the total number to 51.

Legislation on free zones and security aspects still needs to be aligned with the EU *acquis*. Fees are still charged at some border-crossing points on lorries entering customs terminals to discharge customs obligations, which is not in line with Serbia's SAA obligations.

For **administrative and operational capacity**, total customs and **value added tax** revenues collected by the customs administration in 2022 increased by 19% year-on-year.

Work is still ongoing on strengthening the risk management system. Serbia should consistently carry out pre-arrival/pre-departure risk-based analysis, in line with the EU Customs Code. The customs laboratory remain under-equipped.

In terms of the fight against tobacco smuggling, Serbia has been a party to the Protocol to Eliminate Illicit Trade in Tobacco Products since 2017. However, Serbia should continue to strengthen its work, in particular efforts to establish a track and trace system of tobacco products, as provided for by the Protocol. Furthermore, the administrative capacity for the control of illicit tobacco trade is still insufficient.

Furthermore, Serbia agreed in April 2022 to accept requests for assistance from EU Member States and OLAF under Protocol 6 of the SAA on mutual administrative assistance in customs matters in order to investigate suspected cases of circumvention via its territory and/or by legal entities registered in Serbia of EU sanctions introduced in the context of Russia's war of aggression against Ukraine. This allows EU customs authorities to, where appropriate, seek assistance from the Serbian customs authority to investigate EU import or export transactions that may have breached any of the EU sanctions packages (*see also Chapter 30 on external relations, and Chapter 31 on the common foreign and security policy*).

CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

This cluster covers four chapters: 14 (Transport policy), 15 (Energy), 21 (Trans-European networks) and 27 (Environment and climate change). The cluster and all chapters were opened in December 2021, after Serbia had fulfilled the remaining requirements, namely an action plan on oil stocks and an action plan on gas unbundling. This cluster is at the heart of the Green Agenda for the Western Balkans and closely linked to Serbia's Economic Reform Programme and the Commission's Economic and Investment Plan.

Some progress was achieved particularly on trans-European networks, where Serbia advanced on upgrading its infrastructure, with works progressing on the Serbia-Bulgaria gas interconnector, and on climate change with the adoption of the Low Carbon Development Strategy 2023-2030. In the coming period, Serbia is invited to focus on the following areas: improve investment prioritisation, planning and management across all areas; continue rail reform and improve the strategic transport framework in line with the EU's and the Western Balkans sustainable and smart mobility strategies; urgently implement its action plan on gas unbundling and further diversify gas routes and supplies to decrease dependence on Russia; adopt an ambitious national energy and climate plan (NECP) consistent with the European Green Deal's zero emission target for 2050 and step up efforts on implementing and enforcing environment and climate legislation, in particular on environmental impact assessment, waste management, air and water quality, transboundary cooperation and law enforcement by inspectorates.

Chapter 14: Transport

The EU has common rules for technical and safety standards, security, social standards, State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

Serbia has a **good level of preparation** in this field. **Limited progress** was made with the amendments to the laws related to railways and accelerated preparation of the national transport strategy. Investments in railway infrastructure modernisation are getting closer to EU practices, as financing for works has been secured through blending EIB and EBRD loans with EU grant funds.

The recommendations from last year remain valid. In the coming year, Serbia, should in particular:

- on rail reform: strengthen the railway safety system and certification processes, and implement a public service obligation contract and a multiannual infrastructure contract in an evidence-based manner;
- on the transport sector in general: accelerate the preparation of the strategic framework (finalise and adopt a national transport strategy, update the general transport master plan, adopt the strategic direction for intelligent transport systems) and implement it (adopt credible and costed rail and road maintenance plans, align and simplify road and rail border crossing procedures and improve road safety at national and local level, strengthen inspection services to progress on the social *acquis* in road transport, improve safety of transport systems and improve passenger rights in all modes of transport);
- on investment: prioritise investment that is relevant for Serbia's economic development and EU integration, in line with targets of the EU and Western Balkans sustainable and smart mobility strategy and the European Green Deal, base all investment decisions on feasibility studies conducted in accordance with EU best practices and apply transparent procurement procedures.

For the **general transport *acquis***, an update of Serbia's strategic framework remains overdue. Work on the new national transport strategy started in June 2022. Serbia needs to prioritise its finalisation and adoption in line with the agreed sustainable and smart mobility strategy targets. Strategic documents should be based on option analyses, consider regional aspects and be properly costed. For larger transport agglomerations, sustainable urban mobility plans that respect environmental and social standards should be developed following EU practice.

Serbia actively participates in the work of the Transport Community and moderate progress was made on implementation of the five TCT action plans. Serbia needs to demonstrate effective implementation of the Transport Community Treaty and the smart and sustainable mobility strategy.

Serbia's framework for future investment planning should be updated accordingly. Investments in transport infrastructure should be prioritised through a single mechanism, ranked according to relevance for Serbia's economic development and EU integration. Decisions need to be based on feasibility studies and technical designs in line with EU best practice. Procurement procedures need to follow EU standards, respect principles of equal treatment, open competition and transparency, and ensure best value for investment. Investment planning and the financial structuring of railway projects need to be improved. Agencies implementing transport investment projects need to have sufficient capacity and a clear mandate to perform and deliver.

Overall, administrative capacity in the road and rail sector continued to improve. However, it still needs further strengthening, including for the transport of dangerous goods, road safety, intelligent transport systems and rail, the railway regulatory body on technical specifications for interoperability, and the centre for investigation of rail accidents. Regarding public services, Serbia has a high level of alignment with the EU *acquis* on rail transport, but it is only partially aligned on road transport. Serbia is progressing slowly on implementing a methodology for track access charges and a new pricing model for access to railway infrastructure, the capacities should be further strengthened in respect to that.

On road transport, Serbia has a good level of alignment with the EU *acquis*. Alignment with EU legislation is still a priority on road charging, the social *acquis* in road transport, the weight and dimensions of vehicles and on access to the profession of road transport operator, to the international road haulage market and to the international market for coach and bus services. The new Law on road traffic safety has been pending for three years, inspection capacity remains insufficient and the number of road deaths in Serbia exceeds the EU average by more than 33%. However, Serbia has already implemented a number of measures from the TCT Road Safety Action Plan. This includes the collection of road safety KPIs, the alignment of national road safety data to the EU CADaS model and strengthened coordination among all relevant actors concerning the roads safety matter. A Road Safety Strategy for 2023-2030 has been drafted but needs to be adopted. In 2022, Serbia started issuing smart tachograph cards. Legislation on transport of dangerous goods is mostly aligned with the EU *acquis* and also covers transport of hazardous substances.

Improving the road maintenance system remains a priority. Work needs to accelerate on service level agreements, performance-based maintenance contracting, and road asset management. Responsibilities in road maintenance need to be further clarified and capacity increased. Serbia needs to address the issue of potentially discriminatory road charges against foreign operators and the country should decide on its strategic direction for implementing intelligent transport systems. Amendments to the Law on roads are pending.

On rail transport, investment in infrastructure increased and overall reform efforts also increased. Licensing requirements for design and construction of railway infrastructure projects, under the Law on planning and construction, delay project preparation and limit competition. In July 2023, the Law on Interoperability of the railway system and the Law on Railways were enacted by the Parliament. Serbia needs to continue its work on full alignment with the fourth EU railway package. The operational and financial sustainability of independent railway services and infrastructure operators remains on track. Serbia regularly updates its railway network statement, but it is not yet fully compliant with the EU *acquis* and the country's negotiating framework. Serbia made progress, with EU-funded technical assistance, on its deployment plan for the European railway traffic management system.

In 2023, 16 private freight companies operated on the market, two more than in the year before. However, to ensure full opening of the market, further efforts are required, including on train driver licences, safety certificates and mutual recognition of rolling stock. Serbia needs to continue improving its railway safety system, certification procedures, and its administrative capacity regarding training facilities and training programmes. Formal adoption of the provisionally published working versions of 11 technical specifications for interoperability has been pending for four years. Serbia needs to ensure that its railway infrastructure is built in line with these technical specifications and focus on improving human resource management in the railway field (development plans for all rail authorities should be incorporating technological, legal and administrative developments). Progress was made on strengthening the role and capacity of the Railway Directorate following amendments to the Law on railways.

Taking into account Serbia's geographical position as a landlocked country, legislation on **maritime transport** is well aligned with the EU *acquis*. Serbia should continue implementing international conventions.

Regarding **inland waterway transport**, Serbia continues to invest in its inland waterway infrastructure. Such investment needs to be done in line with environmental standards and the cost-effectiveness principle. Serbia's operational river information services system is highly interoperable with those of EU Member States. Serbia took steps to fulfil the preconditions for recognition of navigation certificates in the EU, in accordance with Directive (EU) 2017/2397. While Serbia continued improving its infrastructure for inland waterway transport services, it did not progress on the river ports network statement or on strengthening its administrative capacity.

Serbia has a good level of alignment with the EU *acquis* on **aviation**. During the reporting period, Serbia adopted several regulations on aerodrome certificates, rules of the air and provision of air traffic control, alerting and flight information services, conditions for performing air operations, and common basic standards on civil aviation security. Regarding aviation regulations, Serbia is close to fulfilling all obligations stipulated in the first transitional period of the European Common Aviation Area Agreement. However, Serbia still needs to further align its secondary legislation on State aid with the *acquis* and provide a solid track record in the implementation of laws on protection of competition and State aid control. In the domain of aviation safety, the European Union Aviation Safety Agency continues monitoring the implementation of EU safety standards.

On the Single European Sky, Serbia completed its alignment process. No progress was made regarding lifting the suspension of articles on the licensing of air carriers and the normalisation of the lower airspace regime over Kosovo, which remain important priorities. Serbia needs to apply Regulation (EC) No 1008/2008 on common rules for the operation of air services in the Community, as incorporated into the European Common Aviation Area Agreement.

There is no specific legislation on **combined transport**. Serbia regularly allocates budget funds to promote combined transport, but combined transport should be promoted in a more systemic and strategic manner. The construction of the first modern intermodal terminal in Belgrade was completed in November 2022 and is currently still in the defects notification period. Serbia needs to fulfil its obligations related to procurement of equipment and machinery needed for effective functioning of the intermodal terminal. The company for managing the terminal is yet to become operational.

Serbia should increase its efforts to align with EU legislation on **passenger rights** in all modes of transport.

Chapter 15: Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy, nuclear safety, radiation protection and nuclear safeguards.

Serbia is **moderately prepared** in energy. **Some progress** has been made with the drafting of the national energy and climate plan (NECP), adopting the law on energy laying the foundations for the gas unbundling, advancing the works on the gas interconnector between Serbia and Bulgaria, and opening the intraday electricity market. Last year's recommendations remain valid.

In the coming year, Serbia, should in particular:

- finalise and adopt the national energy and climate plan (NECP), in line with the Energy Community 2030 energy and climate targets, taking due account of recommendations issued by the Energy Community Secretariat, and energy sector development strategy, implement measures envisaged in the Roadmap for the EU Energy Support Package and the obligations from the Energy Community Treaty;
- implement overdue action plans, significantly accelerate implementation and finalise the unbundling of the gas system operators; certify Transportgas Srbija and Yugorosgaz and provide effective third-party access at all gas entry points; reduce vulnerability to Russian ownership of key energy assets; certify UGS Banatski Dvor in line with the Gas Storage Regulation;
- align with and implement the Electricity Integration Package adopted by the Energy Community Ministerial Council in December 2022; determine net transmission capacities and capacity allocation on all cross-border interconnections in the context of establishing an integrated electricity market.

The lack of gas market opening and third-party access to the gas network continue to hamper Serbia's security of supply. Works on the EU-funded gas interconnector between Serbia and Bulgaria have advanced. It is important to ensure that the interconnector becomes operational upon completion, without delay. Serbia subscribed to the joint regional gas purchase platform under the REPowerEU mechanism. Serbia's dependence on its single gas supplier Gazprom and Russian majority ownership of Serbia's gas infrastructure and oil industry continued. Serbia must take further steps to reduce this dependency on Russian fossil fuel. Serbia is encouraged to initiate the needed steps to align with the EU Gas Storage Regulation and comply with the obligation to certify gas storage operators by Q1 2024. In the second half of 2022, Electric Power Industry of Serbia (EPS) continued with high imports of electricity due to difficulties in coal production. The problems were partially offset by coal imports. Despite coal shortages which continued in 2023, due to mild winter conditions and winter rainfall, electricity imports ceased. Significant investments in new renewable capacities are needed in order to take forward the decarbonisation of the Serbian economy. In April 2023, EPS became a joint-stock company.

In December 2022, Serbia adopted a Roadmap for the EU Energy Support Package. The Roadmap envisages the finalisation of the unbundling of gas sector utilities only by Q4 2024, which constitutes a significant and regrettable delay in the commitment given to the EU and prolongs the long standing breach of the gas legislation. Serbia should take immediate and concrete steps to accelerate and implement its significantly delayed action plan on gas unbundling; this is a matter of credibility for Serbia in the accession negotiations. In July 2023, the amendments to the Energy Law allowing for the establishment of the Republic Commission for Energy Networks and thus starting the unbundling process were adopted by the parliament.

In December 2022, in line with the Roadmap, Serbia adopted a Decree on energy vulnerable customers. Work on the adoption of a Just Transition action plan is ongoing. It needs to be adopted by December 2023 in line with the Roadmap. The preparation of a plan to implement the Green Agenda is underway. The list of energy infrastructure and energy efficiency projects was adopted in July 2023 in line with the Roadmap.

Although Elektrosever received a supply license in June 2022, following the adoption of the Energy Roadmap as part of the EU-facilitated Dialogue, the conclusion of a commercial contract between the distribution company KEDS and Elektrosever remains pending. Following the separation of the Kosovo transmission system operator KOSTT from the Serbia control block, the Serbian electricity transmission system operator EMS did not determine net

transmission capacities and capacity allocation at the interconnection with Kosovo. Serbia did not make progress in setting up regionally coordinated auctions with its Western Balkan neighbours.

Serbia maintained a high level of alignment with the EU *acquis* on emergency oil stocks. Oil stocks continue to increase and corresponded to 35 days of average daily inland consumption in March 2023. In Smederevo, construction of four oil storage capacity units of 20 000 m³ continued and should be finalised by December 2023, allowing a further increase of oil stocks. A joint public-private partnership is planned to provide additional storage capacity.

Concerning the **internal energy market**, Serbia has to align with and implement Electricity Integration Package adopted at the Energy Community Ministerial Council in December 2022. Trading volumes on the organised day-ahead market decreased by 3% in 2022. An intraday electricity market was opened in July 2023. A balancing energy market is operational, but prices for balancing services are still regulated.

The unbundling of the electricity transmission system operator EMS is still not compliant with the Energy Community rules. The certification and unbundling of gas companies envisaged in Serbia's action plan for unbundling the gas sector continued to be delayed. There is no third-party access in line with the Energy Community rules to the gas system infrastructure of Transportgas Srbija, Gastrans and YugoRosGaz. The Balkan Stream pipeline section in Serbia is operational but there is no third-party access. Regarding the regulatory regime for this project, Serbia recognises the need for a tailor-made solution for the Gastrans company that will comply with EU legislation.

During the reporting period, several decrees were adopted regarding the electricity and gas network codes. Electricity and gas supply prices are deregulated for all customers, however, households and small customers have the right to be supplied under regulated prices. In 2022, the non-regulated market slightly increased and accounted for 51.2% of total end-user electricity consumption and 81.3% of total end-user gas consumption. Due to high electricity prices on the open market, the government introduced a price cap for the non-regulated market, i.e. industry. The regulated electricity price of universal supply to small customers and households is still significantly below the market price, which impedes competition. The International Monetary Fund stand-by arrangement agreed in December 2022 set targets for price increases in 2023. In line with this arrangement, Serbia's electricity and gas suppliers increased prices of electricity and gas in January and May 2023.

The Serbian energy agency is legally and functionally independent from any other public entity, but it has no legal enforcement power to ensure compliance of regulated companies. An increased staffing level is necessary to allow the agency to implement all regulatory responsibilities under the third energy package, the new electricity framework and the new Law on renewable energy.

On **hydrocarbons**, Serbia is implementing its mining law, adopted in April 2021. However, full alignment with the EU Hydrocarbons Directive is pending.

On **renewable energy sources (RES)**, Serbia made some progress on further alignment with the EU *acquis*. In April 2023, Serbia amended the 2021 Law on RES, paving the way to launch the delayed first RES auctions. In June 2023, the Government approved a three-year auction plan 2023 - 2025 with a total capacity of 1 300 MW. First auctions for producers of electricity from renewable energy sources were conducted in July 2023 and results were published. EPS progressed with the preparation of investments for higher capacity RES installations, including a windfarm in Kostolac and solar parks at the ash disposal sites of coal thermal power plants,

thereby pursuing the objectives of the European Green Deal and the Economic and Investment Plan for the Western Balkans.

For full transposition of the Renewable Energy Directive (RED II, Directive (EU) 2018/2001), Serbia should ensure a simplified and swift permit-granting process by designating one or more contact points to provide guidance to applicants. Serbia made no progress in introducing a national scheme to verify the sustainability criteria for biofuels, bioliquids and biomass fuels. The share of RES in the transport sector is still below 1% while the target for 2020 was 10%.

Overall, Serbia's share of RES in gross final energy consumption also decreased by 1% year-on-year and was at 25.28% in 2021. Serbia should set new ambitious annual targets for RES up to 2030 in its NECP, in accordance with the December 2022 Decision of the Ministerial Council of the Energy Community. Serbia has submitted its draft NECP to the Energy Community Secretariat on 29 June 2023, in line with the deadline, and plans to adopt its integrated NECP in autumn 2023, ahead of the deadline of 30 June 2024. The final NECP shall be in line with the Energy Community 2030 energy and climate targets and take due account of any recommendations from the Energy Community Secretariat. The lack of human resource capacity in the Ministry of Mining and Energy's Department for green energy hampers the implementation of RES support schemes. The total capacity of installed RES power slightly increased compared with the previous reporting period. The total capacity of wind power remained the same, while the total capacity of other RES used for electricity generation (not including big hydropower plants) increased to 190 MW.

Serbia continued to progress in aligning with the EU *acquis* on **energy efficiency** by adopting 22 acts of implementing legislation under the new Law on energy efficiency and rational use of energy, these focused on energy savings, eco-design and energy labelling frameworks. The first comprehensive assessment of the potential of high-efficiency cogeneration and district heating, in line with obligation under the Energy Efficiency Directive is under preparation. Nevertheless, only limited progress was made in aligning with the Energy Performance of Buildings Directive (Directive (EU) 2018/844) and setting up an implementing legislation framework for the renovation of building stock. Serbia is missing a national calculation methodology for energy performance of buildings, nearly zero-energy buildings standards for all new public and commercial buildings, and a legislative framework for the increased use of renewable energy, such as an electric vehicle charging infrastructure. Serbia still did not roll out consumption-based metering and billing in district heating, which is a precondition to attract large-scale investments to retrofit the building stock. In its NECP, Serbia should set ambitious targets for energy efficiency and the annual rate of building renovation. The human resource capacity in the Energy Efficiency Administration (EEA) needs to increase, its institutional role must be strengthened, and energy efficiency financing must be increased to take the sector decisively towards the 'energy efficiency first principle'. The EEA still cannot manage energy efficiency measures for individuals without the intermediary role of local self-governments, nor can it run multiannual programmes. In 2023, Serbia continued to expand its housing renovation programme and increased funding for this.

On **nuclear energy, nuclear safety and radiation protection**, Serbia's legislation is partially in line with the EU *acquis*. In the reporting period, a Rulebook on Categorisation of Radiation Practices was adopted. An EU-funded project is being implemented to strengthen Serbia's capacity in the fields of nuclear energy, radiation safety, and radioactive waste management. In May 2023, Serbia signed the European Community Urgent Radiological Information Exchange (ECURIE) Agreement. Serbia can be considered a full member of the ECURIE community upon implementing the required technical arrangements, which is expected to happen in the coming months. Serbia is also a member of the EURDEP community. The

Serbian public utility ‘Nuclear Objects’ has yet to finalise licensing of two old storage facilities, which expired in November 2019, two nuclear research reactors and an abandoned uranium mine. The new radioactive waste processing facility received the trial run licence. The Serbian Radiation and Nuclear Safety and Security Directorate will need to increase its number of employees in order to fulfil its future obligations.

On nuclear safeguards, Serbia would need to start adapting the existing systems of accountancy and control of nuclear materials in order to accommodate for the safeguards provisions (Chapter 7) of the Euratom Treaty.

Chapter 21: Trans-European networks

The EU promotes trans-European networks (TENs) in the areas of transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.

Serbia is **moderately prepared** for trans-European networks. **Some progress** was made overall, including on infrastructure upgrading, transport projects, the construction of the gas interconnector with Bulgaria and on last year’s recommendation on Serbia’s strategic framework for the transport sector.

In the coming year, Serbia should in particular:

- continue to modernise its transport and energy infrastructure connections in line with the EU’s and the Western Balkans’ sustainable and smart mobility strategies;
- conclude a contract for sections III and IV of the Trans-Balkan electricity corridor, finalise the construction of the Serbia-Bulgaria gas interconnector and put it into operation;
- improve the quality of design and tender documents for transport infrastructure projects to accelerate their effective implementation and contribute to open competition during tendering.

On **transport networks**, challenges in the sector remain: decarbonisation, digitalisation and resilience of transport infrastructure; multiannual maintenance planning and implementation in road and rail; alignment with the TEN-T regulatory framework; and compliance with EU laws and standards on public procurement, State aid and environmental impact assessments. Rail infrastructure needs to comply with the EU’s technical specifications for interoperability. Serbia continues to invest substantial funds in the upgrading of its transport infrastructure. However, Serbia should ensure that investments in its infrastructure from third countries are in line with the EU framework for the screening of foreign direct investments. Investment needs to be designed and implemented in full respect of environmental standards and based on cost-benefit analyses following EU best practice. The legal framework defining the planning, design and construction needs to reflect the principles of transparency and equal treatment. The capacities of agencies responsible for the implementation of investment projects need to be strengthened. Proper financial structuring of projects remains a priority, also for Serbia’s absorption of EU funds.

Serbia is encouraged to remain committed to transport facilitation, focusing on rail and road border crossings. The Serbian authorities are committed to implement the ‘green lanes’ and are encouraged to take steps in this field.

In May 2023, Serbia signed a high-level understanding on the revision of the indicative maps for TEN-T in the Western Balkans. Regarding roads, works on the Niš-Merdare highway with the support of EU funds need to accelerate. So far only around 10% of approved EU grant funds have been used and the tendering of the sections between Niš and Pločnik is delayed.

The preparation of missing project documentation on the section Pločnik-Merdare, for which EU funds have also been secured, is also pending. Regarding rail infrastructure, works on the remaining part of the Budapest-Belgrade line (the Novi Sad-Subotica sub-section) are progressing and are planned to be completed by the end of 2024. Serbian Railways Infrastructure signed a first works contract related to the modernisation of the Niš–Dimitrovgrad railway line. Works are expected to start in November 2023 thus unblocking the long-delayed project. Preparation is progressing, under the EU Economic and Investment Plan, for the modernisation of rail corridor X from Belgrade-Niš to the border with North Macedonia.

The commencement of works on lot 1 of the Stalać-Djunis sub-section funded by the national budget is delayed, although the contract was signed in February 2022. The tendering procedure for the EU-funded lot 2 is underway. Serbia continued implementing its inland waterway programme with delays on some sub-projects. Regarding airport infrastructure, the modernisation of the Nikola Tesla airport in Belgrade advanced considerably.

On trans-European **energy networks**, the administrative capacity for alignment with the EU *acquis* remains insufficient. For further decarbonisation of the electricity sector and an increased share of renewable sources, energy networks need to be upgraded in line with the EU *acquis* on trans-European networks. Regarding the Trans-Balkan electricity corridor, section III from Obrenovac to Bajina Bašta and section IV between Serbia, Bosnia and Herzegovina and Montenegro are in the tendering phase. Work continued on the gas interconnector between Serbia and Bulgaria. The interconnector should be finalised by the end of 2023 and licensing should be completed urgently thereafter to bring it into use as soon as possible.

Chapter 27: Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

Serbia has achieved **some level of preparation** in the area of environment and climate change. Overall, Serbia made **some progress**, including on last year's recommendations, in particular by adopting the Low Carbon Development Strategy 2023-2030, and drafting its national energy and climate plan (NECP). Serbia also made progress by continuing to increase environmental funding and investments, in particular in the waste management and water quality sectors. The adoption of important legislation and strategic documents is pending.

Last year's recommendations remain largely valid. In the coming year, Serbia should in particular:

- modernise and simplify the overall sector structure and institutions to improve the efficiency and quality of the preparation, implementation and quality control of investments as well as further improve strategic investment planning and management including transparency of procedures;
- align the Law on planning and construction with international standards; adopt EU-compliant Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) laws; align and adopt the Directive on Environmental Crime;
- implement the Action Plan for Administrative Capacity Development and the Programme of Air Protection; adopt the Decree on appropriate assessment; adopt the Industrial Emissions Directive; resume international cooperation on Transboundary Rivers; implement the Low Carbon Development Plan.

Environment

In the area of **horizontal legislation**, Serbia has a high level of alignment with the EU *acquis*. However, implementation and enforcement need to be further improved, in particular by strengthening administrative capacity at central and local levels, including that of inspectorates and the judiciary, which will require the implementation of structural, cross-sectoral reforms. Legislation on Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) was drafted but not yet adopted. The SEA of Serbia's Spatial Plan was adopted in March 2023. Serbia should tackle critical deficiencies of the Law on Planning and Construction, including the requirement of public participation and transparency in the issuing of construction permits set out in the EIA. It should also address the practices of issuing construction permits before an EIA procedure and splitting projects into several smaller projects which, taken individually, do not require an EIA process. EIA implementation needs to be considerably strengthened. Serbia needs to carry out SEA for all plans and programmes that fall under the framework for projects listed in the EIA Directive. The quality of public consultations improved marginally during the reporting period. Serbia needs to ensure greater transparency about investments and their environmental effects as well as respect for freedom of expression and assembly in the environmental sector.

In 2022, an inclusive stakeholder process started to support the development of a national Environmental Protection Strategy: Green Agenda for Serbia. In 2023, the Serbian national budget for environment and climate action was increased by 18% compared with 2022. Serbia has increased its budget for environmental programmes and is implementing Calls for Proposals to replace heating equipment, afforestation, and purchase of electric and hybrid vehicles. Although Serbia is substantially increasing investment in environmental protection, it still lacks an effective institutional set-up and transparent procedures. All income generated from environmental fees should be earmarked for environmental purposes.

Transboundary cooperation did not improve during the reporting period. Serbia is encouraged to pursue efforts to improve transboundary cooperation with neighbouring countries. Legislative alignment on environmental liability and environmental crime *acquis* has not progressed. Enforcement remains a key priority including the need to establish a track record on implementing the Environmental Crime Directive.

The Serbian Environmental Protection Agency's (SEPA) annual reports were frequently not published in a timely manner. Under the European Environment Information and Observation Network, Serbia's provisional scores for core data flows in 2022 dropped by 50% compared with 2021, well below the median for EEA-38 countries of 81%.

In the field of **air quality**, Serbia has a good level of alignment with the EU *acquis*, but implementation and enforcement should be further strengthened. In December 2022, following an extensive public consultation, Serbia adopted its first Air Protection Programme for the period 2022-2030 and an action plan. Nevertheless, Serbia continued to exceed EU daily limits of air pollution in 2022. Serbia needs to speed up implementation of air quality plans and further improve air quality monitoring. SEPA improved its communication on air quality. In May 2023, the EU Air Quality Index was proposed by the Ministry of Environment but not yet adopted. The SEPA air quality report for 2021 was published on 21 November 2022. The report listed an increased number of agglomerations with air pollution exceeding EU limits (20) compared with last year (19), meaning that around four million inhabitants are exposed to polluted air. The pollution caused by the Kostolac B thermal power plant needs to be addressed urgently. Serbia has not yet aligned its legislation with the requirements of the EU *acquis* for national emission ceilings. Alignment with the EU *acquis* on volatile organic compound emissions needs to continue. Adequate staffing of SEPA need to be ensured.

Regarding **waste management**, Serbia has a good level of alignment with the EU *acquis*, but implementation should be further strengthened. In April 2023, Serbia amended the Law on waste management. The program for the development of the circular economy was adopted in December 2022. Sorting waste at source rose from 318 tonnes in August 2022 to 762 tonnes in May 2023 in four waste regions, thanks to Team Europe support. Serbia had 12 sanitary landfills at the end of 2022. In 2022, Serbia allocated funds to clean 233 illegal dumpsites, added video monitoring to prevent waste disposal, and improved cooperation with local authorities. About 20% of the municipal waste generated in Serbia is still dumped in illegal dumpsites. The remediation of the Belgrade landfill and the construction of a waste-to-energy facility continued in the reporting period. Serbia's inspection capacity in the waste sector remains insufficient.

The level of alignment with the EU *acquis* on **water quality** is moderate. Overall, Serbia needs to step up its efforts to further align its legislation with the EU *acquis* in this sector, and to strengthen administrative capacity in monitoring, enforcement and interinstitutional coordination. Pollution by nitrogen and phosphorus originates from the energy sector, waste and wastewater public companies, and chemical and mineral industries. Non-compliance with water quality standards remains a serious concern and includes areas where arsenic is present. Belgrade, Niš and Novi Sad do not treat their wastewater; however, works on a wastewater treatment plant and sewage network have started in Niš, with EU and Team Europe funding. In July 2021, Serbia adopted an action plan for implementing its water management strategy, but there is no available monitoring information. Serbia should address river pollution more rigorously and increase cooperation for transboundary rivers such as the Danube, Drina, Dragovištica and Pek rivers. In April 2023, the 1st River Basin Management Plan was adopted. No particular progress has been reported on the implementation of the memorandum of understanding on EIA and SEA signed by Serbia and Bulgaria in May 2022. Improving local governance, in particular for operating and maintaining water and wastewater facilities, remains a priority. Increased transparency on planning, selecting and managing environmental investments must be delivered to ensure better compliance with EU laws and standards in this sector and better value for money. EU-funded work on adequate water fees and tariffs continued with the participation of 33 municipalities. Work on developing flood risk management plans is advancing.

Alignment with the EU *acquis* in the field of **nature protection**, in particular with the Habitats and Birds Directives, is moderate. Serbia needs to address gaps in legislation, which currently allow the hunting of non-hunttable birds, especially the goshawk and the turtle dove. Illegal construction in national parks was reported by the inspectorate but no action was taken. Serbia needs to fully incorporate EU standards on prohibited means of capturing and killing wild animals, including in its legislation on hunting. Authorities need to address illegal hunting and illegal logging more effectively. Preparations for establishing a Natura 2000 network improved thanks to an EU-funded project. Institutional and human resource capacity at national and local levels remains weak, in particular as regards enforcement and wildlife trade. Any further development of hydropower should be in line with EU environmental legislation.

As regards **industrial pollution and risk management**, alignment with most of the EU *acquis* is at an early stage across industry, including as concerns the Industrial Emissions Directive. The Kostolac B thermal power plant is Europe's biggest sulphur dioxide polluter. Its desulphurisation plant started operating in January 2023. Inspection and law enforcement remain areas of concern. Serbia needs to increase its capacity for managing the integrated permitting processes. The quality of Integrated Pollution Prevention and Control permits should be improved. Serbia should enforce the polluter pays principle in order to encourage

industry to invest in green solutions. In 2022, the number of inspections decreased from 4 289 to 3 584 compared with 2021. A new methodology for reporting is in place but should be improved.

Serbia has a high level of alignment with the EU *acquis* on **chemicals**. However, developments on the REACH Regulation and the Classification, Labelling and Packaging Regulation, and on animal experiments and asbestos legislation, continued to be slow. Serbia needs to boost its administrative capacity to implement legislation in these areas and ensure proper monitoring of persistent organic pollutants.

Alignment with the EU *acquis* on **noise** remains at an early stage. Serbia needs to improve its administrative capacity for preparing noise maps and action plans and for enforcing noise legislation.

Regarding **civil protection**, Serbia actively participates in the Union Civil Protection Mechanism (UCPM). In February 2023, Serbia deployed urban search and rescue teams to Türkiye in response to the devastating earthquakes in the region and participated in the work of the operational team for sending humanitarian aid to the citizens of Türkiye and Syria. In March 2023, Serbia sent several energy items via the UCPM to Ukraine to help repair damage caused by Russian attacks on civilian infrastructure. Serbia has a good legal and policy framework for disaster risk management based on the Law on disaster risk reduction and emergency management. Revision of the law is planned in 2023 to address minor shortcomings and introduce new instruments to empower those involved at local level. Serbia improved its preparedness and response capacities. In October 2022, Serbia launched its online disaster risk register (in line with the EU INSPIRE Directive and the EU initiative to enhance data interoperability) which provides real-time data concerning risks in concrete locations. Such data is necessary to take preventive measures and informed decisions in emergency management, post-disaster reconstruction and investment planning. Capacities for response and prevention need to be strengthened through training, particularly for local players involved in emergencies. Serbia is not connected to the Common Emergency Communication and Information System (CECIS) through secure trans-European Services for Telematics between Administrations (sTESTA). Serbia expressed an interest to join the read-only CECIS Civil Protection Lite version available for UCPM participating states that do not yet have the full access to sTESTA and CECIS.

Serbia should inform the EU on the activities of the Niš humanitarian centre, its integration in the emergency management system, and ensure that it does not duplicate the role of the European Commission's Emergency Response Coordination Centre.

Climate change

Serbia has some level of preparation in climate change legislation, but enforcement is at a very early stage. The Low Carbon Development Strategy for 2023-2030 was adopted by the government in June 2023. Serbia adopted three pieces of implementing legislation necessary to implement the climate law. Serbia needs to continue its efforts to integrate climate action into other sectors and ensure policy coordination. Serbia needs to step up efforts to diversify energy sources, develop renewables and decrease energy intensity in order to translate its commitment to the Green Agenda for the Western Balkans into concrete action. This should include the introduction of carbon-pricing instruments and phasing out coal subsidies. Serbia needs to take decisive steps for the establishment of a mechanism on carbon pricing, aligned with the EU Emissions Trading System (EU ETS), to advance the implementation of the EU *acquis* and to adequately prepare for the EU Carbon Border Adjustment Mechanism, that entered into force in its transitional phase as of 1 October 2023.

Serbia's draft national spatial plan, based on its energy strategy, includes new thermal power plants. Serbia should set a coal phase-out date as an effective means to comply with Energy Community law and Serbia's Green Agenda commitments on reaching the EU target of climate neutrality.

In August 2022, Serbia submitted, with some delay, its updated nationally determined contribution to the Paris Agreement, committing to a 33.3% decrease in greenhouse gas emissions by 2030 compared with 1990 levels. Full alignment of legislation on monitoring, reporting and verifying greenhouse gas emissions in line with the EU emissions trading system and the effort-sharing Regulation is still pending. Serbia needs to considerably strengthen its administrative and technical capacity at all levels and further increase investment in its green energy transition.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

This cluster covers chapters 11 (Agriculture and rural development), 12 (Food safety, veterinary and phytosanitary policy), 13 (Fisheries and aquaculture), 22 (Regional policy & coordination of structural instruments) and 33 (Financial & budgetary provisions). Two out of five chapters are open (chapters 13 and 33) with closing benchmarks that remain to be fulfilled in each chapter. The Commission has assessed that opening benchmarks have been met for chapters 11 and 22. Serbia has yet to meet all three opening benchmarks to open Chapter 12.

This cluster comprises policies linked to EU structural funds and developing the capacities to assume responsibilities of a future Member State. It also comprises some of the key policy areas crucial for ensuring sustainable food systems and helping rural communities to develop and diversify economically.

Limited progress was achieved in different areas, e.g. the classification of food establishments and establishments handling animal by-products, and the recruitment of additional staff in the Plant Health Directorate; on financial and budgetary provisions as regards the underlying policy areas affecting the correct functioning of the own resources system; and on regional policy as regards financial management.

In the coming period, Serbia is invited to focus on the following areas: increasing the pace of implementation of the instrument for pre-accession assistance for rural development (IPARD) to ensure a timely use of financial support from the EU so as to avoid further loss of funds; progressing with the revision and implementation of the action plan for *acquis* alignment in agriculture and rural development; adopting a strategy and action plan for alignment with the *acquis* on food safety, veterinary and phytosanitary policy; adopting framework legislation on genetically modified organisms aligned with the *acquis*; adopting the action plan for alignment with the *acquis* on fisheries; implementing the action plan for meeting the requirements of the EU cohesion policy and improving capacity to manage indirect management programmes under EU pre-accession assistance; and drafting an action plan to meet the administrative own resources conditions.

Chapter 11: Agriculture and rural development

The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.

Serbia has **some level of preparation** in agriculture and rural development. **Limited progress** was made, in particular on recruitment to the IPARD structures and efficiency of processing IPARD applications and payment requests.

Last year's recommendations remain valid. In the coming year, Serbia should in particular:

- take measures to improve implementation and avoid further loss of IPARD funds, ensure the smooth rollover of entrusted IPARD measures to the 2021-2027 period, and prepare new measures for entrustment;
- update and speed up implementation of the action plan for EU *acquis* alignment in agriculture and rural development.

Regarding **horizontal issues**, the adoption of the national programme for agriculture and rural development for the period 2022-2024 is still outstanding. Its complementarity with the IPARD III programme should be ensured. Implementation of the action plan on alignment with the EU *acquis* on agriculture and rural development should continue, with its updating to be finalised in the course of 2023. Serbia should speed up the establishment of the integrated administration and control system (IACS) and the transition from manual to electronic processing of aid applications. The procurement of software for the land parcel identification system (LPIS), a precondition for the start of the IPA 2021 project on the first phase of the establishment of IACS, is still outstanding and should be fulfilled without further delays. Serbia needs to bring its support measures in line with the EU *acquis*. The farm accountancy data network (FADN) is established, but its sample size and the quality of the data needs to be further improved.

In the area of the **common market organisation (CMO)**, the adoption of implementing legislation in the areas of marketing standards, public and private storage, and producer organisations is still pending. A new law on wine has been prepared and should be adopted.

On **rural development**, Serbia is entrusted with budget implementation tasks for four measures under IPARD II. However, delays in payments in 2022 resulted in a loss of EUR 12.8 million of IPARD funds and there is a considerable risk of further losses in 2023. It is important that Serbia fully implements its action plan for better absorption of funds. While a number of staff has been recruited in the IPARD Agency, it is important that Serbia continues filling vacant posts, which is essential for improved and timely implementation of IPARD. Serbia is encouraged to present proposals for credit guarantee schemes, which will assist non-legal entities and small agricultural holdings with access to IPARD funds.

Human resources capacity at the IPARD Agency needs to be secured. A smooth rollover of the entrusted IPARD II measures to IPARD III (2021-2027) is essential and preparation for the implementation of the programme's new measure – *Agri-environment-climate and organic farming*; *Implementation of local rural development strategies (LEADER)*; and *Investments in rural public infrastructure* – needs to start.

As regards **quality policy**, the continuing delay in the adoption of legislation on quality schemes for agricultural products and foodstuffs is hindering the sector's development.

For **organic farming**, new legislation aligning with the EU *acquis* in the area of organics has been drafted and should be adopted without further delay.

Chapter 12: Food safety, veterinary and phytosanitary policy

EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare, and the safety of food of animal origin, are safeguarded together with the quality of seeds, plant protection material, the protection against harmful organisms and animal nutrition.

Serbia is **moderately prepared** in the area of food safety, veterinary and phytosanitary policy. **Some progress** was made on last year's recommendations, in particular through recruitment of additional staff in the Plant Health Directorate and the classification of food establishments and establishments handling animal by-products.

In the coming year, Serbia should in particular:

- step up the efforts to strengthen the capacities of the line directorates, in particular the veterinary directorate, through recruitment of new staff, training and staff retention policies;
- prioritise the process of upgrading food establishments to align with the EU *acquis*;
- adopt legislation aligned with the EU *acquis* regulating genetically modified organisms (*see also Chapter 30*).

In the area of **general food safety**, Serbia presented an advanced draft of a strategy and action plan for alignment with the EU *acquis*, which is yet to be adopted. A number of framework laws still remain to be aligned with the EU *acquis*. Serbia's risk-based approach for imported foods needs to become more transparent and comprehensive. The periodic delays in issuing import certificates or abrupt shortening of their validity (e.g. for meat or dairy products) continued to constitute non-tariff barriers. Serbia still has not introduced an audit of inspection staff.

On **veterinary policy**, annual programmes consisting of animal health protection measures were adopted in March 2023. African swine fever (ASF) continued to spread rapidly, affecting primarily small holdings in rural areas and causing considerable economic damage. No cases of rabies were noted in the reporting period. While the official system to implement animal health controls is generally well organised, Serbia urgently needs to address a long-standing shortage of official veterinarians, fill well over 150 vacant posts in the Veterinary Directorate both in inspection and policy departments, and increase the number of trainings in the Directorate. Serbia also needs to take additional steps to meet the requirements for export of fresh poultry meat and eggs to the EU. Further alignment is required in the area of animal health to comply with the most recent EU *acquis*. Alignment of national legislation on animal welfare with the EU *acquis* remains to be finalised.

As regards the **placing of food, feed and animal by-products on the market**, in the reporting period Serbia finalised the task of categorisation of food establishments for compliance with the EU *acquis*. However, focused efforts are now necessary to upgrade establishments, including the introduction of a monitoring system. IPARD funds could serve as an important source of funding for this process. Significant work is also needed on field and intermediary collection of animal waste and management of animal by-products.

On **food safety rules and specific rules for feed**, Serbia made no progress in improving milk quality and has not adopted a strategy to align with EU *acquis* standards. Substantial work is needed to gradually widen the scope of related laboratory analysis in this area and increase efforts on awareness-raising for improved hygiene during milk production and for prevention of mastitis. The permitted level of aflatoxins in milk remains five times higher than the limit allowed by the EU *acquis*, while necessary measures to reduce the presence of aflatoxins in animal feed (source of aflatoxins in milk) remain to be implemented.

The capacity of the Directorate for national reference laboratories requires further strengthening in terms of specialist staff and the analytical scope of its laboratories, including those for milk testing.

In the area of **phytosanitary policy**, the 2023 annual programme of plant health measures was adopted in February 2023. Implementation of existing national legislation for the sustainable use of pesticides remains low (e.g. on mandatory control of pesticide application devices). Substantial work is still necessary in this area, including targeted awareness-raising about the risks in pesticide misuse. While some progress was noted in staffing of the phytosanitary inspectorate, policy departments of the Plant Health Directorate remain to be strengthened.

Serbia made no progress to align its legislation on **genetically modified organisms** with the EU *acquis*, in order to regulate this area in a more transparent and safe manner. This is crucial for further progress in negotiations for membership of the World Trade Organisation and is a prerequisite for opening this chapter.

Chapter 13: Fisheries and aquaculture

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

Serbia is **moderately prepared** in the area of fisheries and aquaculture. **No progress** was made during the reporting period. Last year's recommendations still remain valid.

In the coming year, Serbia should:

- adopt an action plan for full compliance with the requirements of the EU *acquis* by the date of accession, in particular regarding organisation of markets, aquaculture, data collection and control measures, and illegal, unreported and unregulated fishing;
- address the severe understaffing of authorities responsible for policy formulation and anti-fraud controls for fisheries (including border controls).

Serbia does not have a coastline, therefore a large part of the EU *acquis* on fisheries is not applicable. The fisheries and aquaculture chapter also consists of inland fisheries and aquaculture operations. Serbia, however, should not neglect its potential for fish farming and processing, and should dedicate necessary efforts to setting up and strengthening administrative and institutional capacities, which is a prerequisite for the successful implementation of fisheries policy. No progress was noted in the reporting period in addressing severe understaffing in the policy formulation area and in **inter-institutional coordination**, including border and other anti-fraud controls.

On **resource and fleet management**, the European eel, a strictly protected species, is covered by a permanent fishing ban. The collection of statistical data on aquaculture for 2022 is yet to be completed. However, further harmonisation of national legislation for data collection is necessary to include the obligation to record European eel catch both in recreational and commercial fishing. The scientific capacity needed to align data collection principles remains to be strengthened. In the field of **structural actions**, the sector was included in the IPARD support programme, but actual implementation in this area is yet to start. Structural measures have not yet been put in place for small-scale or inland fisheries. On **inspections and control**, Serbia needs to improve official controls of fishery products intended for export to the EU and align related laboratory testing with the EU *acquis*. The implementation of the rulebook on catch certification and bringing the legal framework into full alignment with the EU *acquis* on illegal, unreported and unregulated fishing (IUU) has been repeatedly postponed to 2024. This matter should be addressed as soon as a solution has been found for the fish catch certificate. Legislation on **market policy** still needs to be adopted, in line with the EU *acquis*. As for **State**

aid measures, Serbia still needs to ensure their compatibility with the EU *acquis* and the Common Fisheries Policy before accession.

Chapter 22: Regional policy and coordination of structural instruments

*Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU *acquis* elements such as environmental or public procurement legislation.*

Serbia is **moderately prepared** in the area of regional policy and coordination of structural instruments. **Limited progress** has been made on last year's recommendations.

In the coming year, Serbia should in particular:

- urgently implement its action plan on cohesion policy and ensure the timely implementation of IPA III multiannual operational programmes under indirect management;
- improve capacity for indirect management of IPA programmes, including operational programmes, and guarantee that key positions are permanently filled and key staff retained; and
- ensure that all instruments are compliant with EU requirements in terms of programming and partnership principles and factor in the requirements of the future structural/cohesion funds in the institutional set-up.

Serbia is yet to adopt a **legal framework** for cohesion policy. Work on the law on cohesion policy has reached an advanced stage. Multiannual budget planning is regulated through the Law on the budget system, and national co-financing for EU pre-accession programmes is ensured at project level. However, Serbia needs to apply a systematic approach to develop, co-finance and implement multiannual operational programmes. The decree providing the legal basis for the functioning of the Audit Authority under IPA III was adopted in September 2023.

Progress has been made with regard to the institutional framework for cohesion policy. The multiannual operational programmes under the Instrument for Pre-accession Assistance (IPA III) identify the institutions and bodies that will manage and implement such programmes. Continuity is expected between these institutions and bodies and those that will be in charge of structural instruments after accession. Serbia should focus on developing the capacity of these institutions and bodies in view of their future role in cohesion policy. Generally, indirect management structures need to keep improving to manage IPA programmes more timely and efficiently and to be able to operate in an ex-post control environment.

Weaknesses persist in the **administrative capacity** of key institutions managing EU funds. Many managerial appointments are in acting functions only and are not confirmed, creating uncertainty. The turnover of staff in key ministries remains a problem, as experienced staff are regularly replaced by newcomers. The institutions and bodies responsible for managing multiannual operational programmes need to be staffed appropriately. A more effective and holistic retention policy in the public sector remains to be adopted. Improvements in administrative capacity are necessary to minimise the risk of losing IPA funds.

Serbia continues to participate in the EU Strategy for the Adriatic and Ionian Region (EUSAIR) and the EU Strategy for the Danube Region (EUSDR) which promote cooperation and synergies among participating EU and non-EU countries.

On **programming**, the adoption of a development plan, which forms the legal basis for Serbia's regional development policy, remains overdue. In 2023, a working group was established, including relevant stakeholders, to draft the national development plan; its first meeting took place in March 2023. The development plan should acknowledge the development potential of all regions in Serbia and reduce regional and local disparities. The investment planning system continues to lack coherence, leading to non-transparent investment planning and financing and varied technical standards that have an impact on interoperability. Investment planning should be organised to bring Serbia closer to the EU.

On **monitoring and evaluation**, the relevant monitoring committees set up under indirect management continued to function. However, the establishment of a monitoring and evaluation system in accordance with the requirements of cohesion policy remains outstanding.

On **financial management, control and audit**, the capacity of the national systems for indirect management of IPA funds, including in the Audit Authority, continued to improve. The resorption of the payments backlog under indirect management is an urgent priority.

Chapter 33: Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) non-recycled plastic; and (iv) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.

Serbia has **some level of preparation** in the area of financial and budgetary provisions. **Limited progress** was made on last year's recommendations as Serbia requested and participated in a study visit on the management and coordination of the EU own resources system. Limited to good progress was made within the underlying policy areas affecting the correct functioning of the own resources system. Last year's recommendations remain largely valid.

In the coming year, Serbia should in particular:

- develop organisational and procedural links between the institutions involved in the own resources system; and
- continue preparations to meet the specific administrative conditions for own resources as laid down in the own resources regulations, including, once the Commission-led workshop on the EU own resources system has taken place, draft an action plan with timelines to meet the administrative own resources conditions.

There was limited to good progress in the underlying policy areas indirectly affecting the own resources system (*for progress in these areas, see Chapters 16 – Taxation, 18 – Statistics, 29 – Customs union, and 32 – Financial control*).

Regarding **traditional own resources** (TOR), the customs legislation is largely aligned with the EU *acquis*. Serbia's customs administration procedures ensure that cases of fraud and irregularities are reported to the national authorities. However, reporting is manual and Serbia does not use OWNRES, or any other similar national electronic database, to report on fraud and irregularities for amounts over EUR 10 000. Customs continued the simulation of TOR

accounts in 2022. However, the current accounting system does not use two different accounts, one for collected or secured debts (A account) and the other for uncollected/unsecured debts or secured but appealed debts (B account). Several departments in the customs administration, including its internal audit department, carry out control activities. The state audit institution is in charge of carrying out external audits.

As regards the **value added tax (VAT)-based resource**, sufficient data sources are available for the calculation of the theoretical non-deductible VAT, deriving from the supply and use tables that were published for the first time in 2019.

As regards the **gross national income-based resource**, national accounts are compiled largely in line with the European System of Accounts (ESA 2010). However, continued efforts are needed to produce the complete data required by the ESA 2010 transmission programme. Serbia continued to improve the exhaustiveness of the national accounts and the gross national income (GNI) calculations. Updated GNI data is available for the period 2005-2020. The GNI estimates include those of the non-observed economy. First estimates for VAT fraud were calculated without breakdown by with/without complicity, so a VAT weighted average rate is still not available. The results of tax audits are received from tax authorities and used to improve the exhaustiveness of the national accounts. Available data generally already meet the necessary standards of quality (reliability, comparability and exhaustiveness) to guarantee the legitimacy of GNI as a benchmark aggregate. The statistical office continued to improve its methods and data sources and regularly transmit GNI and GDP data to Eurostat. The work to establish a GNI inventory, based on the already existing description of sources and methods used to compile national accounts, started in 2018 and is to be finalised in 2024, together with the benchmark revision of national accounts data.

Regarding **administrative infrastructure**, the capacity of the institutions in the relevant policy areas needs to be further strengthened. The group for the coordination and management of own resources of the EU, tasked with ensuring correct calculation, accounting, forecasting, collection, payment, control and reporting on the implementation of the EU's own resources policy and rules, has two employees. In May 2023, Serbia participated in a TAIEX-supported study visit which contributed to improving the coordination tasks of the group. Furthermore, the organisational and procedural links between the institutions involved in own resources should still be developed.

CLUSTER 6: EXTERNAL RELATIONS

There are two chapters in this cluster: Chapter 30 External relations, and Chapter 31 Foreign, security and defence policy. Serbia is yet to meet the two opening benchmarks for Chapter 30, which includes finalising the accession to the World Trade Organization (WTO). In this regard, Serbia should adopt a WTO-compliant law on the trade of genetically modified organisms as a matter of urgency.

The screening report on Chapter 31 is still in the Council. Serbia's common foreign and security policy alignment patterns remained largely unchanged. In 2022, Serbia's alignment rate with relevant High Representative statements on behalf of the EU and Council Decisions was 46%, and reached 51 % as of August 2023. Serbia continued to participate in EU crisis management missions and operations under the common security and defence policy.

Serbia is invited to continue legislative alignment where necessary, and is also encouraged to implement actions under the Common Regional Market based on EU rules, including through cooperation with the Central European Free Trade Agreement (CEFTA) and the Regional Cooperation Council.

Serbia should urgently improve its alignment with EU common foreign and security policy, including restrictive measures, avoid actions that go against EU positions on foreign policy, and step up actions to prevent any attempt to use the territory of Serbia for the circumvention of EU restrictive measures.

Chapter 30: External relations

The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules on humanitarian aid and development policy.

Serbia remains **moderately prepared** in the area of external relations. **Limited progress** was made overall. The capacity to pursue key challenges in trade policy needs to be strengthened, in particular in order to move forward with accession to the World Trade Organization (WTO), where again no progress was made. Serbia has yet to further strengthen the administrative capacity of the Ministry of Internal and Foreign Trade for handling trade with the EU and CEFTA, as well as WTO accession. By the end of October 2023, Serbia had lifted all its trade restrictions that been introduced on a number of products in the agricultural and energy sectors in non-respect of the provisions of the Stabilisation and Association Agreement (SAA). In October 2023, Serbia provided an updated list of actions to be taken in the context of the WTO accession process as part of the action plan on its remaining legislative alignment with the EU *acquis*. No substantial progress was made on development policy and humanitarian aid. Last year's recommendations therefore remain valid.

In the coming year, Serbia should in particular:

- adopt a WTO-compliant law on genetically modified organisms, so as to move forward with remaining bilateral market access negotiations and to move towards finalisation of its accession to the WTO; and
- continue to implement actions within the Common Regional Market action plan 2021-2024; in particular, negotiate and ensure a swift adoption of CEFTA Additional Protocol 7 on dispute settlement.

As regards the **common commercial policy**, no progress was made on Serbia's accession to the World Trade Organization (WTO). This continues to be stalled, primarily due to lack of progress on the adoption of a modified law on trade in genetically modified organisms, and on the completion of market access negotiations with a small number of WTO members. The Regional Convention on pan-Euro-Mediterranean preferential rules of origin is being applied in Serbia. Serbia's customs tariff nomenclature for 2023 was harmonised with the EU combined nomenclature in November 2022.

The administrative capacity of the unit in the Ministry of Internal and Foreign Trade in charge of trade with the EU and EFTA should be strengthened and Serbia's capacity to complete the WTO accession should be further increased through ensuring representation in Geneva. Further work is yet to be done to improve the capacity to collect market statistics through the work of the national coordination body for trade facilitation.

With regard to participation in CEFTA, Serbia has continued the implementation of Additional Protocol (AP) 5 on Trade Facilitation and AP 6 on Trade in Services. Negotiations within CEFTA on AP 7 on Dispute Settlement are ongoing. Serbia should continue to play a constructive role in CEFTA and within the Common Regional Market, in line with commitments taken at the Sofia Summit in November 2020 and the Berlin Process, including during its upcoming role as the chair of CEFTA in 2024.

Serbia should ensure smooth implementation of the SAA and abstain from introducing unilateral trade restrictive measures without prior consultation of the Commission, in line with its SAA obligations. Throughout 2022, Serbia on repeated occasions introduced temporary trade restrictions in the form of export bans or export quotas pertaining to a number of products that were all revoked in the course of 2023: export ban on certain agricultural products (from 10 March 2022 until 11 August 2022); export ban on milk and butter products (from September 2022 until 31 January 2023); export ban on certain raw wood products (from 26 May 2022 until 31 October 2022, and from 5 November 2022 until 31 January 2023); export quotas for different types of raw wood (from 5 August 2022 until 28 February 2023); export restrictions on wood pellets (from 1 December 2022 until 31 January 2023); export ban on Eurodiesel EN 590 (from 30 June 2022 until 31 March 2023); and export ban on natural gas (from 17 October 2022 until 28 February 2023). In February 2023, Serbia introduced changes to the import duties envisaged in the SAA applying to a large number of milk and dairy products. The Commission was not notified or consulted, as provided for in the SAA, until after the measure was taken. Serbia claimed that this measure was justified under Article 32 of the SAA (the safeguard clause concerning agriculture and fisheries) but did not provide sufficient justification despite two consultative meetings with the Commission dedicated to this specific measure. In May 2023, Serbia further extended import duties on concentrated milk and cheese. Serbia requested a consultative meeting with the Commission and shared written data before the decision was formally taken in line with the procedures stipulated by the SAA, but once again failed to justify the measure under the SAA. Without prior consultation or notification, in July 2023, Serbia adopted additional amendments to further increase the level of special import duties for certain groups of dairy products, mainly: milk and sour cream, yoghurt and related products, whey and butter, and in August 2023, Serbia extended the decision for concentrated milk and cheese. These unjustified measures expired on 31 October 2023.

Furthermore, the unilateral measures adopted by Serbia in December 2020, and further adjusted in December 2022, with regard to the management of wine imports from the EU, restricting the allocation per trader, create a less favourable trade environment. As these measures remain in place, Serbia is encouraged to restore the first come, first served arrangement.

Serbia has committed to take appropriate action in order to stop the possibility circumvent EU restrictive measures introduced in the context of Russia's aggression against Ukraine via Serbian territory and/or by legal entities registered in Serbia, including through monitoring, identifying and inspecting suspicious trade flows of priority battlefield goods and economically critical goods (*see also Chapter 29 on Customs union, and Chapter 31 on Foreign, security and defence policy*).

Serbia's law on **dual-use goods** remains to be aligned with Regulation (EU) 2021/821 of May 2021. In April 2023, Serbia adopted the national control list of dual-use goods aimed at full alignment with the Commission Delegated Regulation (EU) 2023/66 of October 2022. In May 2023, the national control list of arms and military equipment was aligned with the Common Military List of February 2023. Serbia's applications to join the Wassenaar Arrangement and the Australia Group are still under consideration. Serbia is not a signatory of the Kimberly Process on conflict diamonds.

Regarding **bilateral agreements with third countries**, Serbia signed a Memorandum of Understanding with China in April 2023; this formally started the negotiations of a Serbia-China free trade agreement which was signed in October 2023. Serbia announced plans for free trade agreements also with the United Arab Emirates, Egypt and South Korea, but substantial negotiations have yet to begin. All the agreements that Serbia negotiates must ensure compatibility with the EU *acquis* and include sunset clauses, which guarantee that Serbia can

renounce the agreements upon accession to the EU. Serbia should also ensure that proper scoping exercises are conducted before concluding any negotiations in order to minimise the risk of negative effects on specific sectors.

Serbia has 46 bilateral investment treaties in force, 21 of which are with EU Member States. Serbia should develop a strategy for amending or terminating existing treaties that fall short of EU standards and expose the country to risks due to the broad and open language used. Negotiations on new such treaties are ongoing with South Korea, and have been announced for Angola, Bahrain, Uzbekistan, India and the Kyrgyz Republic.

No substantial progress was made on **development policy** and **humanitarian aid**. A new law on development cooperation and humanitarian aid is still being prepared. Development assistance and humanitarian aid are granted on an ad hoc basis.

Chapter 31: Foreign, security and defence policy

Member States must be able to conduct political dialogues under the EU foreign, security and defence policy, align with EU statements, take part in EU actions, and to apply agreed sanctions and restrictive measures.

Serbia is **moderately prepared** in the area of common foreign, security and defence policy (CFSP). **No progress** was made during the reporting period as Serbia's alignment patterns remained unchanged and some of Serbia's actions and statements went against EU positions on foreign policy. Following Russia's war of aggression against Ukraine, Serbia aligned with some EU positions in international fora (including in the UN General Assembly (UNGA)). It has continued not to align with any restrictive measures against the Russian Federation and has not aligned with the majority of High Representative (HR) statements on this matter. It also maintained high level relations with the Russian Federation, raising questions about Serbia's strategic direction. Serbia has also signed a Free Trade Agreement with China in October 2023, which is a strategic concern. Serbia did not make progress in line with the Declaration of the EU – Western Balkans Summit (Tirana, 6 December 2022), to work on closing space for foreign interference and information manipulation, including disinformation. Serbia continued to participate in and contribute substantially to EU crisis management missions and operations under the Common Security and Defence Policy.

In the coming year, Serbia should in particular:

- improve, as a matter of priority, its alignment with EU Common Foreign and Security Policy, including restrictive measures, and avoid actions and statements that go against EU positions on foreign policy;
- continue to step up action to prevent any attempt to use the territory of Serbia and/or legal entities registered in Serbia for the circumvention of EU restrictive measures;
- make credible efforts to close space for foreign interference and information manipulation, including disinformation, and take actions towards building societal resilience against it and other forms of hybrid threats.

The **political dialogue** between the EU and Serbia on foreign and security policy continued. In April 2023, Serbia participated in the ninth EU-Western Balkans meeting of Political Directors. In March 2023, Serbia participated at ministerial level at the first Schuman Security and Defence Forum and in May 2023 in a working lunch with members of the Foreign Affairs Council.

The institutional framework enabling Serbia's participation in the EU CFSP and CSDP is in place. The draft law on Foreign Affairs has been prepared. In September 2023, a law on participations of civilians in international missions and operations was adopted. Serbia appointed a State Secretary who also performs the function of 'political director' and there is a 'European correspondent'. Serbia supports the implementation of the EU Strategic Compass for Security and Defence.

On the **Common Foreign and Security Policy (CFSP)**, in 2022, Serbia's alignment rate with relevant High Representative statements on behalf of the EU and relevant Council Decisions was 46%. As of August 2023 its alignment rate was 51%. Serbia has not aligned with any **restrictive measure** against Russia, nor with the majority of High Representative Statements related to Russia and Ukraine. Serbia failed to align with a number of other HR Statements and EU restrictive measures linked to Russia, China, Belarus and Iran. Serbia has continued to operate flights to Russia. Serbia needs, as a matter of priority, to make serious additional efforts regarding its alignment with the EU CFSP.

In the United Nations General Assembly Serbia mostly aligned with the vast majority of UNGA Members on resolutions related to the Russian war of aggression against Ukraine. Serbia aligned with the EU when voting in UNGA on resolutions regarding Russia's war of aggression against Ukraine, its humanitarian impact, the suspension of the Russian Federation from the UN Human Rights Council, the condemnation of the sham referenda and illegal annexation of Ukrainian territories and on principles underlying a comprehensive, just and lasting peace in Ukraine. It however abstained on the UNGA resolution on Russian reparations for Ukraine in November 2022. The alignment record in other multilateral forums is mixed and Serbia often abstains on positions related to Russia's war of aggression against Ukraine.

Following the visit of the EU Special Envoy for the **implementation of sanctions** in May 2023, which focused on concrete actions aimed at tackling sanctions circumvention, Serbian customs authorities took concrete steps to address the issues raised by the EU Special Envoy, including with concrete actions to step up export controls. Close cooperation and exchange of information between the EU and Serbia authorities is ongoing at technical level. Serbia should continue to step up its efforts to fight sanctions circumvention.

Serbia continued to develop **intense relations and strategic partnerships with a number of countries worldwide**, including maintaining relations with Russia and China. High-level contacts and bilateral visits from Russia were maintained, albeit at reduced frequency, raising questions about Serbia's strategic direction. In October 2022, Russia's Deputy Foreign Minister visited Belgrade, where he hosted a meeting of Russian Ambassadors posted in the region. In April 2023, members of the Russian upper chamber, the Federation Council, who are on the EU sanctions list, were received by Serbian Speaker, MPs and Minister for Public Administration and Local Government. The Russian Ambassador was frequently and regularly received by the President, Speaker, and First Deputy Prime Minister / Minister of Foreign Affairs, and Minister of Energy. In May 2023, the head of the national Security Information Agency attended the 11th Moscow International Security conference. Serbia's First Deputy Prime Minister and Foreign Minister announced that he will visit Moscow by the end of 2023. The Serbian President met briefly with the Russian President in the margins of Belt and Road summit in Beijing in October 2023.

Serbia vocally supported the territorial integrity of Ukraine and it provided humanitarian assistance, including ambulances vehicles, and energy equipment, including through the UCPM. The Serbian President met with the President of Ukraine in August 2023 and, also in August 2023, the Serbian Prime Minister addressed the Crimea Platform meeting, but Serbia has not joined the Crimea Platform Declaration.

Close contacts were also maintained with China. The Serbian President accompanied by a high-level delegation, attended Belt and Road summit in Beijing in October 2023, during which Serbia and China signed a free trade agreement, which is of strategic concern. He also met with the Chinese President on this occasion. Belgrade received visits of the Chinese Special Representative for the China-CEEC cooperation and of the Deputy Head (Vice Minister) of the International Department of the Chinese Communist Party's Central Committee, in November 2022.

Several high-level visits from the United States to Belgrade took place, as well as visits of Belgrade officials to the US. A Memorandum of Understanding for cooperation between the US State Department and the Serbian Ministry of Foreign Affairs was signed in January 2023.

There was an intense agenda of bilateral visits between the Serbian leadership and the one of the United Arab Emirates in 2022 and 2023 (Heads of State and Ministerial visits), with the signature of a number of cooperation agreements and a loan signed in September 2022 during the Serbian President's visit to Abu Dhabi. A free trade agreement has also been announced.

The President of India visited Serbia in June 2023 and a visa simplification mechanism was announced, following the reintroduction of visas for Indian nationals as of January 2023. The President of Cuba visited Serbia in June 2023, witnessing the signing of an agreement waiving visa requirements for holders of official and diplomatic passports.

High-level contacts were also maintained with Iran. In October 2023, the Deputy Foreign Minister of Iran was in Belgrade for political consultations with Serbian MFA. In December 2022, the Iranian Foreign Minister was received by Serbia's President, with Belgrade providing a venue for him to meet all Iranian ambassadors posted in Europe. In August 2023, the State Secretary of the Serbian Ministry of Foreign Affairs travelled to Iran for political consultations. Serbia has also intensified contacts with other members of the Non-Aligned Movement and in March 2023 the Serbian MFA took part in the summit-level meeting of the Non-Aligned Movement Contact Group in Baku.

Serbia continued to engage actively with **international organisations**. Serbia does not have bilateral immunity agreements granting exemption from the jurisdiction of the **International Criminal Court** and complies with the EU common positions on the integrity of the Rome Statute together with the related EU's guiding principles on bilateral immunity agreements. The issuance of arrest warrants by the ICC against Russian President Putin and the Russian Commissioner for Children's Rights in March 2023 was however criticised by the Serbian leadership as being politicised and not conducive to peace.

Serbia continued supporting EU measures and documents on **conflict prevention**.

Serbia has joined almost all key **non-proliferation, disarmament and arms control treaties** promoted by the EU. Serbia should consider ratifying Protocol V on Explosive Remnants of War of the Convention on Certain Conventional Weapons (CCW). Serbia has a transparent reporting system on its strategic exports controls. At the same time, frequent and recurring allegations of corruption in arms trade deals need to be investigated. Serbia is a very active State Party to the Chemical Weapons Convention. However, Serbia has not in recent years (2022 and 2023) aligned with EU statements agreed in The Hague for the Organisation for the Prohibition of Chemical Weapons (OPCW) Conference of States Parties and Executive Council meetings. Serbia adopted a new Action Plan for the implementation of the Strategy for the fight against proliferation of Weapons of Mass Destruction for the period 2023-2025. Serbia is implementing its 2021-2024 strategy and respective action plan for small arms and light weapons control (SALW), with positive results. A new draft action plan (replacing the one of 2019-2020) is in preparation. The authorities took part in regional meetings on

SALW and Serbia is engaging positively on the implementation of the EU Roadmap on SALW and announced a tightening of controls following the mass shootings of May 2023. In Geneva, in the context of the Conference on Disarmament, Serbia did not systematically align with EU statements in 2022 and 2023. At the UN in New York, Serbia occasionally does not align with EU statements and sometimes supports positions at the UN General Assembly.

In terms of **security measures**, Serbia continued implementing its security of information agreement with the EU on procedures for exchanging and protecting classified information.

On **common security and defence policy (CSDP)**, Serbia continued to actively participate and contribute substantially to **EU crisis management missions and operations**, notably the EU training missions in Somalia and Central African Republic, and EU NAVFOR Atalanta. Serbia has expressed interest to contribute to EUTM Mozambique. Serbia is planning to contribute to civilian CSDP missions. The law on participation of civilians in international missions and operations was adopted in September 2023. Serbia continued to participate in the roster of the EU Battle Groups. Serbia also continued to participate in five UN peacekeeping missions. Serbia continued cooperation with NATO and in June 2023, a military exercise “Platinum Wolf” was held. Under the **European Peace Facility**, Serbia takes part in the Balkan Medical Task Force assistance measure.

On **hybrid threats**, in October 2022, the Serbian authorities formally appointed the new National Focal Point for the EU at the CBRN (Chemical, Biological, Radiological and Nuclear Risk Mitigation) Centre of Excellence, after the post remained vacant for over a year. Serbia attended at technical level the CBRN ministerial conference hosted by the EU in May 2023.

ANNEX I – RELATIONS BETWEEN THE EU AND SERBIA

Within the framework of the **accession negotiations**, twenty-two chapters have been opened, two of which have been provisionally closed (chapters 25 and 26). In accordance with the revised enlargement methodology, which Serbia accepted, negotiation chapters are grouped in six thematic clusters and negotiations should be opened for each cluster as a whole – after fulfilling opening benchmarks – rather than on individual chapters. All chapters of cluster 1 (fundamentals) and cluster 4 (green agenda and sustainable connectivity) are opened. Cluster 3 (competitiveness and inclusive growth) is the most advanced cluster to be opened next. Serbia tabled its negotiating positions on chapters 2, 3, 10, and 28.

Serbia is participating in the **Stabilisation and Association Process**. Serbia continued to build a track record in implementing the obligations of the Stabilisation and Association Agreement (SAA). However, Serbian legislation remains noncompliant with the SAA in a number of areas, including on restrictions on the acquisition of real estate and on discriminatory issuance of payment cards by banks. Furthermore, during the reporting period Serbia introduced on repeated occasions temporary trade restrictions on a number of products without presenting sufficient justifications, nor always following the procedures set out in the SAA. As regards public procurement, intergovernmental agreements concluded with third countries and their implementation do not follow the EU principles of equal treatment, transparency, non-discrimination and competition for the majority of the value of public procurement contracts. As a result, EU companies are prevented from participating in large-scale infrastructure projects implemented in the country.

Regular political and economic dialogue between the EU and Serbia continued. Sub-committee meetings were held, together with a meeting of a special group on public administration reform. The Stabilisation and Association Parliamentary Committee met in November 2022 and June 2023. Serbia also participates in the ministerial dialogue between the economic and finance ministers of the EU and the candidate countries, where joint recommendations are adopted. The most recent meeting was held in May 2023.

Economic integration with the EU remained high. The EU remains the main trading partner of Serbia, followed by CEFTA countries. In 2022 Serbia's total trade with the EU accounted for 58.7 % (65.8 % of total exports and 53.9 % of total imports). EU-Serbia trade rose by 27 % in 2022, demonstrating continued recovery from the impacts of the COVID-19 pandemic. Serbia's total trade in 2022 was worth EUR 42.7 billion. The country's trade deficit with the EU amounted to EUR 6.3 billion in 2022. In comparison, Serbia's trade with CEFTA represented around 10.3% of total trade.

The pattern of Serbia's alignment with **EU common foreign and security policy** positions remained unchanged. Serbia continued to participate actively in EU crisis management missions and operations under the common security and defence policy.

Visa-free travel for citizens of Serbia travelling to the Schengen area has been in force since December 2009. A **readmission** agreement between the European Union and Serbia has been in force since 2008. The Commission's October 2023 sixth report under the visa suspension mechanism concluded that Serbia continues to meet the visa liberalisation requirements.

Under the **Instrument for Pre-accession Assistance 2021 – 2027 (IPA III)**¹⁵ a first financing decision of EUR 122.14 million was adopted at the end of 2021, providing support in connectivity and energy efficiency, strengthening private sector development, trade, research and innovation, as well as improving the healthcare system. The second financing decision of

¹⁵ Official Journal L 330, 20.9.2021.

EUR 162 million was adopted at the end of 2022 providing support on fundamental rights, justice reform, public administration reform, the Green Agenda as well as on social cohesion, development, and economic growth.

At the EU-WB Summit in Tirana in December 2022, the Commission put forward an **Energy Support Package** of EUR 1 billion for the Western Balkans to address immediate, short-term, and medium-term needs in the region in the context of the energy crisis and of Russian war of aggression against Ukraine. Following this announcement, a EUR 165 million budget support programme for Serbia was adopted at the end of 2022 to cushion the energy price increase to SMEs and vulnerable households and to accelerate energy diversification. This first set of programmes are complemented by a significant package of multi-country programmes and the rural development programme IPARD III with a total amount of EUR 288 million, provide a significant contribution to kick-start the implementation of the Economic and Investment Plan for the Western Balkans and the Green Agenda. Serbia participates also in cross-border cooperation programmes, transnational cooperation programmes and Union programmes.

The new activities will add to the on-going programmes under **IPA II** (2014-2020), which are still providing significant support for the social and economic development of the country and contribute to key reforms in the rule of law, public administration reform and other sectors. Three important budget support operations on public administration reform, integrated border management and education were finalised.

Serbia continues to benefit from support under the IPA multi-country and regional programmes. Additionally, Serbia participates in three **cross-border cooperation programmes** with neighbouring Western Balkan countries and in transnational cooperation programmes with Member States under the European Regional Development Fund and the IPA Adriatic cross-border programme.

Serbia participates with IPA support in the following Union programmes: Horizon Europe; COSME; Erasmus+ and Creative Europe; The Citizens, Equality, Rights and Values (CERV); Employment and Social Innovation and the Digital Europe Programme. To facilitate the alleviation of the skills mismatch in the country, Serbia is participating, as observer, in a pilot project under the Technical Support Instrument.

STATISTICAL DATA (as of 31/08/2023)
Serbia

Basic data	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		7 307 s	7 040 s	7 001 s	6 964 s	6 927 s	6 872 s
Total area of the country (km ²)	1) 2) 3)	77 453 sw	77 594 sw	77 594 sw	77 594 sw	77 594 sw	77 594 sw

National accounts	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million national currency)		3 250 581	4 760 686	5 072 932	5 421 851	5 504 431	6 270 097
Gross domestic product (GDP) (million euro)		31 546	39 235	42 892	46 005	46 815	53 329
GDP (euro per capita)		4 330	5 590	6 140	6 620	6 790	7 800
GDP per capita (in purchasing power standards (PPS))		9 685	11 409	12 014	12 803	12 812	14 349
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		38.9	38.9	39.7	40.9	42.6	44.2
Real GDP growth rate: change on previous year of GDP volume (%)		0.7	2.1	4.5	4.3	- 0.9	7.5
Employment growth (national accounts data), relative to the previous year (%)		c	c	c	c	c	c
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		c	c	c	c	c	c
Unit labour cost growth, relative to the previous year (%)		c	c	c	c	c	c
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		c	c	c	c	c	c
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		c	c	c	c	c	c
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		7.9	7.2	7.7	7.2	7.6	7.6
Industry (%)		26.2	26.5	25.4	24.0	23.4	23.0
Construction (%)		4.1	5.0	5.4	6.9	6.6	7.3
Services (%)		61.8 s	61.4 s	61.6 s	61.9 s	62.4 s	62.2 s
Final consumption expenditure, as a share of GDP (%)		94.6	87.0	86.0	84.8	84.1	82.8
Gross fixed capital formation, as a share of GDP (%)		17.7	17.7	20.0	22.5	21.4	23.1
Changes in inventories, as a share of GDP (%)		- 0.1	1.8	2.6	2.6	2.7	1.9
Exports of goods and services, relative to GDP (%)		32.3	50.5	50.4	51.0	48.2	54.5
Imports of goods and services, relative to GDP (%)		44.5	57.1	59.1	60.9	56.5	62.3
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)		95.0	109.4	110.8	111.2	111.0	118.5
Number of active enterprises (number)	4	83 787 w	85 546 p	87 407	88 224	90 111	:
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)	5	10.2 w	11.5 p	10.0	10.1	8.6	8.2 w

Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)	5)	9.8 w	6.3 p	6.1	11.5	6.9 p	6.7 w
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)	4) 6)	59.7 sw	59.3 sw	59.0 sw	58.5 sw	58.7 sw	:
Value added by SMEs (in the non-financial business economy) (EUR million)		5 751 sw	8 136 sw	9 165 sw	10 540 sw	12 245 sw	:
Total value added (in the non-financial business economy) (EUR million)	4)	11 980 w	16 442 p	18 047	20 093	21 833	:

Inflation rate and house prices	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)		6.2 d	3.3 d	2.0 d	1.9 d	1.8 d	4.0 d
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		:	- 2 049.0	- 2 092.0	- 3 273.0	- 2 034.0	- 2 296.0
Balance of payments current account: trade balance (million euro)		:	- 3 997.0	- 5 244.0	- 5 680.0	- 5 200.0	- 5 923.0
Balance of payments current account: net services (million euro)		:	966.0	1 093.0	1 012.0	1 101.0	1 399.0
Balance of payments current account: net balance for primary income (million euro)		:	- 2 532.0	- 2 067.0	- 2 478.0	- 1 529.0	- 2 059.0
Balance of payments current account: net balance for secondary income (million euro)		:	3 514.0	4 126.0	3 873.0	3 594.0	4 287.0
Net balance for primary and secondary income: of which government transfers (million euro)		:	140.0	251.0	276.0	252.0	294.0
**3 year backward moving average of the current account balance relative to GDP (%)		:	- 4.4	- 4.6	- 5.7	- 5.4	- 5.3
**Five year change in share of world exports of goods and services (%)		:	46.3	26.2	30.9	38.1	30.9
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		1 133.4 w	2 418.1 w	3 156.5 w	3 551.1 w	2 938.5 w	3 656.9 w
Foreign direct investment (FDI) abroad (million euro)		145.0 w	130.0 w	307.9 w	264.2 w	100.4 w	229.1 w
of which FDI of the reporting economy in the EU-27 countries (million euro)		36.1 w	67.2 w	95.5 w	124.0	c	- 43.0
Foreign direct investment (FDI) in the reporting economy (million euro)		1 278.4 w	2 548.1 w	3 464.5 w	3 815.3 w	3 038.9 w	3 886.0 w
of which FDI of the EU-27 countries in the reporting economy (million euro)		801.8 w	1 701.7 w	1 932.9 w	2 310.0	c	1 758.0
**Net international investment position, relative to GDP (%)		:	90.7 w	87.6 w	88.0 w	90.3 w	83.9 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		:	7.5 sw	:	:	:	:

Public finance	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)		- 4.3 w	1.1 w	0.6 ew	- 0.2 ew	- 8.0 w	- 4.2 ew
General government gross debt relative to GDP (%)		40.8 w	58.7 w	54.4 ew	52.9 ew	57.7 w	57.5 ew
Total government revenues, as a percentage of GDP (%)		39.3 w	41.5 w	41.5 ew	42.1 w	40.9 w	43.4 ew
Total government expenditure, as a percentage of GDP (%)		43.7 w	40.4 w	40.9 ew	42.3 w	48.9 w	47.6 ew

Financial indicators	Note	2010	2017	2018	2019	2020	2021
Gross external debt of the whole economy, relative to GDP (%)	7)	74.5 sw	65.1 sw	62.2 sw	61.4 sw	65.8 sw	68.4 sw
Gross external debt of the whole economy, relative to total exports (%)		247.1 w	132.2 w	126.0 w	121.0 w	138.2 w	127.7 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	8)	2 400.9 w	5 652.6 w	6 703.6 w	7 684.2 w	10 376.6 w	11 915.9 w
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	9)	3 891.0 w	7 360.4 w	8 611.4 w	10 090.7 w	13 214.8 w	15 036.3 w

Money supply: M3 (M2 plus marketable instruments, million euro)	10)	12 898.6 w	19 206.3 w	22 047.1 w	24 011.2 w	28 361.5 w	32 131.2 w
Total credit by monetary financial institutions to residents (consolidated) (million euro)		17 544.3 w	22 806.4 w	24 605.8 w	26 743.3 w	30 621.0 w	33 158.9 w
**Annual change in financial sector liabilities (%)		:	3.4 pw	12.7 pw	11.2 pw	12.3 pw	11.0 pw
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	:	:	:	:	:
Interest rates: day-to-day money rate, per annum (%)		12.02 w	2.27 w	2.43 w	1.06 w	0.08 w	0.23 w
Lending interest rate (one year), per annum (%)		14.00 w	5.00 w	4.25 w	3.50 w	1.90 w	1.90 w
Deposit interest rate (one year), per annum (%)		9.00 w	2.00 w	1.75 w	1.00 w	0.10 w	0.10 w
Euro exchange rates: average of period (1 euro = ... national currency)		103.043	121.337	118.272	117.852	117.578	117.573
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		10 001.6 w	9 961.7 w	11 261.8 w	13 378.5 w	13 491.7 w	16 454.5 w

External trade in goods	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		12 475	17 559	20 074	22 216	21 482	27 332
Value of exports: all goods, all partners (million euro)		7 067	14 365	15 650	16 859	16 464	21 053
Trade balance: all goods, all partners (million euro)		- 5 407	- 3 194	- 4 424	- 5 356	- 5 019	- 6 279
Terms of trade (export price index / import price index * 100) (number)		92.8 sw	100.1 sw	98.1 sw	98.9 sw	103.4 sw	106.1 sw
Share of exports to EU-27 countries in value of total exports (%)		60.2 s	65.7 s	67.0 s	66.3 s	66.2 s	65.8 s
Share of imports from EU-27 countries in value of total imports (%)		55.9 s	57.5 s	55.9 s	54.7 s	55.6 s	53.9 s

Demography	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		- 4.8	- 5.5	- 5.4	- 5.3	- 8.0	- 10.9
Infant mortality rate deaths of children under one year of age (per thousand live births)		6.7	4.7	4.9	4.8	5.0	4.7
Life expectancy at birth: male (years)		71.8	73.1	73.5	73.4	71.6	70.0
Life expectancy at birth: female (years)		77.0	78.1	78.4	78.6	77.5	75.7

Labour market	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		63.8	71.2	72.5	72.9	72.5	75.0 b
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		51.4	61.4	63.1	65.2	65.9	66.7 b
Male employment rate for persons aged 20–64 (%)		59.5	68.5	70.5	72.1	72.9	74.2 b
Female employment rate for persons aged 20–64 (%)		43.5	54.5	55.8	58.2	58.9	59.3 b
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		32.9	45.5	46.5	50.2	52.2	51.4 b
Employment by main sectors							
Agriculture, forestry and fisheries (%)		22.3 s	17.2 s	15.9 s	15.6 s	14.6 s	15.0 bs

Industry (%)		20.5 s	21.2 s	22.5 s	22.6 s	22.6 s	23.7 bs
Construction (%)		5.0 s	4.1 s	4.4 s	4.8 s	5.4 s	6.0 bs
Services (%)		51.9 us	57.5 us	57.2 us	56.9 us	57.5 us	55.3 bus
People employed in the public sector as a share of total employment, persons aged 20–64 (%)		33.1 w	27.8 w	27.3 w	26.6 w	26.4 w	25.8 w
People employed in the private sector as a share of total employment, persons aged 20–64 (%)		66.9 w	72.2 w	72.7 w	73.4 w	73.6 w	74.2 w
Unemployment rate: proportion of the labour force that is unemployed (%)		19.3	13.6	12.8	10.5	9.1	11.1 b
Male unemployment rate (%)		18.5	13.0	12.1	10.0	8.8	10.2 b
Female unemployment rate (%)		20.4	14.4	13.8	11.2	9.5	12.1 b
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		46.3	31.9	29.7	27.5	26.6	26.4 b
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		:	7.4	6.7	5.5	4.5	4.9
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		16.7	12.3	13.4	11.4	9.6	14.0 b
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		11.9	11.8	10.6	8.1	7.6	8.4 b

Social cohesion	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)	11) 12)	47 450 w	65 976 w	68 629 bw	75 814 w	82 984 w	90 784 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		102 w	101 w	105 w	114 w	123 w	129 w
GINI coefficient		:	38	36	33	33	33
Poverty gap		:	38.8	37.4	32.1	27.1	28.3
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		8.3	6.2	6.8	6.6	5.6	6.3 b

Standard of living	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		216.0	279.6 sw	285.7 sw	299.2 sw	315.0	325.4 sw
Number of mobile phone subscriptions relative to population size (number per thousand population)		1 357.0 w	1 231.4 w	1 207.5 w	1 217.2 w	1 192.6 w	1 250.8 w
Mobile broadband penetration (per 100 inhabitants)		:	:	:	:	:	:
Fixed broadband penetration (per 100 inhabitants)		:	35 w	30 w	28 w	34 w	35 w

Infrastructure	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km ²)		43.2 sw	42.5 sw	42.5 sw	42.5 sw	37.9 sw	38.1 sw
Length of motorways (kilometres)		495 w	963	782 w	928 w	928	928 w

Innovation and research	Note	2010	2017	2018	2019	2020	2021
Public expenditure on education relative to GDP (%)		4.3 sw	3.6 d	3.6 sw	3.6 sw	3.5 sw	3.3 psw
*Gross domestic expenditure on R&D relative to GDP (%)		0.70	0.87	0.92	0.89	0.91	0.99
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	0.38	0.37	0.40	0.46	0.42
Percentage of households who have internet access at home (%)		:	68.0	72.9	80.1	81.0	81.5

Environment	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)		77.1 w	78.5 w	76.5 w	75.1 w	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		456.2	418.0	394.5	375.4	392.1	370.9
Electricity generated from renewable sources relative to gross electricity consumption (%)		28.2	27.4	28.7	30.1	30.7	29.9
Road share of inland freight transport (based on tonne-km) (%)		:	51.5 w	55.5 w	68.0 w	64.9 w	62.0 w

Energy	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		10 551	10 496	10 025	10 219	10 969	10 187
Primary production of crude oil (thousand TOE)		940	988	976	941	921	894
Primary production of solid fuels (thousand TOE)		7 229	7 216	6 609	6 826	7 205	6 282
Primary production of gas (thousand TOE)		308	389	358	349	325	288
Net imports of all energy products (thousand TOE)		5 231 s	5 330 s	5 385 s	5 497 s	4 795 s	5 652 s
Gross inland energy consumption (thousand TOE)		15 608	15 748	15 528	15 417	15 956	16 238
Gross electricity generation (GWh)		38 103	37 045	37 426	37 600	37 956	38 236

Agriculture	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		100.0 w	98.9 w	113.3 w	116.8 w	121.2 w	113.6 w
Utilised agricultural area (thousand hectares)		3 541.7	3 438.1	3 486.9	3 481.6	3 506.5	3 506.1
Livestock numbers: live bovine animals (thousand heads, end of period)		938.0	899.0	878.0	898.0	886.0	860.0
Livestock numbers: live swine (thousand heads, end of period)		3 489.0	2 911.0	2 782.0	2 903.0	2 983.0	2 868.0
Livestock numbers: live sheep and live goats (thousand heads, end of period)		1 712.0 s	1 887.0 s	1 908.0 s	1 833.0 s	1 887.0 s	1 890.0 s
Raw milk available on farms (thousand tonnes)		:	1 599.3	1 590.0	1 597.0	1 583.7	1 563.5
Harvested crop production: cereals (including rice) (thousand tonnes)		9 694.4	6 793.3	10 529.1	10 436.4	11 447.6	10 236.4
Harvested crop production: sugar beet (thousand tonnes)		3 551.1	2 513.5	2 325.3	2 305.3	2 018.2	2 048.2
Harvested crop production: vegetables (thousand tonnes)		1 084.5	1 086.6	829.8	738.5	720.1	795.7

Source: Eurostat and/or the statistical authorities in Serbia

: = not available

b = break in series

c = confidential value

d = definition differs

e = estimated value

p = provisional

s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

* = Europe 2020 indicator

Footnotes:

- 1) The total area should be regarded as temporary, and since the cadastral surveys are in progress as well as the development of the digital cadastral map, the areas are still not final.
- 2) Data for 31 December of this year
- 3) The data was taken from the Republic Geodetic Authority.
- 4) Unincorporated enterprises are not included.
- 5) Entrepreneurs are included
- 6) Unincorporated enterprises are not included.
From the reference 2019 NACE S95 activity is included.
- 7) Official external debt of the Republic of Serbia.
- 8) The money supply M1 consists of currency in circulation and funds in giro, current and other accounts belonging to the owners of money balances in banks' liabilities, including money balances in the accounts of local government bodies, i.e. accounts from which payments can be made without any restrictions.
- 9) The money supply M2, in addition to M1, includes other dinar deposits, both short-and long-term.
- 10) The money supply M3, in addition to M2, includes short-and long term foreign currency deposits (without the so-called frozen foreign currency savings).
- 11) Wages and salaries paid to employees of legal entities and of unincorporated enterprises.
- 12) Wages and salaries are obtained from administrative sources (tax administration records). Average earnings are calculated on the basis of the total amount of accrued earnings for the reporting month and the number of full-time equivalent (FTE) employees.



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COMMISSION STAFF WORKING DOCUMENT

Montenegro 2023 Report

Accompanying the document

**Communication from the Commission to the European Parliament, the Council, the
European Economic and Social Committee and the Committee of the Regions**

2023 Communication on EU Enlargement policy

{COM(2023) 690 final} - {SWD(2023) 690 final} - {SWD(2023) 691 final} -
{SWD(2023) 692 final} - {SWD(2023) 693 final} - {SWD(2023) 695 final} -
{SWD(2023) 696 final} - {SWD(2023) 697 final} - {SWD(2023) 698 final} -
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1. INTRODUCTION

1.1. CONTEXT

Accession negotiations with Montenegro were opened in June 2012. To date, 33 negotiating chapters have been opened, of which three have been provisionally closed. Montenegro accepted the revised enlargement methodology focusing on: fundamental reforms, stronger political steer, increased dynamism and predictability of the process. Montenegro continued to broadly implement the Stabilisation and Association Agreement (SAA) and meetings of the joint bodies under the agreement took place at regular intervals.

Overall progress in the accession negotiations depends on progress in the area of rule of law, in line with the requirements set out in the Negotiating Framework as well as the revised methodology formally accepted by Montenegro at the Intergovernmental Conference held on 22 June 2021. Progress towards meeting the interim benchmarks set in the rule of law Chapters 23 and 24 will be key to achieve further progress in the negotiations overall. No further chapters will be provisionally closed before this milestone is reached.

The political commitment of the Montenegrin authorities to the strategic goal of European integration has been consistently stated as the key priority for the country. However, progress on EU accession reforms has largely stalled as Montenegro suffered from deep polarisation and political instability. The country was ruled by a caretaker government and while Parliament was unable to assemble a consistent majority. The absence of a functional Constitutional Court created uncertainties and legal discrepancies, including on the electoral processes. The presidential election run-off and parliamentary elections took place in April and June respectively. The constitution of the new parliament and the new government took place at the end of October 2023. Local elections took place in 14 municipalities.

The EU continued to provide essential and unparalleled technical and financial support. To address the energy crisis provoked by Russia's war of aggression against Ukraine, Montenegro and the Commission prepared an Energy Support Package, consisting of a focused national energy action plan and an immediate budget support programme providing EUR 30 million of grant financing to Montenegro. The EU also made available EUR 500 million to the region under the Western Balkans Investment Framework to respond to the crisis in the medium term.

1.2. SUMMARY OF THE REPORT¹

Concerning **political criteria**, the reporting period was marked by tense and confrontational positions leading to a blockage of the political system.

The political situation was dominated by a caretaker government that did not have the confidence of the Parliament and a Parliament unable to assemble a clear and consistent

¹ This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of Montenegro, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. This also includes the results of comparative assessments and indices produced by other stakeholders, in particular in the area of rule of law.

For the state of play the report uses the following assessment scales: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. For progress made during the reporting period, the following scale has been used: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, also interim steps have been used.

majority to take forward reforms. Moreover, the boycott by large sections of the Parliament affected its work.

There was no effective political dialogue and constructive engagement by political parties with a view to enhancing parliamentary accountability and government oversight. There was a lack of direction on EU accession issues, in particular following the resignation of the Minister of EU Affairs. On several occasions, the Government and/or the Parliament chose to ignore recommendations of the European Commission and/or the Venice Commission.

Adoption of the Act on Parliament that would regulate relations between the Parliament and the executive is pending.

Local elections in 14 municipalities (October 2022), presidential elections (March/April 2023) and parliamentary elections (June 2023) took place. The constitution of the new parliament and the new government took place at the end of October 2023. Election observation missions of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe monitored the presidential and parliamentary elections. These missions assessed both elections as peaceful and competitive despite some procedural shortcomings. The mandate of the Parliamentary Committee for a comprehensive electoral reform expired in July 2022 with no tangible results. The legal framework requires a comprehensive reform and harmonisation of election legislation, voting and candidacy rights, transparency, mechanisms of dispute resolution, and oversight of campaign finance and media. These, along with other issues, remain unaddressed. The absence of a functional Constitutional Court between September 2022 and February 2023 seriously affected electoral processes.

As regards **governance**, the government has carried out its duties in a caretaker capacity since August 2022 and with limited accountability, due to the inability of the political system to form a new government or proceed to early elections. Against the background of unclear rules governing the competences of a caretaker government, the government continued to adopt important decisions, and to dismiss and appoint key officials. Key positions continued to be filled on an acting basis. The lack of ministerial coordination remains a cause for concern. In February 2023, the caretaker government adopted its Annual Work Programme for 2023. Overall, transparency of governance remained an issue and the government frequently resorted to the procedural option of adopting decisions without formally holding a government session. Both Presidents in function during the reporting period refused to sign legislation adopted following the dissolution of the Parliament.

The role of **civil society** is recognised and promoted. However, the legal and institutional framework regulating cooperation between state institutions and civil society needs to be improved. Politicians – including at the highest level – frequently denigrated the work of civil society organisations and isolated cases of verbal attacks were reported. The Council for Co-operation of State Bodies and Non-Governmental Organisations has not resumed its work.

Montenegro is moderately prepared in the area of **public administration reform**. Overall, limited progress was made. A new public finance management reform programme was adopted and its implementation was started. By contrast, no changes were made to amendments to the civil service legislation that introduced relaxed qualification requirements and ample discretion for appointing authorities to dismiss heads of administrative bodies. The Parliament adopted amendments to the Law on local self-government to harmonise it with the Law on civil service, disregarding the Commission's recommendation. The relaxed requirements are a source of continuing concern for merit-based recruitment, competence and independence of civil servants. Continued staff changes in the public administration led to further loss of know-how on matters related to the EU accession process and an overall

slowing of the pace of reforms. The Parliament has yet to adopt amendments to the Law on access to information. Effective lines of accountability within the administration are still to be set up.

Montenegro remains moderately prepared to apply the EU *acquis* and European standards in the area of **judiciary and fundamental rights** but made limited progress overall. No progress was achieved in justice reform, the most challenging area of the rule of law to date. The judicial system continued to face a deep institutional crisis, resulting in weak leadership and management, lack of strategic vision and poor planning, affecting the country's ability to deliver justice. In addition, the system remains affected by issues of accountability, among other weaknesses. Montenegro continues to meet its obligations on fundamental rights under international human rights instruments and legislation. The Law on the Judicial Council and judges and the Law on State Prosecution Service remain to be amended in line with the EU *acquis* and European standards. Full and effective protection of journalists and other media workers continues to improve, yet tangible results on old cases of attacks have yet to be achieved.

Montenegro has achieved some level of preparation in the **fight against corruption**. Limited progress was achieved. Corruption, including high-level corruption, remains an issue of concern and is prevalent in many areas, including in state structures. Montenegro has not sufficiently upgraded its legislative and strategic framework for the prevention of and fight against corruption in line with the EU *acquis*, European and international standards. Several high-profile cases of corruption are under investigation. Montenegro still needs to demonstrate a stringent and unambiguous criminal justice response to this critical phenomenon. Limited progress was achieved in preventing corruption. The results of the Anti-Corruption Agency improved in quantitative terms. However, its independence, accountability, impartiality, and proactiveness should be further ensured. The Law on prevention of corruption should be improved.

As regards the **fight against organised crime and high-level corruption**, the Special Prosecution Office acted with alacrity in launching several high-profile investigations, that appear to point to a deep infiltration of corruption and organised crime into state structures, including at the top level of the judiciary and law enforcement. The justice system of Montenegro needs to demonstrate a strong, stringent, coherent and unambiguous response. Montenegro must further improve the track record of investigations, prosecutions, final verdicts and asset confiscation in the fight against organised crime and high-level corruption. A more deterrent and effective criminal sanctioning policy and criminal justice response needs to be enforced to avoid the perception of impunity. The effective and systematic use of financial investigations and asset seizure and confiscation needs to be improved. Efforts in this policy area should primarily target those sectors that are most vulnerable to corruption.

In the area of **fundamental rights**, the legislative and institutional framework is largely in place and Montenegro continues to largely meet its international obligations on human rights. However, additional efforts are needed to fully implement this framework. Changes to the existing legislation are also needed, in particular in the area of non-discrimination. The reporting period continued to be marked by polarisation and division. The most vulnerable groups in society (including Roma² and Egyptians, persons with disabilities, LGBTIQ persons) continued to be subjected to discrimination, hate speech and hate crime. The trend of

² In line with the terminology of European institutions the umbrella term 'Roma' is used here to refer to a number of different groups, without denying the specificities of these groups.

increase in the number of femicides with insufficient follow-up by the authorities and cases of publicly expressed misogyny, gender-based violence and violence against children remains an issue of serious concern. Additional efforts need to be made to ensure effective implementation of legislation, access to justice, and enforcement of rights in administrative and judicial proceedings, in particular for vulnerable groups. Montenegro must step up its efforts to conduct efficient, effective and independent investigations to address police torture, violations, and illegal use of coercive measures.

Montenegro has a pluralistic and diverse media landscape and has some level of preparation in the area of **freedom of expression**. Overall, limited progress was achieved. In general, the authorities provided prompt and effective law-enforcement and institutional responses to new cases of violence against journalists. However, there was no effective judicial follow-up of old cases. The government involved civil society and media stakeholders in the drafting of new media legislation but failed to finalise the legislative proposals and present them to the Parliament. The authorities need to step up efforts to effectively address the pending recommendations of the ad hoc commission for monitoring violence against the media, particularly regarding important old cases. The RTCG, the national public broadcaster, continued to produce politically balanced content, including during election periods. Further sustained efforts are needed to meet the highest standards of media integrity and accountability, counter disinformation, and limit the effects of online harassment and hate speech. The media environment remains highly politically polarised, with uneven application of the journalistic Code of Ethics and professional standards. Credible and effective self-regulation mechanisms need to be set up to strengthen media integrity and professionalism.

On the **economic criteria**, Montenegro has made limited progress and is moderately prepared in developing a **functioning market economy**. The economic expansion continued at a robust pace in 2022, supported by private consumption and strong growth in tourism. Headwinds came from inflationary pressures on the back of higher global commodity prices. The current account deficit increased as both exports and imports expanded rapidly. An expansionary fiscal policy fuelled domestic demand and contributed to very high net wage growth. The budget deficit increased significantly and a comprehensive medium-term consolidation plan to address mounting fiscal challenges has not been developed. The labour market situation improved, but structural problems persist, including large regional disparities and gender gaps, informality and high youth and long-term unemployment. The banking sector remained well capitalised and liquid. The number of new businesses increased, but efforts to improve the business environment and the governance of state-owned enterprises slowed down due to political uncertainty.

Montenegro has made some progress and is moderately prepared to **cope with competitive pressure and market forces within the EU**. The education system faces numerous challenges, as shown by the results of international tests. Although public financing for research and development remains modest, some progress was made in attracting private investors. Efforts to advance a green and digital transition have continued, but large infrastructure gaps persist, as the administrative and financial capacity to identify, prioritise and implement major public investments remains limited, hampering the use of EU support. Despite some progress in the metallurgy sector and the good performance of tourism, efforts are needed to diversify Montenegro's narrow production base. The low value added of domestic products, the small size of local companies, and their low level of participation in exports represent obstacles to increasing the productivity and competitiveness of local firms.

Montenegro made progress on **statistical methodology** and transmission of data to Eurostat and the strategic framework for **financial control**. Montenegro should now focus on aligning

its statistics with the European System of Accounts and strengthening budget inspection and managerial accountability in public administration. Montenegro is moderately prepared / has a good level of preparation in the area of **public procurement**. In 2022, some progress was achieved in aligning with the EU *acquis* and in further improving the functioning of the electronic procurement system. In the coming year, Montenegro should focus on the effective implementation of legislation on public procurement and public-private partnership. It should also fully comply with EU public procurement rules in all cases, such as when awarding the concession to operate airports.

Regarding **good neighbourly relations and regional cooperation**, Montenegro remained committed to promoting good bilateral relations with other enlargement countries and neighbouring EU Member States. Montenegro is generally an active participant in regional cooperation.

Concerning Montenegro's **ability to assume the obligations of membership**, important work on alignment and preparation for the implementation of the EU *acquis* took place in many areas, albeit at a much slower pace than anticipated.

The **internal market** cluster is key for Montenegro's preparations to meet the requirements of the EU's internal market and is of high relevance for possible early integration measures and the development of the Common Regional Market. Progress was achieved on market surveillance, accreditation and standardisation; intellectual property rights and the adoption of a new national comprehensive strategy on intellectual property; State aid transparency; banking; and consumer and health protection. Montenegro should now focus on aligning its legislation with the EU *acquis* on standardisation; strengthening the Employment Agency; continuing to align with the EU Services Directive; enforcing the new postal market rules; stepping up progress on developing qualifications for regulated professions; accelerating progress on electronic company registration, capital movements and payments, including on the acquisition of property rights; adopting a new company law and a corporate accounting law; further aligning its legislation with the EU *acquis* on intellectual property; adopting the roadmap concerning the closing benchmarks in the area of competition and State aid and further progress on State aid cases including complex ones; ensuring consumer protection and health protection; and implementing the laws aligning its legislation with the EU *acquis* in the insurance and capital markets sector.

The **competitiveness and inclusive growth** cluster has significant links to Montenegro's Economic Reform Programme. Progress was made on tobacco control, pensions, industrial policy, the operationalisation of the Innovation Fund, taxation, and trade facilitation. In the area of economic and monetary policy, work to implement the action plan for alignment with the EU *acquis* is ongoing. Montenegro should now focus on independence of the media sector and adoption of laws on audiovisual media; alignment with the EU *acquis* on value added tax; coordination of work on economic and monetary issues; labour law and the anti-discrimination law, safety at work; assessing industrial policy and drafting a new policy, research and innovation, education and training and implementing EU-compatible computerised transit system.

The **green agenda and sustainable connectivity** cluster has significant links to Montenegro's Economic Reform Programme, the Commission's Economic and Investment Plan and the Green Agenda for the Western Balkans. Progress was made in creating a day-ahead energy market and on port state control, but progress was limited concerning environment and climate change. Montenegro should now focus on the strategy for green transition in the energy sector, including just transition plans for a phase-out of the power plant in Pljevlja; adoption and implementation of the railway law; revision of the Transport

Development Strategy and significantly stepping up efforts on waste management, water and air quality, nature protection and climate change, including by adopting the National Energy and Climate Plan without further delay.

The resources, agriculture and cohesion cluster comprises policies linked to EU Structural funds and Investment funds and developing the capacities to assume the responsibilities of a future EU Member State. Progress was made in the area of agriculture and rural development through the adoption of a new Strategy, food and fisheries and aquaculture, regional policy and structural instruments, financial and budgetary provisions. Montenegro should now focus on starting the implementation of the IPARD III programme, accelerate legislative alignment in the area of agriculture and rural development as well as fisheries and aquaculture, upgrade food-establishments and food safety controls whilst continuing vaccination plans for rabies as needed; EU cohesion policy requirements building capacity for the handling of Instrument for Pre-accession Assistance programmes under indirect management; and rules of administration for the own resources system.

In the **external relations** cluster, Montenegro continued to fully align with all EU common foreign and security policy (CFSP) positions, declarations and common positions, including sanctions. It also continued to implement measures under the Common Regional Market based on EU rules, including by cooperating under the Central European Free Trade Agreement (CEFTA) and the Regional Cooperation Council.

Strengthening the **administrative capacity** to apply the EU *acquis* remains an important challenge for Montenegro, including the urgent need to re-stabilise a functional negotiating structure.

In the area of **migration**, legal labour migration to Montenegro continued to increase. In 2022, 29 319 temporary residence and work permits were issued, mainly for seasonal workers. In 2022, 8 519 migrants were registered who had crossed the border illegally, a twofold increase compared with 2021, reflecting regional trends. A total of 8 320 people registered an intention to request asylum, but only 175 actually lodged an asylum request and 9 persons were granted an international protection status. Montenegro continues to host the highest number of Ukrainian nationals in the Western Balkans, both in absolute figures and proportionally to its population (1%). The EU-Montenegro readmission agreement with EU Member States continued to be implemented satisfactorily. Montenegro and the EU signed a new status agreement in May 2023, enabling European Border and Coast Guard Agency (Frontex) deployments anywhere on the territory of Montenegro. Steps were taken to further align Montenegro's visa policy with the one of the EU, although further efforts are needed in this regard. Montenegro must continue its efforts to cope with migratory pressure, by developing its international cooperation on readmission, raising its capacity to prosecute migrant smuggling networks; and setting up a modern migrant data collection system. The economic citizenship scheme was. The investor citizenship scheme was phased out at the end of 2022.

1.3 STATE OF PLAY OF THE ACCESSION NEGOTIATIONS

CLUSTERS	Chapters / areas	Date chapter opened / closed with interim or closing benchmarks
Fundamentals <i>All chapters open</i>	23-Judiciary and fundamental rights 24-Justice, freedom, security 5-Public Procurement 18-Statistics 32-Financial control ...Economic Criteria ...Functioning of democratic Institutions ...PAR	December 2013 December 2013 December 2013 December 2014 June 2014 - -
Internal Market <i>All chapters open</i>	1-Free movement of goods 2-Freedom of movement for workers 3-Right of establishment and freedom to establish services 4-Free movement of capital 6-Company Law 7-Intellectual property rights 8-Competition 9-Financial services 28-Consumer and health protection	June 2017 December 2017 December 2017 ... June 2014 December 2013 March 2014 June 2020 June 2015 December 2014
Competitiveness and inclusive growth <i>All chapters open ch.25 and 26 provisionally closed</i>	10-Information society and media 16-Taxation 17-Economic and monetary policy 19-Social policy and employment 20-Enterprise and industrial policy 25-Science and research 26-Education and culture 29-Customs union	March 2014 March 2015 June 2018 December 2016 December 2013 December 2012 (opened and closed - no closing benchmarks); April 2013 (opened and closed – no closing benchmarks) December 2014
Green Agenda and Sustainable connectivity <i>All chapters open</i>	14- Transport policy 15- Energy 21-Trans-European Networks 27-Environment and climate change	December 2015 December 2015 June 2015 December 2018
Resources, Agriculture and cohesion <i>All chapters open</i>	11-Agriculture and rural development 12-Food safety, veterinary, phytosanitary services 13- Fisheries and aquaculture 22-Regional policy and coordination of structural instruments 33-Financial and budgetary provisions	December 2016 June 2016 June 2016 June 2017 December 2014
External Relations <i>Both chapters open ch.30 provisionally closed</i>	30-External relations 31- Foreign, security & defence policy	March 2015 – June 2017 provisionally closed June 2014

2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

2.1.1 Democracy

Montenegro suffered from deep polarisation and division, which was manifested in tense confrontational positions between politicians unwilling to end the political stalemate, being even prepared to escalate the constitutional crisis to achieve short-term partisan gains. This led to a blockage of the political system. The political situation was dominated by a caretaker government lacking the necessary political legitimacy and a Parliament unable to assemble a consistent majority to take forward reforms. The absence of a functional Constitutional Court led to uncertainty and legal discrepancy. Presidential and Parliamentary elections took place, as well as local elections in 14 municipalities. Election observation mission of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) monitored the Presidential and Parliamentary elections. These missions assessed both elections as peaceful and competitive despite procedural shortcomings. The mandate of the Parliamentary Committee for a comprehensive electoral reform produced no tangible results. The boycott by large sections of the Parliament further affected its work.

Elections

Local elections in 14 municipalities (October 2022), presidential (March/April 2023) and parliamentary elections (June 2023) took place. OSCE/ODIHR election observation missions monitored the presidential and parliamentary elections and assessed both as peaceful and competitive despite some procedural shortcomings. The mandate of the Parliamentary Committee for a comprehensive electoral reform expired in July 2022 with no tangible results. The legal framework still requires a comprehensive reform and harmonisation of election legislation, voting and candidacy rights restrictions, transparency, mechanisms of dispute resolution, and oversight of campaign finance and media. These, along with other issues, remain unaddressed. The absence of a functional Constitutional Court affected electoral processes. The constitution of the new parliament and the new government took place at the end of October 2023.

The mandate of the Parliamentary Committee for a comprehensive electoral reform expired on 31 July 2022. No progress was made in following up on pending OSCE/ODIHR recommendations and crucial issues concerning electoral legislative reform, voter registry, financing of political entities and electoral campaigns, residence registers, code of election campaign ethics, and proposals to strengthen the professionalism and transparency of the work of the State Election Commission (SEC) and the Anti-Corruption Agency (ACA).

In the absence of overall reform, the SEC carried out improvements in areas within its sole competence, and increased the overall transparency of its work. However, the SEC's politicisation prevents it from performing its role as independent election administration body. In particular in the run-up to the first round of the presidential elections, the SEC took legally questionable decisions led by its politically appointed members.

On 23 October 2022, local elections took place in 14 municipalities. The Constitutional Court (CC) was without a quorum during most of the local election process; as a result, the full and effective legal protection of voting rights was not guaranteed. The final election results in some municipalities (Plav, Podgorica and Pljevlja) could only be published in March 2023, after the CC dismissed all pending complaints. Two municipalities (Budva and Kolasin) published final election results with appeals still pending at the CC.

The elections in the municipality of Savnik are not yet completed, as Municipal Election Committee (MEC) members cannot agree on the continuation of the elections at a polling station. The Basic State Prosecutor's Office in Pljevlja formed 30 cases against 38 persons on election disruption charges. After investigation, the Prosecutor's Office submitted indictments against 30 persons to the competent court. The Pljevlja Prosecutor's Office started initial investigations against 37 persons for the criminal offense of certifying false statements. On 5 March 2023, local elections took place in the municipality of Tuzi without major irregularities.

On 20 June 2023, the Ombudsman of Montenegro issued a statement supporting the complaint of the Union of the Blind that most MECs did not guarantee an equal, secret and dignified voting process for persons with disabilities, even though in March 2022, the SEC had revised relevant by-laws and instructed all MECs accordingly.

Presidential elections took place in two rounds, on 19 March 2023 and 2 April 2023. In the run-up to the first round, SEC rejected the nomination of one presidential candidate, citing contradictory information on his citizenship and permanent residence, following a procedure not provided for by the law. The concerned candidate filed a lawsuit against the SEC for violation of his voting rights and discriminatory treatment. In April 2023, the Agency for Personal Data Protection and Free Access to Information decided that the SEC had acted against its mandate and ordered it to destroy all documents relevant to the case in point that it had received from the Serbian SEC. The sequence of these events led to inconsistent practice by the SEC in relation to presidential and parliamentary elections. Overall, the SEC ensured transparency, but it did not permit observers to verify signatures, claiming personal data protection. During the electoral period, only one SEC session was broadcast live.

The CC dismissed seven complaints filed before the first round of the presidential election as inadmissible and rejected four. The Basic State Prosecutor's Office in Podgorica is investigating criminal complaints made by dozens of citizens stating that their signatures in support of presidential candidates were forged. There were no complaints after the first and second rounds of voting.

The Serbian Orthodox Church in Montenegro publicly called on its followers to vote for one political side. A key civil society election observer, the non-governmental organisation (NGO) Centre for Monitoring and Research (CEMI), received death threats. Several polling stations were not accessible for persons with disabilities. Women were underrepresented in the election administration.

The OSCE/ODIHR deployed an international election observation mission, (IEOM) including observers embedded from the Parliamentary Assembly of the Council of Europe (PACE) and from the European Parliament. For the second round, the OSCE/ODIHR did not send any short-term observers. Two local NGOs deployed observers in nearly all polling stations across the country.

According to the OSCE/ODIHR's preliminary conclusions, both rounds were peaceful and competitive and respected freedoms of assembly and expression. However, most long-standing OSCE/ODIHR recommendations related to the need for comprehensive reform and harmonisation of election legislation, voting and candidacy rights restrictions, transparency, mechanisms of dispute resolution, and oversight of political party campaign finance and media remain valid.

The legal framework lacks sufficient regulation, for example on the grounds for annulment of election results by the court, the procedures for the tabulation of results, and the second round of the presidential election. The SEC implemented provisional solutions, addressing

legislative gaps, and overall, the process was appropriately managed. The media landscape was polarised along political lines and media outlets remained highly vulnerable to internal and external influence from corporate and political interests.

On 17 March 2023, one day after having dissolved the Parliament, President Dukanović called early parliamentary elections for 11 June 2023. On 27 June 2023, the Constitutional Court unanimously repealed the amendments to the Law on the President from December 2022, which had been the precondition for dissolving the Parliament. The Ministry of Interior published the voter register of 543 599 citizens with a delay.

The parliamentary elections of June 2023 were competitive and well run, despite taking place against the background of a protracted institutional and constitutional crisis. The formation of a new government took place on 31 October 2023. It is important that the new government is able and committed to taking forward EU-related reforms.

The OSCE/ODIHR observation mission of the parliamentary elections took place in similar circumstances as the mission to observe the presidential elections. Two local NGOs deployed observers to most polling stations across the country. For the first time, observers for the Union of the Blind systematically monitored the accessibility and voting material for persons with disability at 505 polling stations. Its findings were that most MECs did not provide appropriate accessibility for persons with disability. The preliminary conclusions of the international election observation mission were similar to those published after the presidential elections.

Two political parties submitted several complaints to various MECs on discrepancies between the number of people who exercised their right to vote, the number of ballots, and the number of control coupons. The Kolasin and Cetinje MECs decided to repeat the elections in one polling station each. The SEC annulled the decision of the MEC Kolasin. On 8 July 2023, the elections were repeated in Cetinje.

SEC declared the final results of the parliamentary elections on 14 July, which is not in accordance with the legal deadline for announcing election results, (15 days after the elections).

The inclusion of women in political life remains low. In the new Parliament there will be only 17 women, (21%), the lowest percentage since the introduction of the quota system, under which one fourth of the electoral ticket must be reserved for representatives of the underrepresented gender.

There are no new developments in the political and judicial follow-up to the alleged misuse of public funds for party political purposes in the 2012 ‘audio recordings affair’ Regarding the alleged electoral fraud case “the ‘envelope affair’” in 2016, in August 2023 the High Court confirmed the indictment against former Podgorica Mayor Stijepovic.

Parliament

The political situation was dominated by a caretaker government lacking the necessary political legitimacy and a Parliament unable to assemble a clear and consistent majority to take forward reforms. Moreover, the boycott by large sections of the Parliament further affected its work. The overall accountability of the political system was undermined by the shortcomings of the Montenegrin Constitution, which lacks clarity and presents loopholes, and by the lack of a legislative framework regulating the competences of a caretaker government or a dismissed Parliament. This added to an overall sense of political and institutional unpredictability.

There was no effective political dialogue and constructive engagement by political parties to enhancing parliamentary accountability and government oversight. There was a lack of activity on EU accession issues, in particular following the resignation of the Minister of EU Affairs. Furthermore, on various occasions, the Parliament adopted legislation that contradicted recommendations of the European Commission and/or the Venice Commission. The Parliament continued to strengthen its transparency by establishing some citizen-oriented services.

Adoption of the Act on Parliament that would regulate relations between the Parliament and the executive is pending.

Since the government of Prime Minister (PM) Abazović had a no-confidence vote in August 2022, the Parliament has been unable to reach the necessary majority to appoint a new PM and government. Despite this, and even following the Parliament's dissolution in March 2023 and the announcement of early parliamentary elections, the Parliament continued operating, adopting legislation and taking occasional decisions, as if the government was not acting in a caretaker capacity. Since the autumn of 2022, Members of Parliament (MPs) from DPS and its partners have boycotted most plenary sessions. Presidents Dukanović and Milatović refused to sign the laws that the Parliament adopted after its dissolution.

Upon completion of consultations on the formation of a new government in September 2022, President Dukanović proposed that the Parliament be dissolved, but on 30 September 2022, the Parliament refused to act in accordance with this request. Instead, with the publicly declared purpose of facilitating the formation of a new government in November, an ad hoc majority composed of three political blocks adopted amendments to the Law on the President that circumvent the applicable constitutional provisions on the prerogatives of the President. According to the amendments, within 30 days from the date of a no-confidence vote, and after conducting political consultations, the President is 'obliged to propose as PM-designate the candidate who has the support of the majority of the total number of MPs' or the candidate with 'dominant parliamentary support'. If the President does not comply, the Parliament is given the authority to nominate a PM-designate by simple majority. Using his constitutional prerogatives, President Dukanović returned the Law to the Parliament for review.

In November 2022, President Dukanović referred the amendments to the Council of Europe's Venice Commission for an urgent opinion. The Venice Commission assessed that a smaller parliamentary majority than prescribed for constitutional revisions should not have adopted these amendments. Nevertheless, in December 2022, the same majority adopted the amendments again, and gave the mandate to MP Lekic to form a new government. However, the same political blocks failed to find an agreement on the formation of the new government. Due to controversies over the amended law, which the opposition considered unconstitutional, the opposition boycotted most sessions from October 2022 until April 2023. In June 2023, the Constitutional Court unanimously repealed the controversial amendments to the Law on President.

The Parliament held 20 sittings (10 sittings during ordinary sessions and 10 sittings during extraordinary sessions). It adopted 133 acts (75 laws, 56 decisions and two resolutions). In December 2022, the Parliament adopted the 2023 Budget Law.

Following the June parliamentary elections, on 27 July 2023 the new Parliament held its first session and verified the mandates of the new MPs. The new Parliament speaker was voted into position on 30 October 2023.

As regards the Parliament's **legislative role**, due to the boycott, most laws were adopted by simple majority (41) with most opposition MPs not participating in the discussion. The

Parliament repeatedly sought to make changes to systemic laws via administrative procedures and without broader consultations. On various occasions, the Parliament adopted legislation that contradicted recommendations from the European Commission and/or the Venice Commission. Montenegro did not adopt some important pieces of legislation, such as the Law on Government and the Law on Parliament, which are needed to improve overall governance.

Communication between the Parliament and the executive, and with independent institutions, was challenging. In some instances, the government failed to deliver its opinions on legislative initiatives introduced by MPs. A particular relevant case – due to its fiscal impact – was the draft Law on compensation for former recipients of the benefit for mothers of three or more children. Opinions on major legislative proposals were adopted without discussion, most notably by the Committee on Economy, Finance and Budget. There was a lack of parliamentary activity on EU accession issues or coordination with the relevant ministries. The Committee on European Integration held its last session in July 2022.

The **oversight function** of the Parliament was limited. The Rules of Procedure provide that the PM's hour takes place once a month. However, only two such sittings were held during the reporting period. Parliamentary committees held 27 consultative and nine control hearings. As part of their supervisory activities, the committees considered numerous reports that independent bodies submitted to the Parliament in accordance with the law. There is no uniform practice in or approach to conducting parliamentary hearings or reviewing reports and proposed legislation.

The Parliament continued working on promoting the principle of **openness and transparency**. The public submitted 37 requests for free access to information to which the Parliament responded. The Parliament received 99 citizen submissions and 15 e-petitions. Of these e-petitions, one resulted in a consultative hearing before the Committee on Health, Labour and Social Welfare. The Parliament introduced accessibility features on its website, adapting its content to blind and partially sighted persons. In cooperation with the European Parliament, in November 2022, the Parliament organised the second 'Citizens' Assembly' to enhance the general public's participation in the decision-making and policymaking process. The Parliament also organised the 'Simulation of Parliament' for high school students, as well as a Youth Parliament session. No reports on violations of the Code of Ethics were submitted to the Committee on Human Rights and Freedoms in the reporting period.

The Parliament continued to further strengthen the control and supervisory functions and the capacity of the legal harmonisation service. On the proposal of the Administrative Board and at the request of the Special State Prosecutor's Office, in April 2023, the Parliament adopted a decision to allow the initiating of criminal proceedings against five opposition MPs due to alleged abuse of their official position. The Parliament's cross-party Women's Club continued its active role.

Governance

Since the no-confidence vote in August 2022, the government has carried out its duties in a caretaker capacity and with limited accountability, due to the inability of the political system to form a new government or proceed to early elections. Against the background of unclear rules governing the competences of a caretaker government, the government continued to adopt important decisions and to dismiss and appoint key officials. Furthermore, in November 2022 the caretaker PM decided to dismiss the caretaker Ministers of Defence and of Foreign Affairs, and the Parliament endorsed his decision. In December 2022, the caretaker Minister of European Affairs resigned. All vacancies were filled *ad interim*. The lack of ministerial coordination remains a cause for concern. Following the June parliamentary elections, the

new government was established on 31 October.

In October 2022, the government dismissed the acting Director of the National Security Agency (ANB) on the grounds of alleged non-compliance with the Law on ANB, and appointed a new acting Director. In March 2023, following the arrests of police officials suspected of being connected to criminal groups, the government decided to dismiss the Police Director on the grounds of 'functional responsibility'. The Police Director brought a lawsuit against the government before the Administrative Court. In July 2023, the Court overturned the government's decision and established that the dismissal decision violated existing regulations. Shortly afterwards, the government adopted a new decision terminating again the Police Director's mandate, following which the Police Director submitted a new lawsuit. The Court is yet to decide, but it rejected as unfounded the request to postpone the enforcement of the dismissal decision until a final legal decision is made.

The 35 diplomatic representative offices of Montenegro are led by 13 ambassadors and 22 *chargés d'affaires*. Some of them were appointed by the caretaker government.

In February 2023, the caretaker government adopted its Annual Work Programme for 2023. In the reporting period, it adopted 56 law proposals, 37 of which were accompanied by Regulatory Impact Assessment (RIA) form. It passed 35 decrees, 26 of which with a completed regulatory impact assessment RIA form. In November 2022, the caretaker government adopted a decision to set up negotiating working groups for all *EU acquis* chapters except for chapter 12.

Overall, **transparency of governance** remained an issue. However, the government took some positive steps including the regular, proactive publication of information on all expenditure from the state budget. The government continued to broadcast its sessions live. However, the government frequently resorted to the procedural option of adopting decisions without formally holding a government session. When new legislation needs to be adopted, an inclusive consultation process must be followed. This process should under all circumstances uphold the legal safeguards against undue political influence on independent public and regulatory institutions. Any legal changes to their composition and governance should avoid potentially disruptive action that could affect the functioning of the management bodies of those institutions.

As **for local governance**, the new Podgorica local government was only formed in April 2023, six months after the October 2022 local elections. Meanwhile, the incumbent Municipal Assembly and local government exercised their functions in a caretaker capacity (see section on elections). The mayor of Budva was arrested in April 2023 on suspicion of creating a criminal organisation and drug smuggling. To address this situation and enable the formation of a new local government pending the finalisation of electoral results, in December 2022, an ad hoc majority of three political blocks adopted amendments to the Law on local self-government by simple majority. According to the amendments, if the Municipal Election Commission does not announce the final election results within 60 days, the mandate of the local parliament in power would end by force of law. It is highly questionable whether these amendments are compatible with the Constitution. Thus, President Dukanović returned the Law to the Parliament for review. However, the Parliament adopted it again in March 2023. As for other pieces of legislation adopted following the dissolution of the Parliament, both President Dukanović and his successor refused to sign them.

At the end of December 2022, the parliamentary majority in the Podgorica Assembly adopted a decision to increase the salaries of civil servants and state employees by up to 30%. Women's political participation remained low at local level with the exception of Podgorica

and Budva. In Podgorica, the newly appointed mayor and the president of the local assembly are women. In Budva, most of the members of the new Municipal Assembly are women.

Civil society

The role of civil society is recognised and promoted. However, the legal and institutional framework regulating cooperation between state institutions and civil society still needs to be improved. Politicians – including at the highest level – frequently belittled the work of civil society organisations (CSOs) and isolated cases of verbal attacks were reported, when, for example, they criticised the work of the government. Recommendations from last year’s report remain largely valid.

The Council for Co-operation of State Bodies and Non-Governmental Organisations has not resumed its work. The government’s financial support for CSOs is regulated by a set of rules ensuring transparency and external evaluation. However, Montenegro needs to strengthen ministries’ capacity for strategic planning, monitoring and evaluation of support provided to CSOs.

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by state institutions.

The overall legal and institutional framework on freedom of expression, association and assembly is in place, but important pieces of legislation are lacking or need revision. The tax law provides some incentives to philanthropy, but its notion of ‘public interest’ is more limited than in the Law on NGOs, therefore restricting tax incentives. Montenegro still needs to align its legal framework on access to information with the EU *acquis*. Under the current law, public institutions could restrict the access of CSOs to key policy decisions by classifying this information. Montenegro has a Law on volunteer work, promoting voluntary work for state institutions to gain professional experience. However, a broader legal framework is needed to promote the free use of time, knowledge and skills for the benefit of volunteering activities. Draft amendments have been under discussion since 2019, but were not finalised. Amendments to the Law on NGOs are being drafted to improve the procedures for setting up, registering and operating NGOs. CSO representatives were appointed to the working group discussing the draft amendments.

A strategy promoting cooperation with NGOs for 2022-2026 was adopted in July 2022, after a broad public consultation process, and is being implemented. The strategy confirms the position of civil society as a strong partner of the state in public policy-making, and proposes to improve the digital registration procedures for CSOs and to publish CSO projects’ results online.

The role of civil society in the EU accession process is recognised in theory, but insufficiently in practice. CSO representatives participate in working groups discussing chapters of the EU accession negotiations. In 2022, all ministries appointed CSO representatives to working groups set up to draft laws and national strategies in their respective areas, in compliance with the Law on public administration. However, not all ministries conducted public consultations on draft laws. The report adopted by the government in December 2022 on conducting public consultations when drafting laws and strategies found that a significant number of laws were adopted without prior consultation with civil society.

On 22 July 2022, the government adopted a decision on appointing members of the Council for Co-operation of State Bodies and Non-Governmental Organisations, a body consisting of an equal number of state officials and NGO representatives. One of its responsibilities is to oversee the implementation of the strategy for cooperation with NGOs. However, there were

not enough applications from NGO representatives to become members of the Council in each of the thematic areas, despite the consecutive launch of six public calls. This reflects a perceived lack of relevance of the body among CSOs. Therefore, the Council did not resume its work, which was interrupted in October 2021. This undermines the dialogue between the government and civil society and should be addressed as a matter of priority by holding an inclusive dialogue.

The rules for public funding of CSOs oblige ministries to conduct consultations with CSOs on their annual funding priorities, to publish open calls, and to award grants through a selection process involving external evaluators. Despite this obligation, not all ministries launched calls for proposals to finance CSO projects. In some cases, the calls for proposals were delayed; as a result, more than EUR 1.1 million earmarked for this purpose in the 2022 budget has not been allocated.

In some cases, the lack of clear and fair selection criteria resulted in the selection of CSOs with no experience in the area, or the selection of CSOs unfit for the work with a specific target group. In the area of trafficking in human beings, the Ministry of Interior allocated a grant to a CSO whose manager had been accused of exerting violence against minor victims of trafficking, during a previous grant of the Ministry. The two minor victims had filed a complaint with the local police. Allocation of state funds must be based on the highest professionalism and integrity criteria and be safeguarded by a control mechanism.

The annual report on the financing of CSO projects in 2021 was published in December 2022, concluding that 92% of the allocated amount was spent. The Ministry of Public Administration created a website centralising information for CSOs, including funding opportunities. However, more efforts from ministries are needed on coordination, strategic planning, monitoring and evaluation of the support they provide to CSOs.

CSOs can also access funds at local level, according to the Law on local self-government. In 2022, 18 municipalities (out of 23) launched calls for proposals.

2.1.2. Public administration reform

Montenegro is **moderately prepared** in the area of public administration reform. Overall, **limited progress** was made. Implementation of the public administration reform strategy continued, while a new public finance management reform programme was adopted and its implementation was started. Both strategic documents are linked to the budgetary framework. By contrast, amendments to the civil service legislation adopted in 2021, introducing relaxed qualification requirements and ample discretion of appointing authorities to dismiss heads of administrative authorities, remained in place. Furthermore, the Parliament adopted amendments to the Law on local self-government to harmonise it with the Law on civil service, disregarding last year's recommendation. The relaxed requirements introduced by these amendments are a source of continuing concern for merit-based recruitment, competence and independence of civil servants. Continued staff changes in the public administration led to further loss of know-how on matters related to the EU accession process and an overall slowing of the pace of reforms. The Parliament has yet to adopt long-awaited amendments to the Law on access to information. Effective lines of accountability within the administration are still to be set up.

The 2022 recommendation on adoption and implementation of the strategic framework was met, while other recommendations remain valid. In the coming year, Montenegro should in particular:

→ adopt and implement amendments to the Law on access to information in line with the

principles of good public administration and introduce measures to reduce the high number of requests for information and related appeals;

→ amend the Law on civil servants and state employees and the Law on local self-government to ensure that recruitment follows the principles of merit, competence and transparency.

→ put in place a unified, comprehensive and transparent system for capital investment planning and management.

Strategic framework for public administration reform

In May 2023, the government adopted a report on the implementation of the 2022-2026 **public administration reform (PAR) strategy** in 2022. Political support for PAR continued to be ensured through the PAR Council, chaired by the Prime Minister. The format of the Council was made more inclusive: in addition to representatives of government institutions and civil society, the composition was expanded to include representatives of the trade unions. The PAR strategy and its action plan were linked to the 2023 budget.

Rightsizing (optimising) public administration is one of the objectives of the PAR strategy. As part of this, functional analyses are being carried out, notably in the health sector. At the same time, the number of employees at both central and local level continued to increase, with no proper prior assessment. Outgoing governments have made many appointments that burden the state budget for the next few years.

Policy development and coordination

The **legal framework** for policy development is in place. In February 2023, the government adopted its annual work programme for 2023, based on the government's mid-term work programme for 2022-2024.

The **institutional structures** for a coherent policymaking system are in place. The overall quality of strategic documents improved. The general secretariat of the government increased its attention to incorporating gender and environment into all policies. Nevertheless, further work is needed to make this process more effective and practical, including by training all stakeholders. Proper costing of strategic documents and their linkages to the budgetary process continue to require particular attention.

Evidence-based policymaking remains only partially ensured. According to the latest available government report (2021), ministries are not consistently carrying out public consultations, with consultations being held on 45% of laws and strategies. When public consultations were carried out, mandatory accompanying documents such as the regulatory impact assessment (RIA) were published for less than half of the drafts under consultation (48%). However, work is ongoing to improve the RIA process, including by developing a new form.

Public finance management (PFM)

In December 2022, the government adopted a new **PFM reform programme** for 2022-2026 with an action plan for the same period. In May 2023, the government adopted implementation reports for 2021 and 2022. The PAR Council provides political guidance for the implementation of the reform programme and ensures coordination with the PAR strategy. The new reform programme is linked to annual budgeting and the mid-term budgetary framework. It has a wider scope than the previous one as it now includes PFM at local government level. The government's investment planning and public investment management capacity needs to improve significantly. The improved legislative framework

for public procurement and internal control needs to be implemented in practice.

In February 2023, the Parliament adopted amendments to the Law on **budget and fiscal responsibility**, mainly to set up the Fiscal Council, an independent oversight body. However, during the preparation of the law, there was no regular consultation process among Montenegrin institutions, with no public consultations nor RIAs. Members of the Fiscal Council have not yet been appointed. Appropriate political backing will be necessary for the Council to add value to the PFM system as a trusted institution.

As concerns **digitalisation** in the PFM area, the state budget electronic system and central calculation of salaries improved. However, not all public institutions have been included in the centralised salary system. The interoperability of the different IT systems, including the treasury system, is yet to be completed. This is delaying progress in the area of PFM on issues such as introducing accrual accounting and fully developing performance budgeting.

On **budget transparency**, Montenegro published key budgetary documents timely. However, the readability of budget information did not improve significantly, and no transparency roadmap was published. Programme-based budget classification was improved continuously with programme goals and performance indicators, but weaknesses in monitoring and reporting continue to limit the analysis of the effectiveness of spending and the efficiency of service delivery. Pre-budget and mid-year budget execution reports were published according to economic, organisational and programme classifications. In addition, public participation in the budget process and the Parliament's oversight of the budget is yet to be improved, including by publishing the 'citizens' budget', which remains pending. The Parliament adopted the 2023 budget in line with the budget calendar but with limited qualitative assessment.

Public service and human resources management

Amendments adopted to the **Law on civil servants and state employees** in 2021, introducing relaxed qualification requirements and ample discretion of appointing authorities to dismiss heads of administrative authorities, remained in place. In December 2022, the Parliament adopted amendments to the **Law on local self-government** relaxing the requirements for recruitment and dismissal of local civil servants, aligning it with the amendments to the 2021 Law on civil servants and state employees. In February 2023, the government adopted an agreement on public administration and the judiciary to increase the **salaries** of around 20 000 public employees by an average of more than 30%, with immediate effect.

The Human Resources Management Authority worked on developing the methodology to monitor **human resources management**. Some improvements have been made to the related information system, but due also to the cyberattack in 2022, the system is yet to be completed. Nevertheless, human resources plans are still not aligned with the budget process.

The legal and policy framework is in place to promote **gender balance** in civil service, and efforts are being made to mainstream gender across all aspects of the public administration reform. Further work is needed to collect and disaggregate data on gender parity across all levels of the public administration and to prepare a planned gender equality plan for the Ministries.

Accountability of administration

The Parliament has yet to adopt amendments to the Law on **access to information** although the preparation and consultation process has already taken years. It is also important to solve the current problems regarding the high number of requests for information and related

appeals. After a 9-month period of inactivity, the Council of the Agency for Personal Data Protection and Free Access to Information started working again as an appeal body when two vacant positions (including that of chairperson) were filled in August 2022.

As concerns **lines of accountability**, the legislative framework for the supervision of the work of state administration bodies is in place. The framework specifies the lines of responsibility of ministries and their respective bodies. However, the functioning of this framework needs to be improved, including the process and quality of reporting by subordinate authorities to the relevant ministries.

The **organisational set-up of the state administration** is still not fully aligned with the Law on state administration. In the reporting period, the government changed the organisation of the state administration three times. This resulted in reorganisations of the state administration without appropriate prior analysis and led to significant staff turnover because the tenure of incumbent managers was ended and new managers were appointed.

The legal basis is in place to ensure the **citizens' right to good administration** in administrative procedures and judicial review and for public authorities to assume liability in cases of wrongdoing and ensure the citizens' right to seek compensation. However, cases of administrative disputes are not treated in a reasonable time. The Administrative Court has a very large number of administrative disputes from the area of access to information and as a consequence, the estimated duration of handling cases has increased to more than three years. Also, as public authorities are often not enforcing court judgements voluntarily. Even if a court makes a judgement in favour of the citizen and the administration needs to compensate for its wrongdoing, the citizen needs to initiate enforcement proceedings, which takes additional time.

Service delivery to citizens and businesses

The process of modernising **public service delivery** in Montenegro remained slow. The Law on administrative procedures was not consistently implemented, notably as concerns the 'once only' principle and electronic communication. Services in general remain bureaucratic and are not user-friendly.

Overall, the **digitalisation of public services** remains modest, particularly for services offered to individuals. Recent survey data on people's use of e-administration shows that in Montenegro less than 30% used the internet to interact with public administration in 2021, compared with the EU average of 58.50%. Montenegro made some progress in the digital government area, notably on the functional interoperability framework and active electronic data exchange among various government institutions. Nevertheless, the government needs to invest in transforming these key enablers into tangible results for people, working both on the supply side (issuing more streamlined, user-friendly digital services and eID solutions) and on the demand side (understanding the reasons for people's low take-up of available digital services and removing the obstacles). Montenegro has not aligned with the latest revision of the European Interoperability Framework and the Interoperable Europe Act.

2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS

2.2.1 Chapter 23: Judiciary and fundamental rights

The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is respect for fundamental rights in law and in

practice.

Montenegro remains **moderately prepared** to apply the EU *acquis* and European standards in this area and has made **limited progress** overall. No progress was achieved on justice reform, to date the most challenging area of the rule of law. The judicial system continued to face a deep institutional crisis and remains affected by issues of accountability, among other weaknesses. As stated in previous annual reports, corruption and high-level corruption remain issues of concern and are prevalent in many areas, including within state structures. Limited progress was achieved in preventing corruption, but the legislative and strategic framework have yet to be fully upgraded. Several high-profile cases of corruption are under investigation. Montenegro needs to demonstrate a stringent and unambiguous criminal justice response. Montenegro continues to meet its obligations on fundamental rights under international human rights instruments and legislation. However, challenges remain in ensuring effective implementation of legislation, in particular for the most vulnerable. The continuing trend of increase in the number of femicides and cases of gender-based violence remains an issue of serious concern. Full and effective protection of journalists and other media workers continues to improve, yet tangible results on old cases of attacks have yet to be achieved.

Functioning of the judiciary

Montenegro's **judicial system** is **moderately prepared**, with **no progress** on the implementation of key judicial reforms. The functioning of the justice system continued to face challenges including pending appointments and a number of crucial posts that remain occupied *ad interim* beyond the mandate limited by the Constitution or other relevant legislation. This resulted in weak leadership and management, lack of strategic vision and poor planning, affecting the country's ability to deliver justice and undermining the legitimacy of the highest judicial institutions. This was particularly serious for the Constitutional Court, which was left without a quorum from September 2022 until February 2023, when the Parliament appointed three judges. The Court still has one vacant position.

Several events described in the text below suggest that the independence, impartiality, accountability and professionalism of the judiciary have yet to be improved. Ensuring the ethical and disciplinary accountability of judges and prosecutors remains an issue. Furthermore, the Law on Judicial Council and judges, and the Law on State Prosecution Service, have yet to be amended in line with European standards and the EU *acquis*, following the existing European Commission recommendations and Venice Commission opinions. These two laws are central to the functioning of the judiciary and the prosecution, ensuring, respectively, their independence and autonomy, impartiality, accountability, and professionalism.

The efficiency of the judiciary also needs to be strengthened. The human, financial, physical infrastructure and ICT management systems require improvement. The adoption of a new strategy on the rationalisation of the judicial network is still pending.

The proper functioning of the judiciary in line with European standards has yet to be proven. There must be a genuine and unambiguous commitment from the executive and the judiciary to guaranteeing the implementation of reforms, and a political dialogue in the Parliament to secure the required majority for all pending senior judicial appointments and pieces of legislation.

Montenegro continues to make progress on the domestic handling of war crimes, with good judicial cooperation with neighbouring countries and the International Residual Mechanism

for Criminal Tribunals.

Last year's recommendations remain valid. In the coming year, Montenegro should in particular:

- appoint the remaining members of the Constitutional Court and the Judicial Council, a permanent President of the Supreme Court, and a permanent Supreme State Prosecutor and President of the Prosecutorial Council, based on merit and in a transparent procedure, to ensure the proper functioning of the judiciary with independence, impartiality and integrity of officeholders in key judicial positions;
- amend the Law on Judicial Council and judges, the Law on State Prosecution Service, and convincingly plan the necessary amendments to the Constitution, addressing all the already existing European Commission recommendations, Venice Commission opinions and Council of Europe Group of States against Corruption (GRECO) recommendations, to bring them in line with the EU *acquis* and European standards on the independence of the judiciary and autonomy of the prosecution, as well as their impartiality, accountability and professionalism;
- adopt a new strategy and action plan for the judicial reform and for the rationalisation of the judicial network; fully implement the ICT strategy, to improve the efficiency of the system.

Strategic documents

Justice reform remains the most challenging area of the rule of law. There were no results on the implementation of the 2019-2022 strategy for the reform of the judiciary and its 2021-2022 action plan. The government did not adopt any new strategic documents on judicial reforms. The Ministry of Justice did not demonstrate the required level of commitment to fully and timely implementing all segments of the judicial reforms.

Management bodies

The functioning of the judiciary continues to face a deep institutional crisis.

On 27 February 2023, the Parliament appointed three judges to the **Constitutional Court**, thus restoring the Court's decision-making quorum. This ended an unprecedented institutional blockade for Montenegro that left the Court unable to function between September 2022 and February 2023. This affected the capacity of Montenegro to finalise local election results, led to instances of politically opportunistic behaviour, and prompted the Venice Commission to exceptionally step in, in place of the Court, to examine the constitutionality of proposed amendments to the Law on the President upon the request of the President of Montenegro. The Parliament still needs to appoint the seventh (final) judge needed for the Court to function in full compliance with the Constitution.

The Constitutional Court's ability to function properly, its performance and efficiency were undermined throughout 2022 due to its incomplete composition, even before it lost its quorum in September after the retirement of one judge, leaving the Court with only three out of seven judges. With its quorum restored in February 2023, the Constitutional Court resumed its work on a very substantial backlog of over 3 000 constitutional complaints and over 250 initiatives for reviewing the constitutionality of laws and other legal acts. The Court resolved the appeals against the local election results, which were confirmed, enabling the formation of local governments in certain municipalities, including Podgorica.

The Judicial and Prosecutorial Councils are the two main bodies for the self-government of the judicial system, bearing responsibilities for the careers of judges and prosecutors. The

composition, appointment procedures and functioning of these two bodies remain issues of concern that affect more broadly the whole justice sector, including on the balance between independence and accountability. The Law on Judicial Council and Judges, and the Law on State Prosecution Service, remain to be amended in line with European standards and the EU *acquis*, following the existing European Commission recommendations and the Venice Commission opinions.

After two years in incomplete composition, the **Judicial Council** has now all of its 10 members in place. In 2022, the General Conference of Judges elected four new members to the Council. The Council's long-lasting incomplete composition undermined its decision-making, which requires a two-thirds majority in several instances, such as the appointment of the Supreme Court President (pending since 2020). This undermined the overall functioning of the justice system.

The Judicial Council still operates with three of its lay members in office beyond the formal end of their term of office in 2018, including its acting President. This is contrary to the Constitution, which limits the term of office of members of the Council to four years. However, due to failure to reach a qualified majority in the Parliament for the election of new non-judicial members, a temporary anti-deadlock mechanism continues to apply. This mechanism was introduced in 2018 to ensure that the lay members concerned remain in office until new ones are appointed. The three non-judicial members are currently in their 10th year in office. This undermined the Council's democratic legitimacy and accountability.

A new call for the non-judicial posts was published in December 2022 and 11 candidates are undergoing the selection process before the Parliamentary Committee on Political System and Judiciary.

At its first session in its new composition in August 2022, the Judicial Council appointed new members to its working committees. The 2023 budget proposal amounts to EUR 2 648 609. This represents an increase of 20% compared with 2021, mainly due to the planned procurement of licences to operate the Judicial Information System. The Council's working space and working conditions in general continued to be inadequate.

The appointment of a permanent **Supreme State Prosecutor (SSP)** – who is also the **President of the Prosecutorial Council** – has been pending since October 2019 due to lack of cross-party consensus in the Parliament.

In July 2022, the **Prosecutorial Council** decided to extend the term of office of the acting SSP for six additional months, in line with the temporary anti-deadlock mechanism set in the Law on State Prosecution Service. In February 2023, the Council appointed a new acting SSP for a term of office of six months, through a decision-making process that raised concerns over compliance with the relevant provisions of the Law on State Prosecution Service as described in the following section.

During the reporting period, the Prosecutorial Council held eight sessions. The 2023 budget of the Council is EUR 673 205 (2022: EUR 548 529). The Prosecutorial Council must still ensure a more proactive approach to addressing issues in the public prosecution service, for example the evaluation of the professional performance of Heads of State Prosecution Offices and of State Prosecutors themselves, including their accountability and professionalism. In December 2022, the Council adopted its 2023-2025 communication strategy, including the accompanying 2023 action plan. Additionally, the Council adopted a new reporting methodology.

Further efforts are needed to substantially **improve the functioning of the entire judicial**

system and restore public trust in it. While the transparency of the Judicial and Prosecutorial Councils continued to improve, it has yet to be further strengthened. Sessions of both Councils are open to the interested public (media, NGOs), but further measures are needed, such as publishing fully reasoned decisions on promotions, appointments, and disciplinary cases. The operational capacity of both Councils' secretariats continues to improve but should be strengthened further. Their administrative capacity has yet to be improved, including regarding planning and management of strategic, budget and human resources, as well as public communication. Members of both Councils should devote more time and show full commitment to performing their functions. Overall, resource levels do not match judicial performance targets. Other key high-level judicial appointments remain pending ultimately affecting Montenegro's ability to deliver effective justice. This lack of appointments significantly hampers the correct functioning of the highest instances and the management bodies of the judiciary. This undermines their capacity to exercise their powers, which are key to ensuring the independence of the justice system and to providing strategic guidance and leadership in the reform process.

Montenegro has yet to implement key **constitutional amendments** in line with the recommendations of the Venice Commission and GRECO and with other European standards. This includes the outstanding adoption of relevant implementing legislation. Montenegro did not address fully the 2021 Venice Commission recommendations on the amendments to the Law on State Prosecution Service, including on the appointment by qualified majority of the lay members of the Prosecutorial Council, to reduce the risks of undue political influence over the Council. Montenegro has yet to ensure the effective independence and professionalism of the judiciary, including by fully and unambiguously implementing the relevant constitutional and legal framework in line with European standards. The revision of the Law on Judicial Council and judges is ongoing; however, the European Commission and Venice Commission recommendations have yet to be fully addressed.

Montenegro has yet to take tangible measures to demonstrate its unambiguous commitment to guaranteeing the proper functioning of the judiciary in line with European standards. The executive and the judiciary need to be genuinely determined to support the implementation of reforms. Political dialogue in the Parliament is also essential to secure the required majority for all pending senior judicial appointments and pieces of legislation.

Independence and impartiality

Following the 2013 amendments to the Constitution, judicial independence was strengthened by increasing the safeguards against the risks of undue political influence over appointments. Overall, the legal framework guaranteeing judicial independence is in place. However, the judiciary and the prosecution service remain to be perceived as vulnerable to political interference and the level of public confidence in the judicial system remains low. This is due mainly to an insufficient rule of law culture in relevant institutions and to shortcomings in the relevant legislation. At the same time, the executive and legislative branches must avoid publicly discrediting the judiciary.

The legal framework guaranteeing the independence and impartiality of the judiciary is being revised. Following an extensive and inclusive consultation process, in October 2022, the Ministry of Justice requested an opinion from the Venice Commission on the draft amendments to the **Law on Judicial Council and judges**. The December 2022 opinion pointed to several issues to be addressed, including most of the 2014 Venice Commission recommendations on the same Law. These include, regulating judges' work-related rights (including their retirement age and pension rights), limiting the use of temporary anti-

deadlock mechanisms for key appointments to specific exceptional events, bringing the evaluation and disciplinary proceedings of judges in line with European standards, and strengthening the independence of the Judicial Council and the legal guarantees to avoid undue political influence. In February 2023, the Ministry of Justice requested a follow-up opinion from the Venice Commission based on an updated version of the draft amendments, which concluded in March 2023 that several of these important recommendations have not been followed and remain valid. On 1 June 2023, the government adopted draft amendments to the Law on Judicial Council and judges. These amendments improve certain technical aspects of the current Law, but do not address several important recommendations of the European Commission and the Venice Commission in substance, including the above-mentioned ones. They are therefore not sufficient to bring the Law in line with the EU *acquis* and European standards regarding the independence, impartiality, accountability, integrity and efficiency of the judiciary and need further revision.

In addition, the 2021 Venice Commission recommendations on the **Law on State Prosecution Service** have yet to be addressed. In particular, Montenegro has not fully addressed recommendations related to the election of lay members to the Prosecutorial Council and the need to ensure that the Council is not politicised in this process. In addition, Montenegro has yet to address the concerns over the termination of the mandate of the Prosecutorial Council members immediately after the entry into force of the amendments, and the transitional arrangements proposed do not represent a solution to the serious issue of the need to find broad political consensus on the next SSP. In February 2023, the Ministry of Justice announced the setting-up of a working group to amend the Law.

These two Laws are central to the functioning of the judiciary and have yet to be brought fully in line with European standards and the EU *acquis*.

Contrary to his predecessor, the Minister of Justice took active part in the Judicial Council sessions as *ex officio* member. In October 2022, the Minister criticised the Judicial Council's decision to publish a new call for the election of the President of the Supreme Court of Montenegro as he did not consider it appropriate. In January 2023, the only candidate that applied, the current acting President of the Supreme Court and member of the Judicial Council, did not get the necessary majority due to the interpretation of the Law by the Supreme Court's General Session. An appeal was filed before the Administrative Court, which overturned the decision and deemed the candidacy valid based on the support of a sufficient majority of Supreme Court judges. Following this, the Anti-Corruption Agency initiated proceedings to investigate potential aspects of corruption in the Administrative Court's decision-making process. In addition, the Anti-Corruption Agency submitted a request to the Ministry of Justice to conduct an inspection of the Administrative Court. In July 2023, the Judicial Council did not support the appointment of the current acting President of the Supreme Court as full-term Supreme Court President.

The appointment of a permanent **Supreme Court** President has been pending since December 2020; attempts have failed five consecutive times.

In April 2023, the Judicial Council appointed a new President of the Commercial Court. The constitutional and legal framework limit the period in office of Court Presidents to a maximum of two terms to prevent over-concentration of power, but two Basic Court Presidents (Basic Courts of Danilovgrad and Zabljak) were reappointed by the Judicial Council for a third mandate or more between 2019 and 2020 and are still in office.

The Judicial Council continued its good practice of publishing the names of applicants for judicial positions.

In July 2022, the Prosecutorial Council decided to extend the term of office of the acting **Supreme State Prosecutor** (SSP) – who is also the acting President of the Prosecutorial Council – for six additional months, in line with the temporary anti-deadlock mechanism set in the Law on State Prosecution Service.

In September 2022, based on a legal opinion of the Ministry of Justice, the Prosecutorial Council adopted a decision granting the right to the acting SSP, which was exercised in February 2023 after the expiration of the mandate of the former SSP, to remain in the Supreme State Prosecution Office (SSPO) as State Prosecutor. This decision is incompatible with the procedure for the appointment of State Prosecutors to the SSPO set in the Law on State Prosecution Service.

In December 2022, the Parliament once again failed to appoint a permanent Supreme State Prosecutor who is also the President of the Prosecutorial Council.

After that, still in December 2022, the Prosecutorial Council and the caretaker government adopted a proposal to amend the Law on State Prosecution Service, extending the term of office of the acting SSP virtually ad infinitum until the Parliament would appoint a new permanent SSP. This was against the recommendations of the European Commission and the Venice Commission and raised concerns over the respect for the rule of law and the key principles of independence and accountability of the judiciary and the separation of powers. Furthermore, the current Law on State Prosecution Service includes an anti-deadlock mechanism³ by which the Council may appoint an interim SSP for a period of six months, extendable for one more period of six months. Following the negative opinion of the Parliament's Judicial Committee, the caretaker government decided to withdraw the proposal from parliamentary procedure.

On 6 February 2023, as the last mandate expired, the Prosecutorial Council failed to appoint a new acting SSP as neither of the two candidates received the required majority.

Two days later, the Council appointed a new acting SSP from among its prosecutorial members, who resigned just before the vote took place. This raised concerns regarding the respect of the relevant provisions in the Law on State Prosecution Service, which determines that a prosecutor who is a member of the Prosecutorial Council can neither be appointed as head of the Prosecution Service nor be promoted during their mandate in the Council. In addition, the potential conflicts of interest during the decision-making process were not addressed, as the appointee was involved as a member of the Council in the voting on the two other candidates for the same position two days earlier. In April 2023, the Council proposed one candidate to the Parliament from amongst three applicants for an appointment as permanent SSP following the launch of a public call in January 2023. The vote in Parliament is pending. In August 2023, the Council extended the mandate of the acting SSP, which had been elected in February 2023, for six additional months.

The Prosecutorial Council needs to show genuine and unambiguous commitment to guaranteeing the full independence of the judiciary and to fully implementing EU-related reforms in the judiciary in compliance with European standards.

³ This mechanism was introduced in 2021, based on the opinion of the European Commission and the Venice Commission, with a clear caveat: such a temporary solution should not last too long, to prevent that the constitutional provisions giving the power to elect the permanent SSP to the Parliament and limiting the SSP's term of office would be deprived of any meaning.

In January 2023, the Council launched a new public call to appoint a permanent SSP, and in April 2023, it proposed one candidate to the Parliament among the three applicants.

Accountability

Promotion and enforcement of **ethics and professional standards among judges and prosecutors** remains a challenge. Both the Judicial and the Prosecutorial Councils have a limited track record and lack proactivity. Montenegro did not amend the disciplinary and ethical legal framework for judges and prosecutors. Further improvements and effective enforcement of the judicial inspection system are needed, including more thorough and unannounced inspections.

In October 2022, acting upon the request of the Disciplinary Prosecutor, the Judicial Council temporarily removed one judge from the Commercial Court, in connection to criminal proceedings launched in the case against the former President of the Supreme Court. In November 2022, the Special Prosecutor's Office filed an indictment before the High Court in Podgorica against the former President of the Commercial Court of Montenegro on charges of organised crime, embezzlement, and other criminal offences. The indicted person remains in pre-trial detention.

In December 2022, a Special Prosecutor from the Special Prosecution Office was arrested on organised crime and corruption charges. Placed in pre-trial detention, the Prosecutorial Council suspended him from office.

In April 2023, the Minister of Justice filed a motion for the dismissal of Head of the High Prosecutor's Office in Podgorica over suspicion of exerting undue influence on a prosecutor in 1 case. Acting upon the Minister's motion, the Disciplinary Prosecutor presented a motion for her dismissal to the Prosecutorial Council. In June 2023, the Council rejected the motion.

There has been no progress in strengthening the accountability of judges and prosecutors and demonstrating a corresponding track record. The work of ethical commissions for judges and prosecutors remains mostly ineffective. During the reporting period, the **Ethical Commission of the Judicial Council** was not functioning. A legal remedy to challenge the Commission's decisions has yet to be provided for by law. There are seven cases pending before the Ethical Commission.

Following the new composition of the Prosecutorial Council in August 2021, the **Ethical Commission of the Prosecutorial Council** restarted its activities only in September 2022, with the processing of several pending cases. In one case, the Ethical Commission found a violation of the Code of Ethics for State Prosecutors, while in four cases, it found that State Prosecutors had not violated the Code. While one case was delegated to the Commission for examining complaints about the legality of the work of State Prosecutors and Heads of State Prosecution Offices, the remaining four cases are still pending before the Commission.

The approach of Ethical Commissions of the Judicial and Prosecutorial Councils to handling cases is still not sufficiently effective and consistent.

Judges and prosecutors are required by law to declare their assets. However, the verification of asset declarations by the Anti-Corruption Agency (ACA) is limited to a check of compliance with the legal obligation to submit such declarations, which can only result in administrative and misdemeanour proceedings. The competences of ACA regarding the verification of asset-declarations should be strengthened in order to ensure an effective asset-declaration system. The disciplinary practice of the Judicial and Prosecutorial Councils in sanctioning judges and prosecutors for not submitting reports on assets and incomes to the ACA is not consistent and puts into question the effectiveness of this preventive mechanism.

The Disciplinary Committee of the Judicial Council did not sanction any judge for not providing asset declarations, while the Disciplinary Committee of the Prosecutorial Council sanctioned non-compliant prosecutors with a 20% salary cut.

There have been no significant results on enforcing measures to ensure the accountability of independent legal professions. In 2023, the Ministry of Justice initiated proceedings to establish the disciplinary liability of one public bailiff. The implementation of the new Codes of Ethics for notaries, public bailiffs and court interpreters remains limited. The draft of the new Code of Ethics for lawyers is still pending adoption by the Bar Association. The self-regulatory roles of the chambers and professional associations of legal professions must also be further strengthened.

During the first half of 2023, judicial inspectors of the Ministry of Justice performed inspections in 10 courts and six prosecution offices, during which no irregularities were observed. In 2022, judicial inspectors of the Ministry of Justice carried out inspections in 20 courts and 16 prosecution offices. In addition, at the request of the acting President of the Supreme Court, an extraordinary inspection was conducted in the High Court in Podgorica. During the inspection of the courts and prosecution offices, 15 irregularities were found (8 in the work of courts and 7 in the work of prosecution offices). Judicial inspectors of the Ministry of Justice performed regular checks of the legality of the work of 25 public bailiffs' offices and the Chamber of Public Bailiffs, during which two irregularities were observed. In addition, judicial inspectors of the Ministry of Justice checked the legality of the work of 38 notaries' offices and the Chamber of Notaries, during which seven irregularities were found. The Ministry's capacity in this area still requires significant strengthening.

Professionalism and competence

Montenegro continues to organise single nation-wide competitions for judges and prosecutors. The Judicial Council appointed 20 new judges, while 14 judges were promoted to higher instance courts. In addition, three court Presidents have been appointed by the Judicial Council (Commercial Court, Administrative Court, and Basic Court in Kotor). In 2022, the Council confirmed the termination of judicial function for 16 judges.

In 2022, the Prosecutorial Council appointed the new Chief Special Prosecutor, the Head of the Basic State Prosecutor's Office in Podgorica and 17 State Prosecutors. In 2023, the Council appointed the Head of the Basic Prosecutor's Office in Cetinje. The Council confirmed the termination of prosecutorial function for 21 prosecutors, including the former Chief Special Prosecutor.

Both Councils have yet to ensure the systematic conduct of regular assessments of judges and prosecutors. Evaluations need to be more thorough. Both Councils should develop their appraisal parameters with more targeted focus on magistrates' accountability, individual performance, and the quality of work. In 2022, 29 judges (only around 11% of the active ones) were evaluated as part of the regular professional assessment procedure, while 61 judges and 7 State Prosecutors were evaluated for the purpose of promotion. In 2022, only three State Prosecutors were evaluated as part of the regular professional assessment procedure, while 13 prosecutors were evaluated for the purpose of promotion and 13 at the end of their 4-year terms of office. The fact that all 29 evaluated prosecutors received excellent grades raises questions over the objectivity and the overall purpose of the evaluation process. In September 2022, the Prosecutorial Council adopted revised rules on evaluation of State Prosecutors, which entered into force on 7 October 2022.

The interpretation of legal conditions for old-age retirement of judges and prosecutors is disputed after the 2020 Law on pensions insurance lowered the general age requirement for

the right to a pension, deviating from provisions of the General Labour Law. In December 2022, the Administrative Court annulled the Judicial Council's decision from August 2021 to terminate the mandate of a judge of the Supreme Court due to fulfilment of the conditions for old-age retirement. Following this decision, the Judicial Council informed the Supreme Court that the judge has the right to return to work. In 2022, the Judicial and Prosecutorial Council declared the termination of the mandates of nine judges and 10 State Prosecutors based on their interpretation of fulfilment of the conditions for old-age retirement. Proceedings before the Constitutional Court on this subject are still ongoing.

Quality of justice

The 2023 budget for the justice system is EUR 42.01 million. This is an increase of 11% compared with the previous year (2022: EUR 37.3 million). Courts and prosecution offices are considered as separate budgetary units in the state budget for 2023. While implementation of the programmatic budgetary framework is ongoing, the capacity of individual courts and prosecution offices to effectively apply the procedures for budgetary planning, resource allocation and execution remains insufficiently developed.

In 2022, Montenegro had 263 full-time judge positions (42.4 per 100 000 inhabitants), 57% of whom were women, and 103 prosecutor positions (16.6 per 100 000 inhabitants), 62% of whom were women. According to the European Commission for the Efficiency of Justice, the European averages are 22.2 judges and 11.8 prosecutors per 100 000 inhabitants. The 2022 budgetary allocation for the judicial system in Montenegro was about EUR 35,249,852 € million. This amounts to around EUR 30 per inhabitant.

On 1 June 2023, the government adopted draft amendments to the **Law on Judicial Training Centre of Montenegro**, proposing a reduction in the duration of the initial training for judges and prosecutors from 18 to 12 months. Montenegro did not consult with the European Commission on these amendments, which are not in line with European standards and with the recommendations already submitted to Montenegro.

Overall, apart from the proposed amendments, the functioning of the **Judicial Training Centre (JTC)** continues to improve. Its 2023 budget is EUR 869 819, which is in accordance with the amount prescribed by law (2% of the budget allocated for judiciary and state prosecution). In 2022, the total budget allocated to training initiatives at the JTC amounted to EUR 385 839, a reduction of 8.7% compared with the previous year. The JTC continued to implement the new training needs assessment (TNA) methodology adopted in 2021 and prepared a comprehensive TNA report, based on which the 2023 training programme was developed. The JTC assessed the criteria and procedures for selecting and evaluating judicial trainers to further improve the quality of judicial training programming and delivery. As for the administrative capacity of the Secretariat of the Centre for Training in the Judiciary and Public Prosecution Service, out of the total of 19 planned positions, 15 are currently filled.

The positive trend in **alternative dispute resolution (ADR)** continued and the system continued to expand. In 2022, the ADR Centre received 10 773 cases for mediation (2021: 7 297 cases). Between 1 January 2023 and 30 June 2023, the ADR Centre received 3 914 new cases, while 1 384 cases from 2022 are still pending. The increase in the number of cases of mediation referred to the ADR Centre is not followed by an appropriate increase in the budget and staff of the Centre. From July to October 2022, a public awareness raising initiative presenting the work of the ADR Centre and the benefits of mediation was implemented to create an environment in which mediation is understood and accepted as an effective way to resolve disputes. The initiative resulted in several deliverables aimed at mediation stakeholders and the general public, including social media posts, city billboards,

animated video materials, etc.

Efficiency

In 2022, 130 881 cases (2021: 118 568) were pending before Montenegrin courts, 92 918 of which were new (2021: 84 143). A total of 78 758 cases were resolved (2021: 80 485). At the end of 2022, 51 539 cases were pending before Montenegrin courts and the number of cases older than three years stood at 4 890 (2021: 3 794). The disposition time (the average time from filing to decision) was 178 days for Basic Court cases (2021: 158), 442 days for Commercial Court cases (2021: 197) and 1 158 days for Administrative Court cases (2021: 538). The clearance rate in 2022 decreased to 86%, from the 92% of 2021.

In the first quarter of 2023, there were 79 027 cases before Montenegrin courts: 27 488 new cases and 51 539 cases that were unresolved at the beginning of Q1-2023. In Q1-2023, 20 262 cases were resolved, of which 1 582 cases are older than three years. At the end of Q1-2023, there were 6 946 old cases (older than 2020) not resolved before Montenegrin courts.

The backlog of pending enforcement cases before courts fell. At the end of 2022, 1 006 cases were pending (150 000 in 2016). In 2022, 70 801 cases were filed with bailiffs' offices (2021: 76 779), with 42 201 cases pending by the end of the year (2021: 47 217). The number of pending enforcement cases at the end of Q1-2023 was 1 560.

Since the adoption of the analysis on the **rationalisation of the court network** in October 2020, there has been no tangible development. In 2022, the Ministry of Justice launched activities to rationalise the court network based on previous recommendations and with the support of the EU. In July 2022, the Ministry set up a working group including representatives of judicial and prosecutorial institutions to work on a strategic document. In March 2023, based on the findings of the 2020 analysis on the needs of the rationalisation of the judicial network, and on submitted proposals, the Ministry prepared a draft judicial network rationalisation plan setting out measures, activities, result and impact indicators, time limits, competent authorities, and sources of funding necessary to rationalise the judicial network. A new strategic document on the rationalisation of the court network remains to be adopted. Reforms in this area should draw on available data, conclusions from studies, and cost-benefit analyses, while ensuring better overall management of human resources and judicial infrastructure. Ultimately, these reforms should lead to the optimisation of the judicial network and the closure of small, unviable courts.

It remains a challenge to fully implement instructions for collecting statistical data in a way that is compliant with the guidelines of the European Commission for the Efficiency of Justice (CEPEJ).

The new court information system (PRIS) to further modernise and reform the judicial system is not in place yet. Therefore, it is important to find alternative solutions and make significant steps to improve court statistics and to further increase the efficiency and transparency of the judicial system.

The efficiency of the judiciary is hampered by the lack of effective systems for human resources and staffing, financial resources, ICT, proactive case management and infrastructure management. There is an urgent need for strategic investment in infrastructure. At all levels of the judiciary, the allocated working space (notably for the Special State Prosecution Office) and working conditions in general at all levels of the judiciary remain inadequate. There is a lack of specialised judges and prosecutors and a lack of expertise in certain areas. Appropriate ICT infrastructure and equipment in the judiciary is lacking. More

efforts are needed to ensure the effective financial independence of the judicial system.

Domestic handling of war crime cases

Montenegro continued to implement its 2015 war crime prosecution strategy, but with limited results. To ensure effective implementation and monitoring of the strategy, Montenegro needs to improve its proactive investigation and prosecution of war crimes in line with international humanitarian law. The criminal legislation is being amended to address the legal and practical obstacles to effectively investigate, prosecute, try and punish war crimes, in line with the recommendations of the International Residual Mechanism for Criminal Tribunals.

During 2022 and 2023, there were no new indictments. The trial of 1 person, against whom an indictment was filed in October 2021, is still ongoing before the High Court in Podgorica. Between 1 January and 28 December 2022, the Special Prosecution Office (SPO) handled 12 cases, of which nine are in the investigation phase and one is on trial. In seven of them, the preliminary investigation phase is ongoing. During the reporting period, the SPO acted upon three letters rogatory for the provision of international legal assistance that the Prosecution Office of Bosnia and Herzegovina (two) and the Prosecution Office of the Republic of Srpska (one) sent in 2022. The SPO sent three letters rogatory in total, one to the Prosecution Office for war crimes of the Republic of Serbia, and two letters rogatory to the Prosecution Office of Bosnia and Herzegovina.

On 16 January 2023, the Parliamentary Committee on Political System, Judiciary and Administration organised a discussion on the investigation regarding the Lora prison camp in Split. During the meeting, the Minister of Justice announced the revision of the agreement between the prosecution services of Montenegro and Croatia on cooperation and prosecution of perpetrators of war crimes as it specifies only the obligations of Montenegrin authorities, primarily the Prosecutor's Office, in acting upon the request of Croatian investigative authorities.

Montenegro continued to actively participate in the regional Missing Persons Group and helped implement the framework plan signed in November 2018. Cooperation with neighbouring countries under bilateral cooperation protocols continued. The list of missing persons compiled by the Commission on Missing Persons of Montenegro comprises records of 51 active cases of Montenegrin citizens or people whose families reside in Montenegro. Montenegro's legislative framework still does not include a specific law on missing persons.

Fight against corruption

Montenegro has achieved **some level of preparation** in the fight against corruption. **Limited progress** was achieved. Corruption, including high-level corruption, remains an issue of concern and is prevalent in many areas, including in state structures. Montenegro has not sufficiently upgraded its legislative and strategic framework for the prevention of and fight against corruption in line with the EU *acquis*, European and international standards, for which a new strategy and an accompanying action plan are required. Limited progress was achieved in preventing corruption, and the results of the Anti-Corruption Agency (ACA) improved in quantitative terms. However, the ACA's independence, accountability, impartiality, and proactiveness should be further ensured. The Law on prevention of corruption should be improved in line with the existing recommendations of the 2021 peer review mission. Montenegro reached a turning point in the investigation and prosecution of some high-level corruption cases in 2022. The Special Prosecution Office (SPO) acted with alacrity in several high-profile cases. These appear to point to a deep infiltration of corruption and organised criminality into state structures, including at the top level of the judiciary and law enforcement. Montenegro's justice system needs to demonstrate a strong, stringent,

coherent and unambiguous criminal justice response. Montenegro must further improve the track record of investigations, prosecutions and final verdicts, including asset seizure and confiscation, in the fight against corruption including high-level corruption. A more deterrent and effective criminal sanctioning policy and criminal justice response to corruption including high-level corruption is needed to avoid the perception of impunity. The effective and systematic use of financial investigations and asset seizure and confiscation needs to be improved.

Efforts in this policy area should primarily target those sectors that are most vulnerable to corruption, for which a solid risk assessment and dedicated action are required.

Last year's recommendations were only partially implemented and remain largely valid. In the coming year Montenegro should in particular:

- adopt an improved the legal, institutional and strategic framework for the prevention of and fight against corruption in line with the EU *acquis*, European and international standards, through an integrated approach, by amending and effectively enforcing the Law on prevention of corruption and criminal legislation, and by addressing all recommendations of the 2021 peer review mission, including on financial investigations and asset seizure and confiscation, as well as recommendations from the Council of Europe Group of States against Corruption (GRECO) and the Organization for Security and Co-operation in Europe (OSCE);
- improve the track record on corruption including high-level corruption by urgently strengthening the effective enforcement of existing criminal legislation by prosecution services and courts, to impose effective penalties, and take specific measures to improve the use of plea bargain agreements in exceptional cases for a more transparent, credible, deterrent and consistent criminal justice response;
- take action to implement the recommendations of the June 2022 peer review mission on the fight against organised crime and high-level corruption.

Montenegro did not yet upgrade the legal, institutional, and strategic frameworks for the prevention of and fight against corruption. In particular, it still needs to adopt a new integrated strategy and action plan. Montenegro has yet to ensure inter-institutional cooperation and coordination between all bodies involved as well as coherence and a clear description and understanding of their mandates, roles and responsibilities.

The recommendations of the 2021 peer review mission remain largely unaddressed. The mission focused on assessing the legislative and institutional framework for the prevention of corruption, and on improving the ACA's capacity, performance, working methods and results. To comply with many of the peer review recommendations, Montenegro must revise the legislative framework, in particular the Law on prevention of corruption, and the Law on control of political entities and electoral campaigns in a first instance. Although this process has started, the adoption of reforms is still pending.

Furthermore, the ACA's efforts to prevent corruption need to be supplemented by a serious response by law enforcement, prosecution services and criminal justice. Independent and efficient courts are key to ensuring fair and timely judicial oversight and control of the work of the ACA and prosecutors. International cooperation should also be boosted to strengthen the national efforts in the fight against corruption, regardless and beyond ad hoc political will and affiliation. The ACA's independence, integrity, impartiality and accountability have yet to be further ensured and its proactivity and priority-setting must be improved, ensuring a non-selective approach and good-quality decisions, to improve its track record and results.

The ACA's financial independence has yet to be fully guaranteed.

Montenegro has yet to implement all recommendations of the evaluation reports from the (GRECO), including the fourth evaluation round on prevention of corruption in respect of MPs, judges and prosecutors, and the fifth evaluation round on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies.

Prevention of corruption – legal framework

Key shortcomings identified in the legal framework for the prevention of and fight against corruption and its effective enforcement have yet to be addressed as described below. In this respect, Montenegro has yet to address in full the recommendations of the EU peer review missions conducted in 2019 and 2021 and of the evaluation reports from GRECO.

The Law on prevention of corruption (LPC) has not been amended. During the reporting period, the lack of coordination and cooperation between all stakeholders involved in this policy area was exacerbated. Three processes to review the LPC ran in parallel. In March 2022, the government launched a thorough analysis of the LPC for its amendment. In turn, the ACA, supported through the EU-Council of Europe Horizontal Facility, worked on a comprehensive analysis of the LPC, which so far produced three sets of recommendations: one concerning the position, mandate and powers of the ACA; another one focusing on asset declarations, gifts and sponsorships, and on legal mechanisms to prevent conflicts of interest; and a third focusing on the provisions of the LPC related to protection of whistle-blowers, integrity and misdemeanour. Finally, the Anti-corruption Committee of the Parliament took an initiative to revise some provisions of the LPC by setting up a working group at the end of 2022. The working group completed its work in late April 2023, and the Anti-Corruption Committee adopted the draft amendments to the LPC, but the plenary vote is still pending.

Montenegro did not yet improve the legal framework regulating **political parties' funding**, partly due to the lack of willingness on the part of political parties represented in the Parliament themselves. Shortcomings in the existing legal framework on political parties' financing include those identified in recommendations of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE-ODIHR). The current legal framework does not provide for effective safeguards against and penalties for circumvention of the rules, which limits effective oversight. Limited progress was achieved on amending the rules on calculation and reporting of in-kind donations, in line with the Council of Europe's recommendations and aligning the annual financial reporting form with best accounting practice, which had been pending since 2014. Civil society organisations (CSOs) are critical of the lack of progress in revising the legal framework for combating corruption in political parties' financing. In particular, the Law on election of Councillors and MPs was not amended, and it must be aligned with the Law on financing of political entities and election campaigns.

Prevention of corruption – institutional framework

The ACA remains Montenegro's key institution for promoting integrity and preventing corruption. In performing its activities, the ACA cooperates with several public bodies, including the prosecution services and the State Audit Institution. The results of the ACA's investigations are subject to court review.

In July 2019, the President appointed the Anti-Corruption Council for a four-year term of office. The Anti-Corruption Council consists of five members and is responsible for decision-making on the ACA and for the appointment of its Director. The Council's mandate ended on

31 July 2023.

In November 2022, during the parliamentary debate on the ACA's 2021 annual report, some MPs announced an initiative to dismiss the ACA's management, questioning its impartiality and accusing it of taking a selective and biased approach in cases related to the previous political majority. Subsequently, the Anti-Corruption Committee of the Parliament set up a working group to propose amendments to the existing LPC to increase the Parliament's oversight functions on the ACA and the accountability of the ACA's management if it acts in a biased manner. Under the existing legislation, only the ACA's Council can dismiss the ACA's Director. The working group, which started working in early 2023, includes two MPs and two representatives of relevant CSOs. Representatives of the parliamentary opposition and the Director of the ACA refused to take part in the working group. These parallel initiatives suggest that Montenegro has yet to ensure leadership and a coherent approach to amending and modernising the legal and institutional framework for the prevention of corruption in line with European and international standards and best practice.

The ACA currently employs 53 persons while its organigram detailing the workforce envisages a total of 75 posts. Following the 2021 EU peer review mission recommendation to allocate additional human resources to the ACA, the government decided in the second half of 2022 to employ 14 more staff. A total of seven recruitments are finished, and the rest are ongoing. During the reporting period, the ACA continued its communication activities and collaboration with CSOs, holding meetings, participating in consultations, and attending 10 conferences organised by civil society. Moreover, in 2022, the ACA held 29 anti-corruption training sessions attended by 362 participants.

Based on the Law on financing of political entities and election campaigns, the ACA checks if legal entities, companies, entrepreneurs, and related natural and legal persons who performed activities of public interest or concluded a contract following a public procurement procedure gave contributions to political subjects in the two years before or after the contract period. Montenegro could strengthen prevention of corruption in the field of public procurement and political parties' financing by fully and efficiently exchanging good-quality data, and ensuring the interoperability between the Ministry of Finance's e-procurement system and the ACA's electronic system.

The ACA checks public procurement procedures based on whistle-blower reports related to government bodies, local self-government and administration units, and public companies, public institutions, and other legal entities whose majority owner or founder is the state or a municipality. In 2022, the ACA initiated 28 procedures based on whistle-blower reports (which is about 14.2% of a total of 188) and 9 procedures that were initiated *ex officio*.

In July 2022, the caretaker government decided to set up the new National Council for the Fight against High-level Corruption, replacing the one created in 2020. Beyond representatives of different ministries and other relevant bodies, judges and prosecutors, the National Council also includes representatives of CSOs, such as NGOs and the Union of Municipalities. Its constitutive session took place at the end of January 2023. The main responsibilities of the National Council include preparing, monitoring and reporting on the implementation of a new strategy for the fight against corruption and related action plans, to which this body must dedicate thematic sessions. Further responsibilities of the National Council include the strengthening of inter-institutional cooperation on matters related to corruption. The National Council met twice. As of June 2023, a needs assessment is being carried out under the Horizontal Facility funded by the EU and the Council of Europe to analyse the institutional framework and support the drafting of the strategy.

In December 2022, a peer review mission on the functioning of independent regulatory bodies in the area of fundamental rights took place, assessing the **Agency for Personal Data Protection and Free Access to Information**. The human resources capacity of the Agency needs to increase, particularly in the area of free access to information, where in 2022 only 10 staff dealt with a caseload of 8 865 complaints (2021: 5 285). Most of the complaints were filed by only a few physical persons, which could indicate an abuse of the system for financial benefit. The Agency's Council was not operational until August 2022 and was able to solve 3 743 complaints. By the end of 2022, the backlog stood at 5 720.

Prevention of corruption – track record

The **track record on prevention of corruption** continued to improve in terms of the number of cases dealt with. The ACA became somewhat more proactive in its work and outreach activities towards the public, media, and civil society.

In 2022, the ACA initiated a total of 444 new administrative procedures and completed 423 procedures (including cases from previous years). In the first quarter of 2023, the ACA initiated 28 administrative proceedings against public officials (income and assets declarations only). In 2022, the ACA instituted a total of 1 556 proceedings on various grounds before misdemeanour courts (2021: 1 164 proceedings), 1 043 proceedings were completed (including those from previous years) and penalties were imposed in 92.6% of cases. The total amount of fines, including direct misdemeanour orders, amounted to EUR 103 590 (2021: EUR 149 242). In the first quarter of 2023, the ACA submitted 410 requests for initiation of misdemeanour proceedings to the misdemeanour courts.

The total number of **income and assets declarations** submitted to the ACA on various grounds further grew in 2022, reaching 11 784 (2021: 10 657). The ACA performed administrative and technical checks on 6 168 reports, verification of accuracy and completeness on 1 742 reports, and additional verification of the reports of 20 high-ranking public officials, chosen in accordance with the degree of vulnerability of the area/function. Out of the 444 administrative proceedings the ACA initiated in 2022, 423 were related to income and assets (2021: 295). The ACA found violations of the law in 376 cases (2021: 160) and initiated 1 057 misdemeanour proceedings on reports on income and assets (2021: 1 002). In the first quarter of 2023, the ACA received 9 019 statements on income and assets (25% more than in the same period of 2022), which were all administratively and technically processed, while the additional verification phase was planned for the second quarter of 2023. In the first quarter of 2023, the ACA initiated 334 misdemeanour proceedings against both former and newly appointed public officials, out of which 267 proceedings were completed. Penalties were imposed in more than 80% of cases, for a total amount of EUR 21 945.

During the reporting period, the ACA continued its activities to inform and support those concerned by the obligation to submit reports on income and assets declarations.

On **incompatibility of functions and conflict of interest**, in 2022, the ACA issued 213 opinions (14.5% more than in 2021 (186)), leading to the resignation of 24 public officials (2021: 26), and one termination of employment (2021: two). A further 55 opinions were issued in the first quarter of 2023, leading to five resignations of public officials and one termination of the service contract.

In 2022, the ACA continued monitoring **the lifestyle of public officials**, using publicly available data and media reports. The ACA submitted 1 case to the Special Prosecution Office.

In the last three years, the ACA has initiated 102 administrative proceedings against judges

and 39 against prosecutors due to the incomplete reporting of their assets, or incorrect data. In January 2023, the Administrative Court decided that the submission of incorrect data related to asset declarations and income does not necessarily constitute a violation. The ACA challenged this before the Supreme Court and its opinion is pending.

In 2022, the ACA issued 213 opinions (2021: 186) on incompatibility of functions and conflict of interest, leading to the resignation of 24 public officials (2021: 26), and one termination of employment (2021: two).

However, further work is needed to effectively address the 2021 EU peer review recommendations on the ACA's role in dealing with conflict of interest and incompatibility of functions, assets declarations and monitoring of lifestyle of public officials.

Concerning **funding of political parties and electoral campaigns**, the ACA oversaw all local elections held in 2022 and the first semester of 2023. Subsequent local elections across Montenegro resulted in an unusually long period of election campaigns, increasing the work of the ACA in monitoring the application of the Law on financing of political entities and election campaigns (LFPEEC). In 2022, the ACA checked 55 604 reports out of the 55 773 reports submitted by political subjects, authorities, and media advertising service providers. The ACA imposed measures to suspend the transfer of budget funds for the financing of regular work on eight political subjects, and a permanent measure of suspension on another five. In the first quarter of 2023, the ACA received 19 002 reports submitted by political subjects, authorities, and media advertising service providers, of which it checked 18 856.

In 2022, the ACA registered a total of 117 irregularities in the reports of political parties, and initiated 439 misdemeanour proceedings for violation of the LFPEEC. Out of 167 complaints relating to electoral campaigns submitted in 2022, the ACA decided on 89, while other procedures are ongoing. In the first quarter of 2023, the ACA initiated misdemeanour proceedings for violation of the LFPEEC in 69 cases, and 86 proceedings were completed (also from previous years). The ACA imposed 10 measures on political entities. It organised four meetings with CSOs on monitoring, supervision and control of electoral campaigns in the 2022 local elections. In the first quarter of 2023, Two such meetings were organised. Despite the overall figures, the scope and therefore the impact of checks in this important area remain limited due to the unclear or deficient provisions of the LFPEEC, namely regarding the exemption of some categories of political subjects from the scrutiny of the ACA. In line with the findings of the 2021 peer review, and in view of the numerous hidden arrangements for (illegal) political party financing, further efforts are needed to adjust the rules to this volatile environment and make the monitoring of political parties' financing by the ACA and the State Audit Institution effective.

In 2022, the **State Audit Institution (SAI)** performed and published audit reports on both financial and regularity audits from 2021 for 12 political entities. Regularity audits resulted in five qualified, five adverse and two unqualified opinions, while for financial audits the SAI expressed nine unqualified, two qualified and one adverse opinion.

In 2022, the ACA received seven requests for **whistle-blower protection** (2021: five), three of which are still being processed. The ACA received 189 reports on threats to the public interest (2021: 142), out of which 94 were submitted anonymously. The ACA completed 81 procedures and identified threats to the public interest in five cases (2021: 15). The ACA forwarded 12 reports to the prosecution service, and 34 to other responsible state institutions. The largest number of procedures initiated based on whistle-blowers' reports is related to labour relations. In the first quarter of 2023, the ACA received 57 whistle-blower reports, a significant increase compared with the same period of last years. A total of 28 reports were

anonymous. A threat to the public interest was found in 1 of the 12 completed procedures. No procedure was forwarded by the ACA to the prosecution authorities, while 3 reports were forwarded to other responsible institutions. Further sustained results are needed, including by increasing the ACA's human resources expertise, in line with the recommendations of the April 2021 peer review. Montenegro remains the only country in the region without a specific law on whistle-blowing; the subject remains covered by the LPC, which is not fully in line with the EU *acquis*.

On **integrity plans**, in 2022, 704 reports (2021: 692) on the implementation of integrity plans in 2021 were submitted to the ACA. In the first quarter of 2023, 167 reports on the implementation of integrity plans in 2022 were submitted to the ACA by various authorities. By the end of 2022, the ACA had developed a methodology for assessing the application of anti-corruption measures in the judicial system, including an IT application for its implementation.

On **lobbying**, in 2022, the lobbying register included nine individuals and one legal entity. The working group on amending the Law on lobbying produced a first draft, which was submitted to the European Commission for its opinion in June 2022. The European Commission has shared its recommendations with the Montenegrin authorities. In February 2023, the Ministry of Justice adopted a new draft version of the Law addressing most of the recommendations. In December 2022, the working group finalised the drafting of nine implementing acts meant to regulate the implementation of the Law on lobbying. The working group accepted most recommendations provided by EU experts.

The **Code of Ethics for top executive officials** was adopted in 2021 by the government in the form of non-binding guidelines. It remains ineffective as no disciplinary penalties can be imposed until the Parliament adopts the Law on government.

Combating corruption

The criminal legislation to improve the fight against corruption is being revised in line with European standards. The existing legal framework on asset confiscation needs to be reviewed and its effective enforcement has yet to be improved substantially, in line with the EU *acquis*, European standards and best practice. The new draft law on confiscation adopted by the caretaker government and submitted to the Parliament failed to address all comments, recommendations and concerns provided by EU experts and the European Commission.

The **Special Prosecution Office (SPO)** leads prosecutions in cases of high-level corruption under the leadership of the Chief Special Prosecutor. It currently employs 48 staff, including 10 Special Prosecutors. Of these Special Prosecutors, 1 was assigned to the Centre for the Education of Judges and Prosecutors; two are not active anymore but receive compensation upon termination of office; two were reassigned from the High State Prosecutor's Office in Podgorica; and two were reassigned from the Basic State Prosecutor's Office in Podgorica.

The SPO's human resources remain largely insufficient to cope with a workload of up to 100 cases per Special Prosecutor. Furthermore, the office conditions are well below the minimum required European standards and prevent the SPO from appropriately and efficiently performing its duties. This also creates security risks. Based on the pre-feasibility study prepared by an EU project to address this grave issue, the Ministry of Justice is carrying out an internal analysis, with the initial objective of housing the SPO and the Special Police Unit on the same premises.

The **High Court of Podgorica** is the specialised court in charge of high-level corruption cases. Currently, the High Court has 34 judges, five of which work in the Special Department for Organised Crime, Corruption, Terrorism and War Crimes.

A more deterrent, consistent, and effective criminal sanctioning policy and criminal justice response to corruption and high-level corruption has yet to be enforced, including to avoid the perception of impunity. The use of **plea bargain agreements (PBAs)** in high-level corruption cases, when necessary, needs to be clarified and improved in line with European standards and practice to avoid abuse during criminal proceedings. PBAs must be resorted to with extreme care, only in very specific cases, for the right purposes and building in all necessary legal safeguards. When this mechanism is used, a legal cost-benefit analysis in the interest of justice should be carried out systematically. In no case should criminal penalties go below the legal statutory minimum. To improve the effective use of PBAs, guidelines need to be drafted for specialised courts and prosecution services; a working group was tasked with preparing this in January 2023. As a precautionary measure, the SPO decided to temporarily suspend the use of PBAs in October 2022 until the guidelines are adopted and unified in their use.

The **track record** of investigations and prosecutions in cases of high-level corruption improved but has yet to be further consolidated. By contrast, the track record of trials and final convictions in these cases is almost non-existent.

In December 2022, the SPO requested the Parliament to lift the immunity of five MPs as part of a criminal investigation on suspicion of abuse of office related to the allocation of apartments and favourable housing loans to state officials, including to prosecutors, judges, other MPs or Ministers. In April 2023, a majority in the Parliament voted in favour of the motion to strip the MPs of their immunity.

In 2022, the SPO issued orders to investigate criminal offences of high-level corruption in 11 cases against 76 individuals and five legal entities (2021: 15 cases against 70 individuals and 19 legal entities). Based on the government's data, in the same year, the SPO brought six indictments against eight individuals, and 11 indictments against 73 individuals and five legal entities, an increase compared with 2021 (three indictments against nine individuals; 11 indictments against 68 individuals and 21 legal entities). Financial investigations were launched in five cases, against 43 individuals and four legal entities (2021: seven cases against 40 individuals and four legal entities).

From 15 May to 10 October 2022, criminal charges were submitted to the SPO against 438 individuals and 21 legal entities. During the reporting period, criminal charges against 80 of these people were resolved. Against 27 people, decisions were made to dismiss criminal charges. Orders to investigate were issued against 52 people, while an order to suspend the investigation was made against 1 person. Charges against 129 natural persons and three legal entities remain pending.

Montenegro has yet to improve the legal approach to and track record on **financial investigations and confiscation of assets** linked to high-level corruption. Montenegro should urgently address the lack of expertise available in the justice system on financial investigations. In 2022, a temporary security measure (ban on disposing of immovable property) was imposed in one case against a defendant. The High Court in Podgorica adopted temporary measures in two cases. In two cases related to corruption, at the request of the SPO, funds and securities at banks were temporary blocked. Between 1 January and 22 March 2023, the High Court of Podgorica imposed provisional security measures in three new cases.

Fundamental rights

The legislative and institutional framework on fundamental rights is largely in place and Montenegro continues to largely meet its international obligations on human rights. However, additional efforts are needed to fully implement this framework. Some legislative changes are also needed, in particular in the area of non-discrimination. Just like the previous year, the reporting period was marked by polarisation and division. The most vulnerable groups in society (including Roma and Egyptians, persons with disabilities, LGBTIQ persons) continued to be subjected to discrimination, hate speech and hate crime.

Additional efforts need to be made to ensure access to justice and enforcement of rights in administrative and judicial proceedings, in particular for vulnerable groups.

Last year's recommendations remain valid. In the coming year, Montenegro should in particular:

- amend and adopt legislation in line with the EU *acquis*, European and international standards on domestic violence, anti-discrimination, hate crimes and hate speech, harmonisation of the 2020 Law on same-sex partnership, and data protection;
- amend the criminal legislation in line with the EU *acquis*, European and international standards for the protection of fundamental rights and procedural rights;
- more efficiently protect fundamental rights, in particular for vulnerable groups, and ensure the harmonised interpretation of European Court of Human Rights case-law and European and international human rights standards throughout the justice system, including by improving inter-institutional cooperation.

Montenegro continues to maintain a regular dialogue and cooperation with international human rights organisations and monitoring bodies. Overall, Montenegro fulfils its obligations under **international human rights instruments** and legislation. However, it has yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, signed in October 2006; the 2014 Protocol to the 1930 Forced Labour Convention; and the 2019 Framework Convention on Tourism Ethics of the UN World Tourism Organization. Montenegro is late with its submission of reports to the International Covenant on Economic, Social and Cultural Rights (due in 2019), and the International Convention on the Elimination of All Forms of Racial Discrimination (due in 2021). Montenegro did not improve its systematic mechanisms for reporting to the UN human rights mechanisms and following up on their recommendations as recommended during the 2018 Universal Periodic Review (UPR). During its fourth UPR session on 8 May 2023, the country received 247 recommendations, out of which it accepted 225, noted 15, and will determine its position regarding seven recommendations by October. Most recommendations concern gender-based violence, hate speech and hate crime, other forms of discrimination, human trafficking, torture and ill-treatment and threats against journalists.

Montenegro continues to ensure good cooperation with the **European Court of Human Rights (ECtHR)**. In June 2023, there were 89 applications pending before the ECtHR. The ECtHR did not deliver any judgments in respect of Montenegro during the reporting period (against 5 in 2022). In the reporting period, 292 new applications were allocated to a decision body. Currently, there are no cases under close supervision by the Committee of Ministers.

Concerning the **promotion and enforcement of human rights**, institutional capacity has yet to be further strengthened, including by allocating appropriate funding. The role of the Constitutional Court in providing legal remedy for human rights violations was undermined,

due to the Court's incomplete composition as explained in the judiciary section of this report. The internal set-up of the Ministry of Human and Minority Rights should improve and address all areas related to fundamental rights, including by ensuring the necessary human resources are in place. Changes in the management and structure of the Ministry introduced in July 2022 undermined its capacity to promote fundamental rights, enforce the legal framework, draft new legislation, and implement and monitor existing strategies and policies. Key staff responsible for the rights of persons with disabilities and anti-discrimination were removed.

Montenegro has yet to adopt a comprehensive monitoring and data collection system in order to assess the level of implementation of human rights legislation, policies, and strategies.

The Ombudsperson's Office continues to be perceived as one of the most trusted institutions by Montenegrin citizens, and its views are often quoted in the media. The regulatory and institutional framework for its appropriate functioning is largely in place. It continues to be accredited with 'B' status by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions. Montenegro should take measures to better align this framework with the Paris principles so that it could be upgraded to an 'A' status. The Ombudsman's capacity to handle complaints and the quality of its decisions continued to improve. However, the decisions and recommendations of the Ombudsman remain non-mandatory, and Montenegro needs to improve their systematic follow-up across all public institutions. The draft 2023 budget for the Ombudsperson's Office increased by 17% compared with the 2022 budget. However, this increase is partly due to the November 2022 government decision on raising the basic salary of certain institutions rather than reflecting an increase in the operational budget. The human resources capacity of the Ombudsperson's Office appears to be sufficient and stood at 36 employees as of December 2022.

In 2022, the Office dealt with 1 109 complaints (2021: 1 123), 890 of which it received in 2022 and 219 of which were transferred from 2021. It closed 979 cases (88.27%) (770 cases from 2022 and 209 cases from 2021). Of these, 343 cases were closed for lack of procedural requirements and reference to other legal remedies (126 cases were not in the mandate of the Office, 108 cases were closed due to inadmissibility, and 109 cases were referred to other legal remedies). The Office conducted investigations in 576 cases: in 94 cases, no infringement was found; in 327 cases, an infringement was found, with 89 infringements remedied in the course of the investigation; and in the remaining infringement cases, the Office issued opinions in 238 cases, with 658 recommendations. In 86 cases, the Office pointed at failures of public authorities to take preventive action. In 2 cases, it provided recommendations to adopt new legislation or amend laws or regulations. Most cases were related to violations of labour and employment rights, peaceful enjoyment of property, healthcare, right to privacy, right to legal remedy, and environmental protection. In its 2022 annual report, the Ombudsperson's Office found shortcomings in the reaction of state institutions to final court judgments.

By the end of 2022, the backlog of cases pending before the Constitutional Court included 2 564 related to the protection of human rights. Montenegro must ensure that the duration of proceedings before the Constitutional Court is reduced to guarantee the 2015 ECtHR's stand on the effectiveness of the constitutional complaint as a legal remedy in the country.

As regards the **prevention of torture and ill treatment**, on 22 June 2023, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT) called upon the Montenegrin authorities to investigate cases of police brutality and change 'the current culture of police impunity' and warned of poor conditions and severe overcrowding in remand prisons in Podgorica and Bijelo Polje in its latest report published in June 2022. In

May 2023, Montenegro submitted its report on the follow-up to the UN Committee against Torture (CAT) concluding observations of May 2022. Montenegro is in the process of amending its Criminal Code and Criminal Procedure Code to comply with 2017 and 2022 CAT recommendations to align the definition of torture with the Convention, punish acts of torture or ill treatment with penalties commensurate with their grave nature, and abolish the statute of limitations for the crime of torture. On 8 June 2023, the government adopted amendments to the Law on legal aid. Under these amendments, victims of torture and other forms of ill treatment as well as victims of crimes against sexual freedom and children who initiated proceedings for the protection of the rights of the child would be recognised as privileged users of the right to legal aid. The government requested the European Commission's assessment of the draft amendments to ensure alignment with the EU *acquis* and European standards, but failed to wait for it. The amendments have not been adopted by the Parliament.

Montenegro must step up its efforts to conduct efficient, effective and independent investigations to address police torture, violations, and illegal use of coercive measures. Following evidence of police torture leaked in the press, the Minister of Interior suspended four police officers from the Unit for Special Operational Support accused of extorting testimony using serious violence. However, no judicial follow-up has been made so far.

The National Preventive Mechanism (NPM) upgraded its "Methodology for implementing the duties and powers of the National Preventive Mechanism", incorporating the latest international standards and practices. In 2022, the NPM decided on the remaining 21 cases (out of a total of 27) concerning the conduct of police officers during the enthronement of the Metropolitan in the Cetinje Monastery on 5 September 2021. It found excessive use of chemical agents in all cases and a violation of Article 3 of the European Convention on Human Rights (prohibition of torture) and Article 28 of the Constitution of Montenegro (dignity and inviolability of persons). Investigations are still ongoing and there are no court proceedings yet. Visible identification markings (names, surnames, number of official badges, etc.) were introduced on police uniforms and protective helmets enabling identification and efficient investigations, but their use is not systematic. The NPM determined a violation of Article 3 of the Convention in one case of abuse in the women's prison in Podgorica. In six cases related to prohibition of torture and cruel, inhuman or degrading treatment or punishment in the work of the Police Administration, the NPM determined violation of rights in three cases.

Some progress was made towards implementing the CPT's 2019 recommendations on the **prison system** and conditions of detention. In July 2022, the government adopted the final report on the implementation of the action plan for the implementation of the 2017-2021 strategy for the execution of criminal penalties. On 22 June 2023, the government adopted the new strategy for 2023-2026 but its accompanying action plan for 2023-2024 has yet to be adopted. The Administration for Execution of Criminal Sanctions (AECS) initiated 11 disciplinary proceedings for breaching official duty, but not regarding abuse of power or authority in respect of torture or inhuman treatment of people deprived of their liberty. Hiring of staff and capacity building continued. Prisoners continue to enjoy access to programmes and occupational activities. Parts of the existing prison and remand facilities underwent adaptation and modernisation to improve the facilities. Preparations for the construction of the new prison facility in Mojkovac for the north of Montenegro and four facilities in Spuz (a special health institution, a reception, a multifunctional facility, and an open-type prison) continued and are not finalised. The AECS initiated activities to improve its capacity for implementing occupational therapy for prisoners. Several NGOs provided educational,

recreational and vocational activities for prisoners. In April 2022, there were 605 convicts, 19 of which were women, which is in accordance with the available places. The number of detainees is 464, 16 of which are women; 56 are accommodated in the pre-trial detention unit in Bijelo Polje and 408 in the overcrowded pre-trial detention unit in Podgorica, which has only 292 places. In 2022, the NPM conducted 40 visits and issued 81 recommendations to institutions and relevant ministries, 39 of which were implemented. The NPM received 70 complaints from people deprived of their liberty and found evidence of inhuman and degrading treatment in three cases, related to the poor material conditions of accommodation, inappropriate healthcare, and ineffective investigation into allegations of abuse. Despite some improvement, the material conditions in prisons, pre-trial detention facilities and psychiatric hospitals are still below international standards. Living conditions in the women's prison are decent and hygiene is satisfactory, but in the overcrowded Dobrota psychiatric hospital, living conditions and hygiene remain poor.

Montenegro must still adopt a new law on **personal data protection** in line with the EU *acquis*, the General Data Protection Regulation and the Law Enforcement Directive, and the EU Law Enforcement Directive. Subsequently, around 200 laws and implementing acts that contain rules on the processing of personal data will need to be harmonised with both new laws. Montenegro has not yet signed the 2018 Council of Europe Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (CETS 223). The human resources capacity of the Agency for Personal Data Protection and Free Access to Information needs to be strengthened as only 63% of its positions are effectively filled. The financial resources of the Agency should match its responsibilities, also in view of the planned broadening of its tasks, and the Agency's financial independence should be guaranteed. The lack of IT expertise in the Agency (with only one supervisor) and absence of a digital case management system negatively impact its work. The new tasks and powers planned for the Agency in the new draft law will exacerbate the issue of insufficient staff. In 2022, the Agency carried out 127 inspections in the field of personal data protection (13 control inspections, 78 inspections based on submitted initiatives, and 39 inspections based on requests for protection of rights). Following the dismissal of the Agency's President and one member of the Council in December 2021, the work of the Agency was blocked until the appointment of a new President and a new Council member in August 2022.

The state paid more than EUR 1.2 million to ca. 1 000 citizens who had won a lawsuit against the state for violating the right to privacy and personal data as well as the right to private and family life by publishing their names on a list of individuals subject to COVID-19 self-isolation measures in spring 2020.

In the area of **freedom of thought, conscience, and religion**, in 2022, the Ministry of Justice allocated EUR 610 581 to religious communities, EUR 585 000 of which to the Serbian Orthodox Church and EUR 30 000 to all other religious communities. In October 2022, the premises of the Montenegrin Orthodox Church in Podgorica were stoned. Also in October 2022, a day before the 10th Pride, the Serbian Orthodox Church organised a religious ceremony for the preservation of the sanctity of marriage and family. In November 2022, the Basic State Prosecutor opened an investigation into police behaviour during a six-hour interrogation of the late Metropolitan of Montenegro and the Littoral Amfilohije about violating anti-COVID-19 measures in June 2020. In February 2023, the Basic Court in Podgorica acquitted the Metropolitan of Montenegro and the Littoral Joanikije and 8 Niksic priests of charges of having acted contrary to the Health Ministry's orders to prevent the spread of a dangerous infectious disease by organising a prayer walk in Niksic in 2020 in which thousands of people participated. In February 2023, the Ombudsman opened a case

regarding the celebration of a Russian religious holiday in several schools in Podgorica, which is forbidden by law.

Freedom of expression

Montenegro has a pluralistic and diverse media landscape and has **some level of preparation** in the area of freedom of expression. Overall, **limited progress** was achieved. In general, the authorities provided prompt and effective law-enforcement and institutional responses to new cases of violence against journalists. However, there was no effective judicial follow-up of old cases. Despite the commendable practice of extensively involving civil society and media stakeholders in the drafting of new media legislation, the government failed to finalise the legislative proposals and present them to the Parliament. This is now long overdue. The authorities need to step up efforts to effectively address the pending recommendations of the ad hoc commission for monitoring violence against the media, particularly regarding important old cases. Radio Televizija Crne Gore (Radio Television of Montenegro – RTCG), the national public broadcaster, continued to produce politically balanced content, including during election periods. The RTCG must meet the highest standards of media integrity and accountability. Further sustained efforts are needed to counter disinformation and limit the effects of online harassment and hate speech without disproportionately limiting freedom of expression. The media environment remains highly politically polarised, with uneven application of the journalistic Code of Ethics and professional standards. Credible and effective self-regulation mechanisms have yet to be set up to strengthen media integrity and professionalism.

Last year's recommendations were only partly addressed and remain largely valid. In the coming year, Montenegro should in particular:

- provide prompt and effective law-enforcement and institutional protection to journalists against all forms of violence, including full and effective judicial follow-up in critical old cases;
- put in place clear safeguards against any form of undue influence on the editorial, institutional or financial independence of the public broadcaster, the RTCG, which needs to abide by the highest standards of professional integrity and accountability;
- urgently complete the revision and adoption of media legislation in line with the EU *acquis* and relevant European standards, and ensure these are introduced into the new media strategy.

Intimidation of journalists

The institutional and law-enforcement response to address new cases of violence against journalists and media workers continued to improve. During the reporting period, new cases of violence received a prompt and effective institutional and law-enforcement response. However, there was no tangible breakthrough in critical old cases, including the 2004 murder of the editor-in-chief of the daily newspaper Dan and the 2018 shooting of an investigative journalist. In 2022, the authorities registered 22 cases of violence against journalists, involving threats, intimidation, harassment and, in several instances, physical violence. In 13 of these cases, the prosecution authorities opened criminal proceedings. From 1 January to 31 May 2023, the police registered a total of five cases of violence against journalists, one of which was classified by the prosecution authorities as a criminal offence prosecutable *ex officio*. From 1 January 2023 until 31 March 2023, the courts dealt with 15 cases of crimes

committed against journalists or media property. The courts delivered judgments in eight cases, including seven convictions and one acquittal. In the remaining cases, criminal proceedings are ongoing.

In January 2023, the Appellate Court acquitted investigative journalist Jovo Martinovic of drug smuggling charges. The acquittal came after seven years of criminal proceedings, in which Martinovic received a sentence of one year in prison and spent 15 months in pre-trial custody.

In September, December 2022, and July 2023 the government adopted reports of the ad hoc commission for monitoring violence against the media. The commission issued new recommendations with reference to the long-lasting or ineffective investigations into cases of violence against journalists, while also urging the prosecution authorities to provide additional information on several cases. The authorities need to address, fully and effectively, the commission's pending recommendations, particularly regarding the critical old cases of attacks on journalists, and to provide the commission with all the necessary means to perform its work. In May 2023, the government extended the commission's term for two more years.

Instances of senior public officials engaging in strongly worded public criticism of media continued to occur. The authorities should promptly react to and publicly condemn all forms of violence against media, whereas public officials should refrain from exercising political pressure on journalists, including through public statements.

Legislative environment

The working group tasked with amending the media legislation prepared draft laws on media, on audiovisual media services and on the national public broadcaster, the RTCG, through an inclusive dialogue with media and civil society. The government organised a 40-day public debate on the three draft laws, which ended in December 2022. However, the adoption of the draft media laws was repeatedly delayed. The government adopted in October 2023 a new 2023-2027 media strategy .

Implementation of legislation/institutions

The media environment is pluralistic, but remains highly politically polarised, with generally ineffective self-regulation mechanisms and uneven application of the journalistic Code of Ethics and professional standards. In 2022, the Ombudsman registered 16 cases of hate speech and 14 cases in the area of public discourse and media, including discrimination on the grounds of ethnic and gender identity. In October 2022, the Council of the Agency for Electronic Media awarded a national broadcasting licence to another Serbian-owned media outlet. In December 2022, the Council appointed a new Director. In August 2022, the Council dismissed its former Director, after finding him in breach of conflicts of interest rules. The Podgorica Basic Court overturned the dismissal as unlawful in a first-instance ruling in May 2023, which the Council has appealed.

Public service broadcaster

The public broadcaster, the RTCG, continued to pursue a balanced editorial policy, providing a broad range of political stakeholders with opportunities to present diverse political views on all its platforms, including during municipal, presidential, and parliamentary elections. In January 2023, the Podgorica Basic Court overturned the RTCG Council's decision to appoint the public broadcaster's Director-General as unlawful. In May 2023, this ruling was upheld, in second instance, by the Podgorica High Court. In June 2023, the Council reappointed the same person as RTCG Director-General, causing a strong public reaction from multiple CSOs, which accused the RTCG Council of abuse of office and failure to comply with a final

and enforceable court decision. The prosecution authorities opened a criminal investigation into the case. An effective legal remedy in cases where the Parliament dismissed RTCG Council members has yet to be provided, either through case-law or through legislation.

Economic factors

Because of the relatively small size of Montenegro's economy, the advertising market is limited. This affects the economic sustainability of media outlets, leaving them particularly exposed to political and corporate interests, both from within the country and from abroad. All commercial TV channels with national broadcasting licences are controlled by Serbian owners. The authorities continued to provide state funding for content of public interest in broadcast, print and online media. They also continued to provide state funding for media self-regulation, through the Media Pluralism and Diversity Fund, introduced under the 2020 Media Law. The provisions of the Media Law that aim to ensure the transparency of public financing of the media are yet to be consistently and fully implemented. The long-overdue sectoral collective agreement for the media industry has yet to be signed, to improve the socio-economic position of media workers, providing them with additional rights and benefits not covered by the general collective agreement.

Internet

Although rarely present in the mainstream media, hate speech, disinformation, and hateful and insulting personal remarks remained prevalent in the comments sections of online news portals and on social media platforms. Multiple online news portals, including certain outlets with considerable readership, remained unregistered and continued to breach the applicable media legislation. The requirement under the applicable Law on media to remove illegal third-party comments from online media platforms should be amended in a manner that does not place an undue administrative burden on online media, particularly on smaller services.

Montenegro does not have a strategy for a better internet for children, including to ease the detection of and response to online child sexual abuse.

Freedom of artistic expression

Freedom of artistic creation and publication of works of art, as guaranteed by the Constitution, was generally respected, without any notable cases of restriction.

Professional organisations and working conditions

In January 2023, one of the national journalists' associations presented its annual award for the best news portal to Sputnik-Serbia.

Journalists and trade unions continued to report overall poor working conditions of most media professionals, including low salaries, unpaid overtime work, security risks, self-censorship, and various forms of pressure and undue influence both from media owners and third parties. Employees in local public broadcasters continued working in particularly challenging professional and socio-economic circumstances, being directly exposed to editorial influence and financial control by the local authorities.

The very weak media self-regulation remains a matter of concern. The rare existing self-regulatory bodies have a limited impact, as even media outlets and journalists themselves tend to bypass them and take cases against their competitors directly to courts.

The rights to **freedom of assembly and association** remain broadly respected. Of all public assemblies, 61% took place with authorisation following prior notification to the Police

Administration. In 2022, four public assemblies resulted in violence or disorder (2021: 21), none of the registered assemblies resulted in the use of police force, and 1 protest was temporarily banned by the police due to late notification. Amendments to the Law on public assemblies and public events to regulate spontaneous assemblies more precisely are still outstanding.

There was no progress regarding **property rights**. The process of restitution of properties expropriated in the past remained slow; some restitution cases have been pending for 19 years. The 2020 ECtHR decision in the ‘Nesic v. Montenegro’ case on returning coastal property expropriated by the Public Enterprise for Coastal Zone Management of Montenegro has not been implemented although the Montenegro Supreme Court ratified it in December 2020. Montenegro needs to ensure fair restitution proceedings within a reasonable time and full independence of the three Regional Restitution Commissions (Bijelo Polje, Bar and Podgorica).

There was no progress towards adoption of a new law that would ensure full compliance of national legislation with the EU *acquis*, European standards on **anti-discrimination**, and the 2017 recommendations of the European Commission against Racism and Intolerance.

Societal polarisation, misogyny and hate speech increased. Vulnerable groups, including Roma and Egyptians, persons with disabilities and the LGBTIQ community continued to experience multiple forms of discrimination and challenges in exercising their equal rights and were occasionally exposed to hate speech and hate crime. There is an urgent need to effectively address all forms of discrimination by using legal protection mechanisms. People’s acceptance of and respect for pluralism in society needs to be stimulated from an early age through engagement with young people and adults to promote behavioural changes and tolerance of diversity. According to a December 2022 Center for Democracy and Human Rights survey on discrimination, 67% of respondents (2020: 57%) believe that discrimination is present in Montenegro and mainly on the ground of political belief. In 2022, the Ombudsperson’s Office received 256 complaints of discrimination, an upward trend compared with 2021 (173). This may imply that trust in the work of the Ombudsman is growing, or that potential victims are more empowered to report discrimination. As in previous years, most complaints were related to labour and employment. In 2022, the Ombudsman processed 16 cases of hate speech and 14 cases in the field of public discourse / media. The Ombudsman established hate speech based on social or ethnic origin in one case; based on sex, change of sex and gender identity in three cases; based on nationality in two cases; and based on political or other opinion in one case. In the area of public discourse, the Ombudsman established discrimination based on nationality in one case; based on social or ethnic origin in one case; and based on political or other opinion in one case. The 2017 priority recommendation of the European Commission against Racism and Intolerance to put in place a system for collection of disaggregated data on hate crime has still not been implemented as this depends on the pending amendments to the Criminal Code.

On **gender equality**, limited progress was achieved. The implementation of the 2021-2025 national strategy continued. However, Montenegro must address the issue of gender-based violence and domestic violence by amending the strategy. The legislative framework on gender equality still has a limited impact due to insufficient political will to prioritise this issue in the overall governmental accountability mechanisms.

Women remain under-represented in political and economic decision-making. In the new Parliament, out of 81 MPs in total, only 17 are women, which represents a slight reduction compared with the previous Parliament, which had 18 women MPs. Women make up only a quarter of the public administration’s total management, often due to explicit or implicit bias

in hiring, training, and promotion practices. Smear campaigns, hate speech and use of gender-based violence against women in politics and public life still persist although the number of cases fell slightly.

The 2023-2024 action plan of the 2021-2025 national strategy for gender equality is under preparation. There is an urgent need to effectively address deeply rooted societal behaviour that degrades and discriminates against women, resulting in instances of gender-based violence.

The Ministry of Human and Minority Rights started to cooperate closely with the public broadcaster RTCG, and organised training courses on gender-based hate speech, sexism and misogyny for journalists and RTCG employees.

Gender-based violence, in particular domestic violence, remains a serious and persistent issue and the most extreme manifestation of gender inequality in Montenegro. Despite a solid legal framework, there is a lack of systemic gender responsiveness and women-friendly procedures for victims of violence. Limited specialisation of justice, social, health and police professionals dealing with gender-based violence and violence against women remains a challenge. The investigative and judicial practice remained very lenient, enforcing only some protective measures in misdemeanour proceedings and imposing very few security measures in criminal proceedings. Such practice is not in line with international standards, above all with the practice of the ECtHR, which requires state authorities to implement proper investigation in case of domestic violence and to take measures for appropriate criminal prosecution. In the reporting period, of all imposed misdemeanour penalties, fines made up one third (32, i.e. 36%) and suspended sentences one fifth (21, i.e. 6%), while prison sentences are still rarely imposed (10%).

Women's associations remain an important factor in supporting victims of gender-based violence and in organising various training sessions and awareness-raising campaigns. However, these organisations are facing constant financial constraints.

In August 2022, the Ministry of Labour and Social Welfare set up the Directorate for Gender Based Violence, which is an important milestone in developing a proper institutional infrastructure to enable appropriate implementation of the Istanbul Convention and to give due attention to monitoring and advancement of the protection and prevention systems. However, Montenegro should allocate appropriate funding to the Directorate, to ensure it is fully operational, as it is currently unable to provide efficient and appropriate support.

In December 2022, the Gender Equality Committee hosted the 15th session of the Women's Parliament, on the topic of combating violence against women, as part of the campaign '16 days of activism against gender-based violence'.

Crisis centres and clear protocols for victims of sexual violence have not been created yet.

In the area of **rights of the child**, the legislative and institutional framework is largely aligned with international human rights instruments, including all areas covered by the UN Convention on the Rights of the Child and its optional protocols. However, challenges remain in effective implementation due to a poor accountability framework, inappropriate and insufficient capacity, lack of systematic monitoring and sufficient funding, and lack of quality assurance of existing laws, strategies, and action plans. The systematic collection of reliable and comparable data disaggregated by age and sex is essential for setting evidence-based policy priorities and ensuring effective protection of children.

In July 2022, the government set up the Council for the Rights of the Child for the first time at Prime Minister level. However, its inaugural session took place only on 13 March 2023,

when it adopted an action plan for 2023-2024. On 26 May 2023, the Council adopted specific measures the government must implement in 2023 to prevent cases of violence among children, adolescents and young people. Montenegro must step up its efforts to monitor the implementation of the national strategy on exercise of child rights (2019-2023), evaluate its impact and prepare the fourth periodic report to the UN Committee on the Rights of the Child due by November 2023.

In 2022, the Ombudsman received 225 complaints related to rights of the child (2021: 216). These cases were predominantly related to education, social and child protection, healthcare, rights of children in family relationships, peer violence, as well as rights of children with disabilities. Besides an increase in domestic violence, peer violence at school remains an alarming trend. Child access to justice, in particular of vulnerable groups, has yet to be improved, and child-friendly proceedings for all children in contact with the law have yet to be ensured. This refers both to children in criminal proceedings (child offenders, child victims and children witnesses) and to children in proceedings related to civil or family law and misdemeanour proceedings. There was no progress regarding the follow-up on the UN monitoring bodies' recommendations and on Resolution 1468 of the Council of Europe Parliamentary Assembly to amend the Family Law and raise the minimum age for entering a marriage to 18 years. The practice of arranged child marriages, in particular among the Roma and Egyptian communities, remains a matter of serious concern. MONSTAT's 2021 survey on income and living conditions, published in December 2022, shows that every third child in Montenegro lives at risk of poverty.

There is no satisfactory level of protection of children from perpetrators of sexual offences and there is still a lack of systematically collected disaggregated data on child sexual abuse and sexual exploitation. The strategy for the prevention and protection of children against violence and its action plan expired in 2021 and have yet to be updated. The current Criminal Code envisages tightening the penal policy regarding crimes of child sexual abuse (in line with the recommendations of the Lanzarote Convention), drawing up a register of offenders and surveillance measures against perpetrators after their time in prison. However, these new rules are not implemented due to the lack of implementing legislation. In 2022, the Police Directorate registered 23 criminal acts of child sexual abuse (three related to rape, five were qualified as child molestation, 11 related to illicit sexual acts, and four related to child pornography). The Criminal Code is yet to be revised to fully comply with the Convention on the Rights of the Child and its First Optional Protocol (on the sale of children, child prostitution, and child pornography) and legislation needs to address online child sexual exploitation. The National SOS Children's Line restarted operating in autumn 2022 after it had been inactive due to lack of funding. However, its working hours were shortened to eight working hours per day from the previous 24/7 schedule due to lack of resources, both financial and human. Montenegro needs to take the necessary steps to ensure that all children are registered systematically in birth registers.

In December 2022, the number of children living in institutional care was 110, slightly lower than in February 2022 (115). The drafting of a national strategy on deinstitutionalisation has been slow and organisations of persons with disabilities are not involved in the process.

Regarding the **rights of persons with disabilities**, there was no progress. Persons with disabilities in Montenegro cannot fully exercise their rights and continue facing multiple forms of discrimination. In July 2022, the Ministry of Human and Minority Rights abolished the Directorate for the Protection and Equality of persons with disabilities. Montenegro should set up such a directorate again or assign the relevant responsibilities to another service to oversee the implementation of the 2022-2027 strategy for protection from discrimination

of persons with disabilities and promotion of equality and its action plans for 2023. Montenegro has yet to adopt the draft law on a unified disability assessment body, which will be the basis for reforming the system to bring about more just, more equal and easier access to rights, enabling a shift from a medical to a human rights-based model. A decision allocating premises for the future institute for disability determination is pending the adoption of the draft law on a unified disability assessment body. Montenegro has yet to adopt the law on professional rehabilitation and employment of persons with disabilities, which would also regulate the location and management of the corresponding fund. The National Council for the rights of persons with disabilities, the entity in charge of monitoring the implementation of all laws and strategies to promote rights and to support better coordination on disability, is not functional. In May 2023, the Ombudsperson Office established an independent monitoring mechanism under the Convention on the Rights of Persons with Disabilities. The recommendations of the UN Committee on the Rights of Persons with Disabilities from 2017 are not fulfilled, especially regarding the necessary reform of guardianship and decision-making on behalf of persons with disabilities. Montenegro has not adopted an action plan to implement the Committee's recommendations. Some definitions of disability in Montenegrin legislation use derogatory terminology. On 7 December 2022, the Higher Court in Podgorica confirmed an earlier judgment of the Basic Court in Podgorica, which found that a person had suffered repeated disability-related discrimination by the Social Work Centres of Kotor, Tivat and Budva and the State of Montenegro. This is the first final judgment in Montenegro regarding the protection of persons with disabilities from discrimination in access to information and in proceedings before authorities.

There was no progress regarding the protection of the **rights of lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQ) persons**. Several attacks on offices of LGBTIQ NGOs and private apartments of LGBTIQ activists during the reporting period as well as many incidents of hate speech against LGBTIQ persons including on social media are a matter of concern. As a result of the July 2022 reorganisation of the Ministry of Human and Minority Rights, the responsibility for promoting and protecting the rights of LGBTIQ persons is not allocated to any specific service. The law on legal gender recognition is yet to be adopted. In October 2022, the 10th Podgorica Pride took place with the participation of several ministers and without any incidents. There was no progress in harmonising relevant implementing legislation with the Law on same-sex partnerships. In 2022, the Ministry allocated EUR 250 000 to LGBTIQ NGOs, 43% more funds than in 2021 (EUR 174 904). In 2022, the courts for misdemeanours processed 76 cases of discrimination or other forms of attack on LGBTIQ persons.

The amendments to the Criminal Procedure Code and the Criminal Code to fully align criminal legislation with the EU *acquis* and European and International standards on **procedural rights** for suspects and accused persons in criminal proceedings, and victims of crime are being drafted with the support of EU expertise. The amendments aim to tackle provisions on the right to information, the right to be present and participate at all stages of the proceedings, unjustified prolonged pre-trial detentions, insufficient protection of victims, in particular women and children, as well as the overall length of proceedings. Montenegro has yet to adopt a law on the procedural safeguards for children/juveniles in criminal proceedings. Comprehensive data on free legal aid is lacking as it depends on the development of the new judicial information system. In 2022, the budget allocated and implemented to legal aid amounted to EUR 108 776 (2021: EUR 121 500).

Amendments to the Law on protection against domestic violence are not in place. A systematic approach to dealing with and providing information to victims is still lacking. A

national strategy for the protection of victims' rights is under preparation. Montenegro still needs to stop the suspension of the Law on victims' compensation and secure sufficient funding for victims' support.

Regarding the rights of persons belonging to **minorities**, in December 2022, Montenegro submitted its sixth report on the implementation of the European Charter for Regional or Minority Languages and its fourth report on the implementation of the Framework Convention for the Protection of National Minorities. In September 2023, the Committee of Experts of the European Charter for Regional or Minority Languages published its seventh monitoring report on Montenegro, noting that shortcomings remain for the adequate use and protection of the Romani language in line with European standards and legislation. In April 2023, the report on the implementation of the 2022 action plan to implement the minority policy strategy for 2019-2023 was adopted, while the 2023 action plan was adopted in May 2023. There is still no equal treatment of minorities in the Parliament. Data on the implementation of the 2019-2023 minority policy strategy is not available. In July 2022, the Ministry of Human and Minority Rights set up a new Directorate for the advancement and protection of the rights of minority nations and other minority communities. In 2022, the Ministry allocated EUR 150 000 to NGOs working on rights of persons belonging to minorities. In November 2022, the Fund for the Protection and Realisation of Minority Rights allocated more than EUR 1 million to 195 organisations and individuals for the promotion of rights of persons belonging to minorities. In August 2023, the Special Prosecution Office opened a criminal investigation into the financial management of the Minority Fund. In March 2022, the Ombudsman issued an opinion to the Ministry regarding possible amendments to the Law on minority rights and freedoms to ensure direct appointment in Minority Councils based on the freely expressed will of minority nations and other minority national communities.

Roma and Egyptians remain the most vulnerable and antigypsyism remains a problem. There were no developments regarding the reduction of the threshold for political representation of Roma in the Parliament, as the Law on the election of Councillors and MPs was not amended. On 6 April 2023, the Parliamentary Committee for human rights and freedoms in cooperation with the Ministry of Human and Minority Rights and the Ombudsman organised the first sitting of the Roma Parliament. The Roma Council boycotted the sitting. On 19 October 2022, the government organised the third Roma ministerial meeting in Podgorica. The Ministers of all Western Balkan countries responsible for Roma inclusion agreed to act upon the commitments made in Poznan in 2019 and the first two ministerial meetings organised in Tirana (2020) and Sarajevo (2021). They also agreed to strengthen the ongoing work on Roma integration in the areas of housing, employment, green and digital agendas, and Roma responsive budgeting, and to adopt strong monitoring and reporting systems to measure progress on implementation of the new Roma strategies and the Poznan Declaration objectives with the assistance of the national statistical offices.

On 2 November 2022, the government appointed its national Roma contact point (NRCP), a position vacant since August 2020. The NRCP comes from the Roma community and is a long-term employee of the Ministry. However, the NRCP does not have a decision-making role in the Ministry and its limited capacity and resources remain major weaknesses. On 26 May 2023, the government adopted a Decision on the establishment of the coordination body for monitoring the implementation of Poznan Declaration commitments, chaired by the NRCP.

In 2022, 26 civil society organisations received public funds to implement projects in the area of Roma inclusion. In addition, in 2022, the Minority Fund supported 10 projects in the area

of Roma inclusion. The budget allocated for projects supporting Roma inclusion is increasing, but appropriate planning, monitoring and financial control are lacking.

In the 2022/2023 school year, 202 Roma children attended preschool education (92 boys and 110 girls), 1 833 attended primary school (950 boys and 883 girls), and 214 attended secondary school (122 boys and 92 girls). Currently, there are 14 Roma university students. There is an increase in the number of Roma education mediators working in various municipalities, 30 of whom are supported by the Ministry of Education. The legal framework still does not sufficiently support the enrolment of Roma students in higher education. Although Montenegro provides scholarships of EUR 150 per month, there are no additional incentives. Overall, the quality of education of Roma children remains an area of great concern.

In 2022, the Ombudsman conducted a field survey in Roma settlements in 13 municipalities. Preliminary findings show that Roma and Egyptians live in less segregated settlements than 6 or 7 years ago, but 42.2% of Roma still live in settlements populated only by Roma. The problem of overcrowding in Roma households persists, with slight improvements in terms of access to water, power supply, and possession of basic appliances.

The country does still not systematically address child begging and child marriages, and neither does it take sufficient steps to fulfil its pledges to address statelessness as recommended by the United Nations High Commissioner for Refugees (UNHCR). The Romani language is underused and not taught in schools.

Regarding displaced and **internally displaced persons**, from 7 November 2009 to 1 June 2023, there were 15 271 requests for permanent or temporary residence. Of these, 15 159 requests were resolved, and 112 cases are still pending. A total of 12 410 people received permanent or temporary residence up to three years, 297 requests were refused, and 2 448 cases were suspended due to incomplete or duplicated requests.

Between the entry into force of the new Law on foreigners in 2018 and March 2023, nine people were recognised as stateless, while for 17 the procedure for determining statelessness is ongoing. Montenegro has yet to adopt amendments to the Law on foreigners to strengthen the statelessness determination procedure, primarily regarding procedural guarantees and access to rights during the procedure and upon recognition of stateless status. This is a concern.

According to the UNHCR, there are currently around 500 people at risk of statelessness in Montenegro. Through close cooperation between the Ministry of Interior and the UNHCR, the new birth registration practice for this specific group of people yielded results: the Ministry of Interior completed birth registration of all stateless children in Montenegro known to the UNHCR and continuously strengthens the birth registration procedure. The public consultation regarding the amendments to the Law on foreigners and statelessness determination procedure in Montenegro was completed. The Ministry of Interior proposal would grant the right to initiate the statelessness determination procedure to a person with habitual residence in Montenegro of at least three years before the initiation of statelessness determination procedure, or whose family members are citizens of Montenegro, or to foreigners with permanent/temporary residence. According to the UNHCR, access to statelessness determination procedure remains an issue of serious concern, as it limits the fairness of the process and is seen as not being in line with 1954 Statelessness Convention.

On **citizenship rights**, the investor citizenship scheme expired on 31 December 2022. There should be no further scheme. Pending applications should be thoroughly screened, as should the origin of funds generated by the scheme, for which no Montenegrin body has taken

responsibility.

2.2.2. Chapter 24: Justice, freedom and security

The EU has common rules for border control, visas, external migration and asylum. Schengen cooperation entails lifting border controls inside the EU. Member States also cooperate with Montenegro in the fight against organised crime and terrorism, and on judicial, police and custom matters, all with the support of the EU justice and home affairs agencies.

Montenegro is **moderately prepared** in the area of justice, freedom and security. The legislative and institutional frameworks are largely in place. **Limited progress** was achieved, by starting to address the critical lack of human resources for border management, taking initial steps to align the visa policy with the EU's list of visa-required third countries, and earmarking state funds to increase the accommodation capacity for migrants. However, overall, last year's recommendations remain largely valid.

In the coming year, Montenegro should in particular:

- limit the use of plea bargains to exceptional cases, to further increase the transparency and credibility of the judicial response to organised crime through a more deterrent and consistent sanctioning policy;
- align the legal and operational approach to financial investigations, asset seizure and confiscation and the fight against money laundering with EU and international standards, and establish a convincing track record in these areas;
- further strengthen border management capacity by addressing critical gaps in border surveillance equipment; take the necessary steps to set up an Advance Passenger Information System and a biometric migrant registration system; further align Montenegro's visa policy with the EU's list of visa-required countries, in particular with regard to countries presenting irregular migration or security risks to the EU; take measures to further address the protection needs of migrants and increase administrative capacity in the area of returns.

Fight against organised crime

Montenegro is **in between some and moderate level of preparation** in the fight against organised crime. **Some progress** was made in addressing last year's recommendations, in particular as regards the efficiency of criminal investigations. Montenegro increased the number of investigators and experts in key areas, such as financial investigations, cybercrime and special investigative measures.

Montenegro implemented an ambitious human resources reform of the police: it created new posts, set up new units and recruited new staff. Prominent members of organised crime groups were arrested, along with some top-level officials from law enforcement agencies, pointing to a deep infiltration of organised crime into state structures. However, there was no final court decision on organised crime in the areas of tobacco smuggling, money laundering, trafficking in human beings or cybercrime. The track record in final asset confiscation remained very limited. Montenegro has yet to address some systemic shortcomings affecting its criminal justice system across the board, including the way organised crime cases are handled in courts.

Last year's recommendations remain largely valid. In the coming year, Montenegro should in particular:

- continue increasing the efficiency of criminal investigations by setting up a fully

functional interoperable system with a single search feature and a case management system shared between prosecutors and investigators;

- address the lengthiness of trials and frequent adjournments in organised crime cases; ensure stronger mutual understanding between courts and the prosecution of key legal concepts such as money laundering and the quality of evidence;
- address the risks of corruption and infiltration of organised crime into law enforcement agencies and the judiciary by implementing a strong prevention policy and providing a stringent judicial response to detected cases.

Institutional set-up and legal alignment

The number of police officers fell to 3 980 in 2022 (from 4 586 in 2021). A total of 375 officers retired and 105 administrative staff moved to the Ministry of Interior. The ratio of police officers remains high, at 639 per 100 000 inhabitants, compared with an EU average of 335.3 per 100 000 inhabitants (Eurostat, 2019-2021). However, unlike most EU Member States, Montenegro counts border guards as police officers (1 540 staff members), as well as non-operational staff such as advisers and officers without police rank.

Montenegro continued to work on amendments to its legal framework for the fight against organised crime, often with EU expert support, to align it with the EU *acquis* and address existing loopholes. However, in most cases, adoption of the legislation is still pending. The draft amendments to the criminal code, that are needed to align it with the EU *acquis* on a large range of topics, such as trafficking in human beings and anti-money laundering, are still pending adoption.

Montenegro has yet to adopt the amendments to the Law on seizure and confiscation of material benefit derived from criminal activity, drafted to address legal obstacles to the confiscation of criminal assets. In February 2023, the government adopted a first version, which did not take into account the European Commission's comments. Eventually, a working group was set up to review the draft.

In December 2022, the Parliament adopted amendments to the Law on internal affairs relating to the conditions of retirement of police officers. It also adopted one amendment to the existing Law on games of chance and prize competitions, with the limited objective of introducing a mandatory audio-visual surveillance system for games of chance, but without addressing any of the other issues with the current law.

The Central Bank of Montenegro has a central register of resident accounts, but still does not have a register of non-resident accounts, a crucial tool for investigations involving non-residents. Montenegro did not address the problem of the incomplete and not fully digitalised land cadastre, which hampers the conduct of financial investigations, the confiscation of assets, and the implementation of internal penalties. A centralised database on organised crime and corruption cases, containing data collected from all relevant authorities is needed for reporting, monitoring and policymaking purposes.

In the area of firearms, a revised Law on weapons, aimed at aligning rules on marking of firearms and technical specifications with EU standards, has been pending adoption by the Parliament for two years. Adoption of the law was not on the parliamentary agenda during the reporting period.

In the area of trafficking in human beings, the revision of the criminal code is needed, to align it with the EU *acquis*.

Montenegro increased the budget allocated to the Special Prosecutor's Office (SPO) by

EUR 2 million. A total of 20 new posts were created for administrative staff and IT and financial experts, bringing the number of posts for support staff to 55. Recruitments are ongoing. However, the number of Special Prosecutors (11, including the Special Chief Prosecutor) remains insufficient to cope with the SPO's heavy workload. Special Prosecutors handle up to 100 organised crime or high-level corruption cases each. This is due to the very broad description of the SPO's mandate in the law, which includes smaller and simpler cases, which could be handled by other prosecution services. Some thematic specialisation of Special Prosecutors was introduced. In September 2022, the government adopted a decision to transfer the SPO (together with the State Supreme Prosecutor and the Special Police Unit) to another government building, to address its current precarious housing and security conditions. However, the SPO's removal can only take place after the necessary refurbishment.

In March 2023, a police development strategy for 2023-2026 was adopted. An ambitious human resources reform of the police was implemented in 2022. Further to the adoption of a new rulebook on internal organisation of the Ministry of Interior and the police in August 2022, 239 new posts were added to the Directorate for the fight against organised crime, either through internal transfers of posts from other Directorates or through the creation of new posts. The unit in charge of special investigative methods benefited the most from this increase, with an increase in posts from 72 to 121. The number of Special Police Unit posts rose from 32 to 50. A new unit in charge of financial investigations and the fight against corruption and economic crime was created. The number of posts in the group for fighting drug smuggling rose to 25. In the area of firearms, a specialised team was created, with 8 job positions dedicated to the investigation of firearms smuggling offences. However, only 50% of the new posts have been filled so far. For some posts, a 10 to 20% salary increase was introduced, to attract and retain more specialised profiles in the police.

At the same time, the government did not adopt a human resources plan, which is required by the Law on public administration and has been ready for adoption since 2020. Because of this, the appointment of all five Deputy Police Directors and other senior positions is blocked. The Deputy Police Directors have been in an acting position for three years.

In March 2023, the Deputy Police Director in charge of the fight against organised crime was arrested on the Special Prosecutor's order on suspicion of having collaborated with organised crime groups between 2018 to 2020. This prompted a major reshuffle in the police. On 30 March 2023, the government dismissed the Police Director, who had been in function since August 2021. He was replaced by the Chief of Budva's regional police branch. The decision was not taken in accordance with the rule on dismissal of Police Directors, which provides that the dismissal of Police Directors is triggered by the Parliament's Security and Defence Committee, and not by the government. The former Police Director lodged a complaint against the decision of the government with the Administrative Court of Montenegro.

At the same time, a large-scale reshuffling of heads of units and middle managers in the Criminal Police Directorate was launched. Some 19 new heads of regional offices and central units were appointed by the new Police Director. The department for the fight against serious criminal offences was dismantled and all its officers were temporarily suspended. The equipment of this department was transferred to the Special Police Unit. The Head of the Special Police Unit was promoted to the post of Deputy Police Director in charge of the fight against organised crime, replacing the arrested former Deputy Director, while remaining Head of the Special Police Unit. He was also appointed as main contact person for the cooperation with Europol. Merit-based appointments and procedural safeguards against

political influence need to be guiding principles in the reform of the police.

The percentage of women in the police has increased from 9% to 13.8% in the last ten years, with 20 women in middle- or low-level managerial positions (8.5% of all managerial positions). There is no woman at senior management level.

Implementation and enforcement capacity

In 2022, Montenegro's law enforcement agencies had key successes in the fight against criminal networks and arrested 24 members of the so-called Balkan Cartel group, suspected of drug smuggling. In 2022, the SPO launched 17 new investigations into organised crime against 140 people and five legal entities (2021: 13) and brought indictments in 13 cases against 103 people and six legal entities.

The proactive approach of the SPO was reflected in an unprecedented number of high-profile cases, suggesting a deep infiltration of organised crime into state structures and law enforcement agencies. The cases currently under investigation or pending before the courts involve, among other people, a former Special Prosecutor, the former President of the Commercial Court, the former President of the Supreme Court, the former Director and a staff member of the National Security Agency, the former Director of the customs and several customs senior officials, a former Acting Deputy Police Director and several police officers, a former official of the penitential administration, the mayor of Budva, a former prosecutor of a Basic Court, etc. The prosecution of the former President of the Supreme Court of Montenegro, of her son, her former bodyguard and nine other people led to an indictment in October 2022. They are suspected of creating a criminal organisation, drug smuggling, active and passive corruption, abuse of official position, illegal possession of weapons and concealment of evidence.

In November 2022, an indictment was brought against the former President of the Commercial Court of Montenegro and 12 other defendants (including bankruptcy trustees and four legal entities) on suspicion of creation of a criminal organisation and abuse of office. The case involving a former Special Prosecutor is related to his suspected links with one of the two main criminal groups of Montenegro and suspected protection of the interests of this group by deciding to close an investigation despite sufficient legal ground to continue it.

In March 2023, the police of Montenegro was targeted by a series of arrests. The Special Police Unit brought charges against 18 people, including six police officers and one former National Security Agency officer, for their suspected involvement in a broad trans-Atlantic cocaine smuggling network. A total of six suspects were arrested, while others are on the run or abroad. One week later, the Acting Deputy Police Director for the fight against organised crime was arrested on suspicion of involvement in the same case. A key protagonist in this case, a former police officer, is still at large.

The number of court judgments and convictions continued to rise in 2022, reflecting the upward trend in the number of investigations since 2020. The High Court in Podgorica handled 79 cases of organised crime and high-level corruption, against 606 defendants (2021: 73 and 492, respectively). A total of nine cases were partially resolved. Decisions against 20 people were taken, of which 18 were convictions based on a plea bargain and two were acquittals. The Special Department of the High Court of Podgorica in charge of organised crime and high-level corruption currently has six judges.

The external assessment of the sentencing policy of Montenegro conducted in 2021 concluded that courts tend to impose sentences in the bottom third or lower half of the sentencing ranges. This conclusion has not led to a review of sentencing policy. Until

October 2022, plea bargains continued to be widely used in organised and serious crime cases, to process cases more quickly by confirming the defendant's guilt and ensuring some asset confiscation, resulting in sentences, fines and asset confiscations that are disproportionally low compared with the gravity of the crime. A working group made up of prosecutors and judges from various jurisdictions was created to prepare guidelines to better regulate the use of plea bargain and set common standards for prosecutors. The use of plea bargains was temporarily suspended in October 2022. The High Court's organisational issues and constraints (including the insufficient space for hearings) were not addressed and continued to lead to frequent adjournments and lengthy trials. Some cases have been pending before the Court since 2017.

In 2022, Montenegro continued to be actively involved **in international police cooperation**. Montenegro exchanged a total of 4 225 communications through Europol's Secure Information Exchange Network Application (SIENA) (2021: 4 292) and 585 communications with foreign liaison officers (2021: 499). A total of 14 fugitives were targeted by active search. The connection of Montenegrin law enforcement agencies – including the department in charge of the fight against organised crime – to SIENA improved the proactivity and, to some extent, the efficiency of investigations. Montenegro also exchanged 36 991 communications through Interpol in 2022 (2021: 59 162).

Based on requests from Montenegro, 43 criminal group members were arrested abroad, including the leader of a Montenegrin organised crime group. The number of organised crime group members arrested in Montenegro based on arrest warrants from foreign Interpol offices and fugitive searches rose to 71 (from 55 in 2021), including three people from the FBI most wanted list, and the leader of a Turkish organised crime group. In March 2023, the police arrested a South Korean national under an international arrest warrant for an illegal financial scheme involving USD 40 billion in cryptocurrencies.

In 2022, Montenegro participated in 63 operational actions across 13 operational action plans (OAPs) of the European Multidisciplinary Platform against Criminal Threats (EMPACT) and was the co-leader of 4 operational activities, such as the operational activities on high-risk criminal networks and on weapons trafficking prevention, detection and counteraction. In 2023, Montenegro is participating in 54 operational actions across 14 OAPs, is the leader of one and the co-leader of two operational actions. An EMPACT working team was created in the police, headed by the national EMPACT coordinator.

In October 2022, Montenegro successfully hosted the biggest-ever EMPACT Joint Action Days organised in a non-EU country, under the coordination of Spain, with the support of Europol, Frontex, Eurojust, INTERPOL and many more. Montenegro provided material and human resources to support the operation.

Cooperation with the EU Agency for Law Enforcement Training (CEPOL) is based on the working arrangement signed in October 2021 which replaced the previous cooperation agreement. Montenegro continued to participate in the Partnership against Crime and Terrorism project in the Western Balkans led by CEPOL. .

As regards **the cooperation between law enforcement agencies at national level**, most institutions are connected at technical level through a common platform, except the cadastre and the penitentiary administration, which have not met the technical requirements yet. In the meantime, the SPO can access cadastral data by using a token. However, another challenge is the incomplete digitalisation of the cadastre, as most cadastral data exist only on paper. Investigators, Special Prosecutors and officers from the Asset Recovery Office have direct access to some but not all databases. Special Prosecutors still need to send prior requests to

some institutions to obtain data, at the expense of the efficiency and confidentiality of the investigation.

In addition, the absence of a digital case management system shared between the police and prosecution services creates long delays in investigations. Confidential material related to ongoing investigations is exchanged between investigators and prosecutors via drivers on paper, USB keys or DVDs and goes through lengthy registration procedures.

In 2022, the SPO initiated 10 **financial investigations** against 96 people (2021: 26 and 156, respectively), all of them launched in parallel with the preliminary criminal investigation. Against the background of the increase in police staff, a specialised unit for the fight against corruption and economic crime and financial investigations was created in September 2022, to initiate more financial investigations in parallel with criminal investigations and to improve their quality. Some 60 posts are allocated to this unit. The new rulebook introduced the possibility to recruit bank, accountancy and tax specialists without police background. As in previous years, temporary seizures of movable and immovable assets worth tens of millions of euro were conducted, based on notifications from the Financial Intelligence Unit or other sources. Substantial amounts were blocked on resident and non-resident accounts. However, there was only one final court decision on asset confiscation in 2022, for an amount of EUR 805.

In 2022, the **Asset Recovery Office** received from foreign partners 44 requests for identification of assets acquired in Montenegro with the proceeds of criminal activity, involving checks on 330 people and 16 legal entities. The number of requests from Montenegro to foreign partners through the Asset Recovery Office surged from 7 to 16 compared with 2021, boosted since September 2022 by the work of the newly created economic crime unit. These requests involved checks on 64 people (members of organised crime groups) and 16 legal entities. However, the incomplete land cadastre limits the scope of financial investigations and asset confiscations.

The confiscation of assets of equivalent value, in cases where the proceeds of the crime itself cannot be found, still needs to be inserted into the legal framework. Montenegro needs to substantially upgrade its capacity to trace, detect and confiscate the proceeds of crime, to durably hit the financial power of criminal networks. The capacity to manage seized assets and avoid the loss of their commercial value should also be strengthened.

In 2022, the initial track record of investigations into **trafficking in human beings** continued to improve. A stronger institutional capacity was reflected in a higher number of cases detected. A total of 13 new investigations were launched, while the four investigations launched in 2021 were still ongoing. A total of five indictments were filed against 12 people. Between January and March 2023, 10 new investigations were launched. However, there was no single court decision in any of the 11 cases pending before the courts in 2022 and in the first trimester of 2023. No verdict related to trafficking in human beings has been issued by courts in the last two and the half years.

The multi-disciplinary victim identification team, which is in charge of identification of, referral of and initial assistance to victims, identified 16 victims, nine of which were minor girls (victims of illicit marriage, i.e. before the legal age of 18, or forced beggary), four of which were women (victims of sexual exploitation or illicit marriage), and two were minor boys (victims of illicit marriage, or forced beggary). People from the Roma community, in particular women and children, remained at high risk of trafficking in human beings. A police action to prevent and combat forced beggary is being implemented continuously. However,

no case of large-scale organised trafficking for sexual exploitation has been unveiled in recent years.

The labour inspection services conducted 182 inspections of work facilities, in cooperation with the police, focusing on foreign workers. A total of 516 cases of illegal employment of foreigners were detected, but no cases of labour exploitation. The capacity of labour inspectors and law enforcement agencies to detect, identify and investigate trafficking for the purpose of labour exploitation needs to be strengthened.

State institutions closely cooperate with and provide financial support to civil society organisations, as key partners for victim protection and awareness raising. In 2022, EUR 40 000 of state funds were allocated to five NGOs under a programme addressing the priorities of the national strategy for combating trafficking in human beings for 2019-2024. However, the shelter for victims of trafficking in human beings, financed by the state and run by an NGO, was closed in December 2022, after two minor victims hosted in the shelter filed a complaint with the local police about violence exerted against them by the manager of the shelter (who also managed the NGO). Montenegro currently has no shelter for victims of trafficking in human beings, and no specialised shelter for children victims either. In 2023, the previous manager of the shelter received another grant from the Ministry of Interior, after having funded a new NGO. Montenegro needs to strengthen control over the allocation of state funds in this area, where the highest professionalism and ethical standards should prevail.

Overall, Montenegro needs to substantially improve the criminal justice response to trafficking in human beings, by shortening legal proceedings and applying deterrent sentences. Montenegro should strengthen its capacity to detect trafficking in human beings for all exploitative purposes and to identify victims at an early stage, especially in high-risk sectors and with targeted action for particularly vulnerable groups. The support and assistance services for victims of trafficking should be improved, in particular for victims belonging to vulnerable communities. A shelter for victims of trafficking in human beings should be opened as a matter of priority. Montenegro still needs to improve support to victims in trafficking-related trials. In the absence of specialised lawyers and proper legal advice, many victims do not request the free legal aid they are entitled to and do not access compensation. The Law on compensation of damages for victims of violent crimes, adopted in 2015, should be applied.

In the area of **firearms**, 246 criminal offences of unlawful possession of weapons and explosive substances were registered in 2022. A total of 729 weapons were seized in 2022 (2021: 556). The ‘Traffic’ application connects the Firearms Focal Point to the ballistic laboratory and to the police unit in charge of international cooperation. It enables the secured exchange of data on seized firearms at national and international levels. The number of users of the application was extended and police officers were trained to use the iARMS database. The Ministry of Interior also uses an information system for lost, stolen and wanted weapons. However, Montenegro’s data collection and reporting system on firearms have yet to be standardised. A group of experts was formed to prepare the accreditation of the ballistic laboratory under the relevant ISO standards. Despite the existence of a storage facility for small arms, light weapons and ammunition in Rogame, seized weapons are stored in the building of the SPO until the end of the legal proceedings, in inappropriate storage and safety conditions. Montenegro needs to increase efforts on awareness raising, outreach and education on the dangers and risks related to the misuse, illicit possession, and trafficking of firearms. Measures aimed at reducing illicit firearms through legalisation, voluntary

surrender, de-activation and destruction should be implemented, in line with the EU action plan on firearms trafficking.

Montenegro substantially increased its capacity to address **cybercrime**. The number of posts in the specialised unit was increased from 5 to 18. This includes posts open to IT specialists without police background. The SPO launched 11 preliminary investigations for cyber-related offences against 13 people. There was no final conviction in the area of cybercrime in 2022. The capacity of all institutions in this area should be strengthened, including on the use of electronic evidence in court handlings, a crucial aspect to address modern forms of communication in organised crime groups. Montenegro should ensure effective, proportionate and dissuasive penalties, including for legal persons, in line with the relevant EU *acquis*. Cybercrime offences and cyber incidents often remain unreported. More awareness-raising activities about risks and threats should be conducted, to encourage the public to report cybercrime offences.

In May 2022, Montenegro signed the Second Additional Protocol to the Convention on Cybercrime on Enhanced Cooperation and Disclosure of Electronic Evidence. Montenegro remains a member of the WePROTECT Global Alliance against **child sexual exploitation and abuse**. Draft amendments to the Criminal Code in relation to cybercrime were drafted. The cybercrime unit acquired a specialised software system to track online child sexual abuse.

In the area of **money laundering**, the institutional capacity and the initial track record continued to improve, but the number of cases remained limited. The number of suspicious transaction reports received by the Financial Intelligence Unit rose to 328 (2021: 299). The Financial Intelligence Unit issued 18 orders to suspend a transaction to commercial banks. The SPO launched Two investigations against four people, bringing the total number of ongoing investigations into money laundering to six. In 2022, two indictments were brought against three people. No financial investigation was launched in relation to money laundering in 2022 and in the first quarter of 2023. The High Court of Podgorica handled nine cases against 91 defendants in 2022, but despite an increased number of cases reaching the court, no final decision on money laundering was pronounced.

The complex Atlas Bank case, involving 248 defendants in various criminal proceedings for the creation of a criminal organisation, money laundering and tax evasion since 2019, is still ongoing. An extradition request was made for one key defendant, who fled from Montenegro to the UK. Out of the eight indictments filed by the SPO in this case, three still await confirmation. No court hearing has started. Since January 2022, the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) carries out the fifth round of evaluation of Montenegro.

In the area of **tobacco smuggling**, the ban on storage of tobacco products in the free zone of the port of Bar, imposed by the customs administration, entered into force in May 2022. It led to the seizure of an unprecedented number of cigarettes, which their owners had left on the spot. Other substantial seizures took place throughout the year. An estimated amount of 1 500 tonnes (or 13 cubic metres) of cigarettes is stored in Bar and awaits destruction. Large quantities of cigarettes had disappeared from warehouses before the entry into force of the ban. A total of seven customs officers working in the free zone were suspended. The transport of two trucks carrying cigarettes to a destruction facility in Nikšić in September 2022 ended with the disappearance of one of the two trucks, even though the transport was organised by the customs administration and escorted by the local police. The missing truck, with a cigarette shipment worth EUR 10 million, was eventually found by the SPO near

Podgorica and more arrests of customs officials took place, including the Director of the Revenues and Customs Administration in December 2022. In 2022, the SPO launched two new investigations into tobacco smuggling against six people. Parallel financial investigations were launched in both cases. The police also worked on numerous cases of smaller size and brought 35 charges relating to tobacco smuggling to Basic Prosecutors' offices. However, there was no final court decision on tobacco smuggling in 2022.

Montenegro needs to make stronger efforts to address the illicit trade of cigarettes. This would involve strengthening the capacity of all institutions involved, further strengthening the work of the whole judicial chain, dismantling criminal networks, and improving the track record in final convictions and confiscations of the proceeds of crime.

On **witness protection**, protection measures applied to six witness protection programmes, in cases under the jurisdiction of the SPO. Protection and support measures were implemented for 11 people on request of the International Criminal Court in The Hague.

Cooperation in the field of drugs

Institutional set-up and legal alignment

Montenegro's strategic and regulatory frameworks in this area are not fully aligned with the EU *acquis*. The national drug information system does not fully meet EU standards. The capacity of the Directorate for the prevention of drug abuse in the Ministry of Health, in which the National Drug Observatory is embedded, was strengthened by creating new posts and recruiting new staff members. In December 2022, Montenegro submitted to the European Monitoring Centre for Drugs and Drug Addiction a national drug situation overview and an information map, drafted through an inclusive process involving institutions and NGOs. In April 2023, thanks to the improvement of the cooperation with the Centre, activities involving Montenegro in an Instrument for Pre-accession Assistance project could be resumed, following a suspension of the cooperation in June 2022. The suspension was linked to the insufficient involvement of the National Drug Observatory in project-related activities at that time.

Montenegro has had no drug strategy in place since the previous strategy came to an end in 2020. The national early warning system is still not ready to be linked to the EU early warning system, as it has limited operational capacity. The government adopted a rulebook on the method of destroying drugs and keeping records of seized and destroyed drugs. Montenegro needs to adopt an overarching national drug strategy, to ensure the functioning of the national drug observatory and to improve the national early warning system in order to enable its connection with the EU early warning system.

Implementation and enforcement capacity

Montenegro continued to be a transit country for drugs, as a part of the Balkan route. A total of 2.3 tonnes of drugs were seized in 2022, in 1 395 seizures. They included marijuana (1.8 tonnes), heroin (3 kg), cocaine (500 kg), hashish, synthetic drugs and other illicit pharmaceutical products, pieces of marijuana stalks, cannabis oil and hallucinogenic mushrooms. The police filed six criminal charges against 65 people (of which 37 were members of organised crime groups).

In 2022, the SPO conducted eight drug-related criminal investigations in cooperation with international partners. The High State Prosecutor's Office handled three drug-related criminal investigations at international and national levels. These investigations led to drug seizures in Montenegro, Serbia and Albania. The police unit in charge of drug-related offences is now

divided into two groups, one for the fight against drug smuggling associated with organised crime and one for the prevention of drug abuse. It has 25 staff members in total.

The insufficient storage capacity for seized drugs has yet to be addressed. Montenegro has yet to adopt amendments to the Criminal Procedure Code to make it possible to keep only a sample of drugs as evidence for court proceedings, and not the entire amount as it is the case now. Meanwhile, tonnes of seized drugs are stored in the country's prosecution offices and courts, in inappropriate health and security conditions, awaiting trials. Montenegro needs to amend the legal framework on drug storage and drug sampling as a matter of priority and align it with EU health, security and environmental standards in the storage, transport and destruction of drugs.

Fight against terrorism

Institutional set-up and legal alignment

Montenegro's **legal framework** is largely aligned with the EU *acquis*.

In September 2022, the Parliament adopted the Law on the processing of data on passengers in air transport. It aims to prevent and detect criminal acts of terrorism and other serious crimes. A police unit was created to take charge of processing air passengers' data and conducting criminal investigations in this area. Montenegro has yet to create a legal framework regulating online terrorist content. Preventive monitoring of risk groups is being carried out, based on risk assessment.

Montenegro continued to implement the measures set in the EU-Montenegro Implementing Arrangement of the Joint Action Plan on Counter-Terrorism for the Western Balkans, signed in November 2019, and submitted its fifth implementing report in February 2023. In January 2023, a new national coordinator for combating violent extremism, terrorism, money laundering and terrorist financing was appointed. The previous national coordinator had been appointed Director of the Revenues and Customs Administration in 2022 and was subsequently arrested as part of an investigation into tobacco smuggling. The new national coordinator has reactivated the National Operational Team to coordinate the implementation of the two strategies (on counterterrorism and prevention of violent extremism).

Implementation and enforcement capacity

The threats of terrorism and violent extremism remained relatively low. There are currently no people convicted for a terrorism offence in Montenegrin prisons. However, a cause for concern are growing polarisation along ethnical lines, online and offline disinformation, ethno-nationalism and hate speech, exacerbated by Russia's war of aggression against Ukraine.

A criminal charge was filed by the police against one person related to encouragement of terrorism, after the suspect threatened on his blog to carry out a mass shooting in a school. Since 2020, one investigation against nine suspects has been ongoing. The retrial of the 13 defendants (including two Russian and eight Serbian citizens) found guilty of terrorism in the 2016 coup attempt case, started in June 2023, after the first instance judgment was revoked by the Appeal Court in 2022 and the case was returned to the High Court.

In 2022, practical implementation of the strategy on preventing and countering violent extremism was limited, mostly because of the National Operational Team's inaction. Measures to strengthen the capacity of operators for the prevention of extremism at local level had a limited impact and lacked local ownership. Their local risk assessment tool needs to be developed and implemented. Montenegro continued its good cooperation with Europol

in this area. In 2022, the number of messages exchanged with foreign counterterrorism units through Europol's SIENA communication link rose to 342 (from 203 in 2021).

The problem of foreign terrorist fighters is limited in Montenegro. However, 14 foreign terrorist fighters are reported to be still in conflict zones, while ten had returned to Montenegro before 2016. No one is currently in detention.

Montenegro's threat assessment still needs to be conducted in a more analytical and inclusive way, to create a common understanding of the main threats and risks among stakeholders, with special attention to hybrid and cyber threats. Comprehensive programmes for risk assessment and disengagement, rehabilitation and reintegration should be further developed and implemented within the prison and probation services. Montenegro's authorities need to improve capacity to properly address the terrorist and extremist content online, increasing efforts to refer terrorist content to internet companies and empowering civil society to develop effective counter narratives.

Judicial cooperation in civil and criminal matters

Montenegro's **legal framework** is largely aligned with the EU *acquis*. Montenegro initiated legal steps to accede to the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, and to the 2000 Hague Convention on the International Protection of Adults. Montenegro has yet to become a party to the 2007 Hague Protocol on the Law applicable to Maintenance Obligations.

In 2022, 958 cases of mutual legal assistance in criminal matters were processed (2021: 843) and 594 cases in civil matters (2021: 701). The main partners remained the Western Balkan countries and the EU Member States.

A cooperation agreement with Eurojust has been in place since 2016, with a liaison prosecutor on duty since December 2017. There was a surge in Montenegro's cooperation with Eurojust in 2022. In 2022, 55 cases of judicial cooperation were opened with the support of Eurojust (2021: 17), including 42 cases initiated by Montenegro. This reflects an increasing awareness among Montenegrin prosecutors of the benefits of using Eurojust cooperation channels. However, to date Montenegro has not engaged in any joint investigation team with an EU Member State. A working arrangement with the European Public Prosecutor's Office was signed in September 2022.

Montenegro should further increase the speed and efficiency of international judicial cooperation, by increasing its use of judicial cooperation instruments, such as joint investigations teams, and a more frequent use of direct court-to-court cooperation.

Legal and irregular migration

Institutional set-up and legal alignment

Montenegro's legal framework on legal and irregular migration is largely aligned with the EU *acquis*. Montenegro joined the European Migration Network as an observer in September 2022, and appointed a national coordinator in October 2022.

Montenegro has 12 **readmission agreements** with non-EU countries. However, it has no readmission agreement with any of the main country of origin of migrants, coming to Montenegro, which would be needed to process non-voluntary returns. In November and December 2022, meetings with representatives of Pakistan, Algeria and Morocco took place to discuss the readmission by Montenegro of irregular migrants to these countries. Cooperation methods still need to be developed to facilitate the official identification of migrants by their embassies (located in Sofia and Belgrade, respectively). Montenegro also

initiated diplomatic steps for negotiating a readmission agreement with the United Arab Emirates.

Implementation and enforcement capacity

Legal labour migration to Montenegro continued to increase. Seasonal labour migrants, mainly from neighbouring Western Balkan partners, are working primarily in the tourism and construction sectors. In 2022, 29 319 temporary residence and work permits were issued, a 40% surge compared with 2021. The grey economy, however, provided room for irregular labour migration and risks of exploitation.

Montenegro still does not have a modern migrant fingerprinting identification and registration system connected to a central biometric database. Instead, migrants' fingerprints are collected using ink on paper. A master plan laying down the technical requirements for setting up a modern system to register migrants was prepared in close cooperation with Frontex. The purchase of equipment and actual set-up of the system will be supported by a EUR 15 million project funded by the Instrument for Pre-accession Assistance.

According to the Ministry of Interior, 8 519 migrants were registered after illegally crossing the border in 2022, a twofold increase compared with 2021, reflecting regional trends. Afghan nationals made up 60% of the total, followed by Iranian and Bangladeshi nationals. During the summer 2022, the army was once again called upon to support the border police at the border with Albania. In 2022, 4 920 attempts of illegal entry were prevented (2021: 4 018). This concerns situations in which irregular migrants turned back when seeing border patrols or border equipment. The border police detained 511 people (2021: 239) for illegal entry, and prosecuted 202 of them (2021: 146).

The border police detected eight cases of migrant smuggling, leading to the arrest of nine people. In 2022, five indictments were brought in relation to migrant smuggling combined with organised crime, but no conviction was pronounced. A new unit for the fight against human smuggling and cross-border crime was created in the border police. Some 78 migrants were detained in the detention centre for foreigners in Spuž (2021: 83), including 19 migrants from Serbia and 12 from Kosovo*. This centre currently does not provide access to health services on the spot; detainees are taken to a medical centre in case of need.

The EU-Montenegro readmission agreement and its 15 implementing protocols with EU Member States continued to be implemented satisfactorily.

Reintegration plans for Montenegrin returnees were drawn up upon their return to Montenegro. An inter-ministerial team was created to support reintegration. This team is made up of representatives of the Ministries of Interior Affairs, Finance, Social Welfare, Education, Health, Employment and Labour, and of the International Organization for Migration and the Red Cross. The capacity of local teams to ensure readmission and reintegration was strengthened. A new reception space for Montenegrin returnees under the readmission procedure was created at the Podgorica airport, to conduct interviews with returnees upon their arrival.

Readmission from Montenegro to neighbouring countries fell to 33 people in 2022 (from 60 in 2021); readmissions from Western Balkan partners to Montenegro also dropped to 71 (from 104 in 2021), reflecting a higher mobility on the migratory road. In 2022, 37 voluntary returns were processed (2021: 36). The border police processed 25 returns to neighbouring

* 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.

countries and the International Organization for Migration processed 12 returns to countries of origin.

Montenegro must continue its efforts to cope with migratory pressure, by developing its international cooperation on readmission, increasing its capacity to prosecute migrant smuggling networks, and setting up a modern migrant data collection system including biometric data.

Asylum

Institutional set-up and legal alignment

Montenegro's legal framework on asylum is largely aligned with the EU *acquis*. During the reporting period, the capacity of the asylum system was strengthened and a substantial State budget allocation was earmarked to expand reception capacity. The fruitful cooperation with the EU Agency for Asylum, within the cooperation roadmap, continued to strengthen the institutional capacity of the Directorate for Asylum and the overall asylum system of Montenegro in line with the Common European Asylum System. With the support of the EU Agency for Asylum, a new unit dealing with country-of-origin information was created, training modules were developed, and standard operating procedures were drafted to harmonise and systematise the procedures. A contingency plan, elaborated with the support of the EUAA is yet to be adopted, to ensure better preparedness for sudden influx and emergency situations.

Implementation and enforcement capacity

The asylum application in Montenegro is a two-step procedure, under which applicants first register an intention to request asylum with the border police and then have 15 days to lodge an asylum request with the Directorate for Asylum.

In 2022, the number of people registering an intention to request asylum increased by 150% compared with 2021 and reached 8 320 people, reflecting the upward trend in irregular entries. Afghan nationals represented 62% of them. Registration of intention to seek asylum is now possible in several municipalities, and not only in the Božaj migrant centre, close to the Albanian border. However, it is still not possible in all municipalities, border crossing points and airports. Migrants arriving to locations where it is not possible to register an intention to request asylum need to travel to Božaj to register their intention. The opening hours of the border police in Božaj were extended, to enable registration of intention to seek asylum throughout the day.

However, only 175 people, or 2.1% of those who registered an intention to request asylum, eventually lodged an asylum application, while the others absconded and continued their migratory movements. In 2022, for the first time ever, Russian nationals represented the largest group of asylum seekers in Montenegro, with 72 applicants. The profile of asylum seekers also changed compared with 2021: 18% of them were accompanied children and 29% were women. Legal counselling provided by NGOs is available to asylum seekers. The Directorate for Asylum processed 80 asylum requests in 2022. In 2022, nine asylum seekers received an international protection status (2021: 14). The main countries of origin were the Russian Federation, Cuba, China, Ukraine and Afghanistan.

Montenegro's Directorate for Asylum made efforts to reduce the backlog of asylum applications. While most applications were processed at the first instance level within the 6-month regular deadline, nine cases were processed within the 21-month exceptional deadline. Fewer decisions were overturned at second instance, reflecting a better quality of the determination process. The Directorate for Asylum has only two case officers and two

country-of-origin information officers. Yet it handles asylum applications coming from 24 different countries and five continents, including an increasing number of complex cases, where the applicant is the subject of an extradition request from their country.

The assistance package for people under international protection includes financial assistance, access to healthcare, education, employment, free legal aid, language courses and psychosocial assistance. Accommodation is provided for two years (with the support of the UN Refugee Agency). Asylum seekers and people under international and temporary protection have the right to open a bank account. However, most Montenegrin banks refuse this, which creates serious difficulties in accessing employment and even in receiving financial assistance from the state.

The number of migrants accommodated in the country's reception centres surged to 6 022 in 2022 (from 2 688 in 2021), mainly for short stays of one week. Some 7% of the migrants accommodated were women and 6% were children. Montenegro has two reception centres, with a total capacity of 164 beds, of which 60 beds are in a temporary container settlement in Božaj. Their average occupancy rate throughout the year is 30%, but it reaches peaks in spring and summer. A centre for unaccompanied children has 25 additional beds, but it is not devoted exclusively to migrant children. Montenegro is the only country in the Western Balkans that pays the running costs of the reception centres out of its state budget. Provision of health services and psychological assistance in the centres is ensured, but partly provided by NGOs and financed by international donors. New posts of managers of migrant centres were created and filled during the reporting period.

The EU allocated EUR 400 000 of financial assistance to Montenegro to build a fully-fledged migrant centre in Božaj, but Montenegro failed to prepare the tendering documentation on time, before the deadline for contracting in 2022, and the construction did not take place. In the meantime, EUR 645 000 was allocated from Montenegro's state budget to increase and refurbish the existing reception centres.

Montenegro is the Western Balkan partner hosting the highest number of Ukrainian nationals having fled Russia's war of aggression, both in absolute figures and proportionally to its population (1%). By the end of March 2023, 7 857 Ukrainian nationals had been granted temporary protection (70% of whom were women). On 15 February 2023, the Decision on granting temporary protection to people fleeing Ukraine of March 2022 was amended to prolong the temporary protection for people having fled the war until March 2024, in compliance with the Council Implementing Decision. The categories eligible for temporary protection in Montenegro include citizens of Ukraine, stateless persons with last residence in Ukraine, and people granted international protection in Ukraine. The amendments also simplified the application procedure. However, the temporary protection was not prolonged automatically and a request for prolongation had to be submitted before the expiry date. A total of 4 264 people prolonged their status, and 1 052 new applications were submitted after the deadline, bringing the number of people benefiting from temporary protection to 5 316 in June 2023 (including 3 226 women). In addition, 2 350 Ukrainians stay legally in Montenegro under the Law on foreigners.

An inter-ministerial coordinating body was set up between the Ministries of Interior, Labour, Health, Education, Finance and Foreign Affairs, the Consulate of Ukraine, the International Organization for Migration, the UN Refugee Agency and the Red Cross to coordinate support and integration measures for Ukrainian displaced persons.

Montenegro granted displaced persons fleeing Russia's war of aggression against Ukraine access to health services and accommodation to an extent that went beyond the minimum EU

standards. Some 104 Ukrainian displaced persons received free-of-charge accommodation in hotels, including meals and other services; 27 were hosted in a migrant centre. Around 2 500 medical services were delivered. However, in doing so, Montenegro relied largely on ad hoc and emergency solutions, which were not embedded in the state social system and at times faced practical implementation problems. Several sectoral laws still need to be aligned with the Asylum Law to ensure that people under temporary and international protection can exercise their social rights. Access to education is granted by law, but the number of Ukrainian children enrolled in Montenegrin schools remains low (151 children out of 1 114 children of school age). Administrative barriers hinder access to health and employment due to the absence of a personal identification number compatible with the social, health insurance and employment IT systems of the state.

Visa policy

In order to align national legislation with the EU *acquis*, Montenegro introduced visa requirements for residents of the United Arab Emirates as well as for Cuban and Ecuadorian nationals (in January, April and May 2023, respectively) who previously benefited from visa-free entry to Montenegro. However, there are 12 countries which are visa free for Montenegro, but not for the EU, of which seven enjoy permanent visa exemption (Azerbaijan, Belarus, China, Kuwait, Qatar, Russia, Türkiye) and five have a seasonal visa waiver to enter Montenegro for touristic reasons between April and October (Armenia, Egypt, Kazakhstan, Saudi Arabia, Uzbekistan). The decision on seasonal visa waivers, adopted by the government in April 2023, includes preventive measures against the risk of abuse of the visa-free regime, such as the need to be part of an organised tourist group, to fly in and out the territory of Montenegro by direct charter flights, and to have a paid tourist arrangement or an invitation letter from a Montenegrin tourist agency. Belarusian and Russian nationals are visa-exempted up to 30 days on a permanent basis, as well as Chinese nationals if they are in organised tourist groups.

The investor citizenship scheme was terminated at the end of 2022. Between January 2019 and December 2022, 556 applications were lodged (556 applicants and 1 281 family members). By 15 June 2023, the government had issued 954 positive decisions (293 applicants and 661 family members). On 15 June 2023, 398 applications were still pending. The remaining pending applications need to be checked properly to ensure that they fully comply with all EU restrictive measures. The screening of the source of related funds was carried out by external service providers.

The Sixth report under the Visa Suspension Mechanism⁴, adopted in October 2023, concluded that Montenegro continued to take action to address the recommendations from the previous year's report. However, further progress is needed on the alignment of Montenegro's visa policy with the EU's list of visa-required countries, in particular as regards countries presenting irregular migration or security risks to the EU. The report also recommends Montenegro to ensure that pending applications under the recently terminated investor citizenship scheme are screened and processed in accordance with the highest possible security standards. In this regard, in May 2023 the government adopted a decision on forming a Coordinating Body to monitor and implement the pending applications within this scheme.

⁴ COM(2023) 730

Schengen and external borders

Institutional set-up and legal alignment

Montenegro's legal framework is largely aligned with the EU *acquis* in this area. Montenegro and the EU signed a new status agreement on 16 May 2023. The new agreement enables European Border and Coast Guard Agency (Frontex) deployments anywhere on the territory of Montenegro, at the request of Montenegro's authorities. The two joint operations being conducted on the basis of the current status agreement continue to be implemented: the deployment of Standing Corps officers with executive powers at Debeli Brijeg, a border crossing point with Croatia; and a joint maritime operation to strengthen blue borders' surveillance in the Adriatic. In addition, on the basis of a working arrangement between the Montenegrin border police and Frontex, Standing Corps officers are deployed with an advisory role (without executive powers) under Joint Operation Coordination Points. Montenegro also regularly participates in EMPACT operational activities, including Joint Action Days.

The good cooperation with Frontex further strengthened the capacity of Montenegro's Coordination Centre. Electronic sea surveillance enables real-time online image transmission to Montenegro's Coordinating Centre and Frontex Coordinating Centre in Warsaw, a key mechanism for border control in the Adriatic Sea and quick interception of suspicious vessels. The internal organisation of Montenegro's Coordination Centre was further developed and a number of vehicles and patrol boats were acquired, increasing the Centre's operational capacity. However, full coverage of critical areas is not ensured yet. A total of 11 border crossing points are now connected to this Centre, while two have yet to be connected.

A total of 168 new posts were created in the border police, bringing the total number of posts to 1 540 (a 14% rise) in order to start addressing the requirements of the Schengen action plan. However, 450 more posts need to be created. The new posts strengthen in particular local border police stations. Further to the adoption, in September 2022, of the Law on the processing of data on passengers in air transport, a new unit was created in the police to deal with passenger information issues. An operational advanced passenger information system has yet to be set up.

Implementation and enforcement capacity

In 2022, Montenegro conducted 500 joint border patrols with neighbouring countries (2021: 437; 2020: 723), including 218 joint patrols on the border with Albania (2021: 341). The activity of the joint police cooperation centres increased, with a higher volume of information exchanged. A total of 87 forged documents were seized.

Montenegro continued to implement its strategy on integrated border management and its Schengen action plan. Border management equipment continued to be progressively upgraded in accordance with the Schengen action plan, but reliance on EU and other donors' support remained high. The border police still lacks a proper IT tool to monitor the purchase of equipment, to set priorities and draw up a purchase plan, linked with the Schengen action plan. Its insufficient autonomy in criminal investigations continues to hamper the development of its analytical capacity and intelligence on smuggling networks. A new EUR 15 million sector budget support programme on integrated border management funded by the Instrument for Pre-accession Assistance is expected to start in 2023.

Montenegro continued to cooperate actively with Interpol, Europol and EU Member States, notably: (i) under the regional Anti-Smuggling Operational Partnership between the EU and the Western Balkans launched in November 2022; (ii) with Europol's European Migrant

Smuggling Centre; (iii) on EMPACT and its operational action plan on migrant smuggling; and (iv) in the Frontex Western Balkans Risk Analysis Network. In 2023, Montenegro expressed its willingness to participate in 18 (out of a total of 28) operational actions of the 2023 EMPACT operational action plan on migrant smuggling.

Montenegro continued to develop its cooperation with neighbouring Western Balkan partners under bilateral border traffic agreements. In October 2022, the Parliament adopted amendments to the bilateral agreement with Bosnia and Herzegovina on border crossing points for border traffic, to simplify cross-border procedures for inhabitants of cross-border areas. Montenegro still needs to demolish 15 alternative roads to Serbia and 13 roads to Bosnia and Herzegovina.

2.3. ECONOMIC CRITERIA

<i>Table 2.1:</i>	2014-19	2020	2021	2022
Montenegro - Key economic figures	average			
GDP per capita (% of EU-27 in PPS) ¹⁾	46	45	48	50
Real GDP growth	3.7	-15.3	13.0	6.1
Economic activity rate of the population aged 15-64 (%) , total	63.7	61.5	59.2	67.7
<i>female</i>	57.0	54.7	52.9	61.4
<i>male</i>	70.4	68.3	65.5	73.9
Unemployment rate of the population aged 15-64 (%) , total	16.9	18.3	16.8	15.0
<i>female</i>	17.0	18.8	16.1	13.1
<i>male</i>	16.8	17.8	17.3	16.6
Employment of the population aged 15-64 (annual growth %)	2.9	-10.1	-2.4	17.2
Nominal wages (annual growth %)	1.1	1.3	1.4	11.2
Consumer price index (annual growth %)	1.2	-0.8	2.5	11.9
Exchange rate against EUR	1.0	1.0	1.0	1.0
Current account balance (% of GDP)	-14.5	-26.1	-9.2	-13.2
Net foreign direct investment, FDI (% of GDP)	10.2	11.2	11.7	13.5
General government balance (% of GDP)	-4.3	-11.1	-1.9	-5.2
General government debt (% of GDP)	66.2	105.3	82.5	69.5

Notes:

1) Eurostat

Source: national sources

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

2.3.1. The existence of a functioning market economy

Montenegro has made **limited progress** and is **moderately prepared** in developing a functioning market economy. Economic expansion continued at a strong pace in 2022, supported by private consumption and strong growth in tourism, partially due to a large influx of Russian and Ukrainian nationals following Russia's war of aggression against Ukraine. The main headwind came from inflationary pressures on the back of higher global commodity prices. The current account deficit increased as both exports and imports expanded rapidly. An expansionary fiscal policy fueled domestic demand and contributed to very high net wage growth. The budget deficit increased significantly and a comprehensive medium-term consolidation plan to address mounting fiscal challenges has not been

developed. The labour market situation improved, but structural problems persist, including large regional disparities and gender gaps, and high youth and long-term unemployment. The banking sector remained well capitalised and liquid. Efforts to improve the business environment and the governance of state-owned enterprises (SOEs) slowed down due to political uncertainty, even though the number of new businesses increased.

Last year's recommendations were addressed to a limited extent and remain mostly valid. In the coming year, in order to improve the functioning of the market economy, Montenegro should in particular:

- design and implement a medium-term fiscal consolidation plan targeting the achievement of a non-negative primary balance from 2025, and a reduction of the public debt ratio in the medium term;
- implement the Law on budget and fiscal responsibility to set up a fiscal council, while ensuring full transparency in selecting the council members;
- prepare an analysis of the economic and fiscal impact of current tax exemptions and provide specific budgetary recommendations to reduce tax expenditure such as exemptions, deductions, credits and deferrals;
- prepare a roadmap for reforming SOEs, prepare a framework for the monitoring and management of SOEs, and develop objective criteria for the selection of management bodies of SOEs;
- develop and implement specific measures to reduce the informal economy.

Economic governance

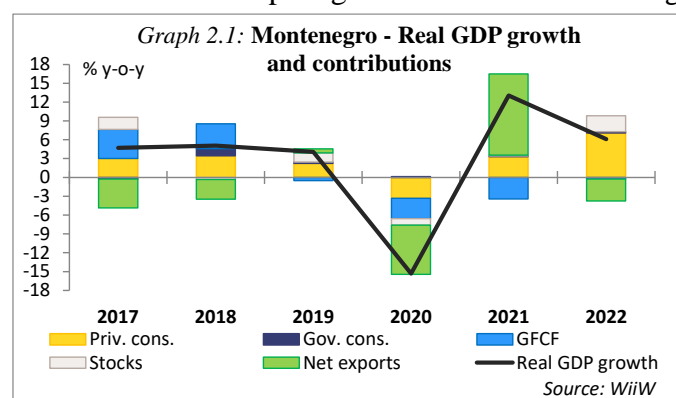
An unstable political situation led to lax fiscal policy and a slowdown in structural reforms. In August 2022, the incumbent government lost a vote of no confidence. The ensuing caretaker government was not in a position to advance priority reforms to address economic challenges. The reforms of SOEs were downscaled. The caretaker government did not adopt a medium-term fiscal consolidation strategy to address vulnerabilities in the light of forthcoming large debt repayments. By reducing taxes on basic consumption goods and fuels, the government tried to contain inflationary pressures and protect the most vulnerable. The caretaker government adopted several revenue strengthening measures in early 2023 and revised the 2023 budget in May. The controversial economic citizenship programme, which supported public revenue but clashed with the country's EU commitments, expired at the end of 2022. However, numerous pending applications were still processed well into 2023.

The policy guidance set out in the conclusions of the Economic and Financial Dialogue of May 2022 was implemented to a limited extent. Progress was made in setting up an independent body for fiscal oversight and strengthening financial stability, but only limited improvement was achieved on structural reforms aiming to address informality and improve the business environment and the labour market situation.

Macroeconomic stability

Economic expansion continued at a strong pace in 2022 despite slowing investment. Overall, real GDP grew by an estimated 6.1% in 2022 and the first quarter of 2023, following a 13% rebound in 2021 from the deep COVID-19-induced recession. The strong economic growth in 2022 was mainly driven by a surge in private consumption, on the back of increases in disposable income, employment, household lending, and remittances. Private consumption was also supported by Ukrainian and Russian nationals taking up temporary

residence. While export growth benefited from ongoing recovery in tourism as well as good

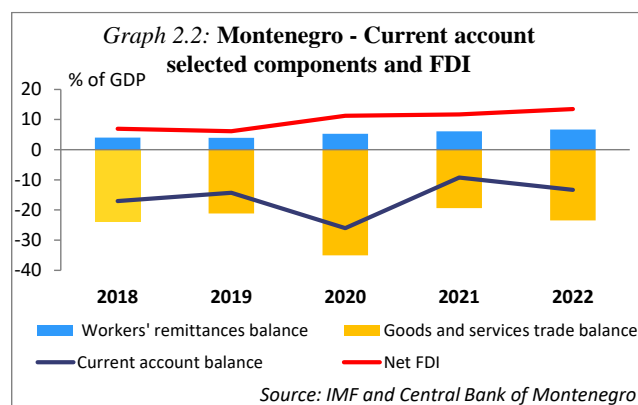


performance of merchandise exports, a strong surge in imports led to a negative contribution of net exports to growth. Capital investment remained weak and contracted due to a slowdown in private investment. Overall, the rebound of the economy brought Montenegro's per-capita income in purchasing power standards to 50% of the EU-27 average in 2022 (the highest in the Western Balkans),

up from 45% in 2020, bringing it back to the level registered in 2019.

Despite the strong export performance, the current account deficit widened in 2022.

Following a record low in 2021, the current account deficit widened again to 13.3% of GDP in 2022, as high growth of exports of goods and services was outweighed by rapidly rising imports due to price effects. Supported by good performance of aluminium and electricity, merchandise exports increased by 60% compared with 2021, while a successful tourism season led to a strong increase in exports of services (43%). However, goods imports, which are much larger than exports, also surged (by 41.3%), and the overall trade deficit rose to 23.4% of GDP, compared with 19.4% in 2021. This was partially offset by surpluses in the primary and secondary income accounts, which increased due to higher compensations of employees working abroad and higher remittances. The current account deficit was fully



financed by net foreign direct investment (FDI) inflows, which increased by 34.6% year on year and amounted to 13.5% of GDP, with a large share going into real estate. In early 2023, international reserves stood at EUR 1.9 billion, covering 4 months of imports of goods and services. The current account deficit deepened in the first quarter of 2023 to 14% of GDP in annualised terms, compared to 9.3% of GDP gap registered a year before. Net FDI declined slightly

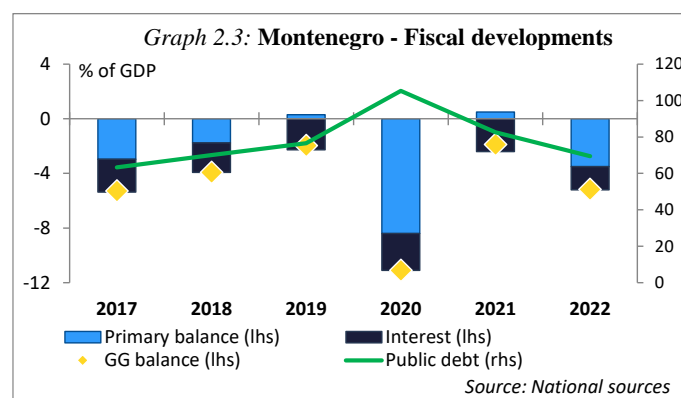
to 12.2% of GDP compared to 12.9% over the same period.

Impacted by price rises following Russia's war of aggression against Ukraine, inflation peaked at a record high level in 2022. Driven by global inflationary pressures, especially on food and fuel, as well as large domestic policy-induced wage increases, average inflation jumped to 13% in 2022. Annual inflation peaked at 17.5% in November 2022 and eased to 6.9% in July 2023. The government adopted numerous and not always well-targeted support measures for households and firms to counterbalance the impact of higher inflation, including reduced value added tax rates for basic foodstuffs and a lower excise duty on sales of unleaded gasoline and gas oils. Based on regular and extraordinary adjustment to inflation, the government decided to raise pensions by 8.5% from June onwards.

The budget deficit increased substantially in 2022. The general government deficit increased significantly, to 5.2% of GDP, from 1.9% in 2021. Total revenues dropped markedly, by 4.5% of GDP, mainly due to the government's tax reform, which abolished

mandatory health contributions and introduced a non-taxable part of wage income. Revenues were also weakened by the temporary reduction of excise taxes on fuel and the reduction of VAT rates on basic foodstuffs and pellets. Public expenditure increased due to ad hoc spending decisions, such as the granting of additional allowances for all children and for mothers of three and more children; large increases in minimum pensions; wage increases in the public sector; and additional financing for the health insurance fund. Nevertheless, the 2022 budget outcome was better than envisaged in the October amendment to the Budget Law, which targeted a deficit of 8.3% of GDP. This was due to a combination of higher-than-projected revenue, mainly from VAT; and lower-than-expected spending, mainly on investment and on wages as there were delays in planned employment. Nominal GDP was also higher than previously projected. At the end of December 2022, the Parliament of Montenegro adopted the 2023 Budget Law with a projected deficit of 5.9% of GDP. In May 2023, however, the 2023 deficit target was revised to 3% (which would be in line with the rule on fiscal responsibility) as a result of higher assumed revenues (due to the EU energy support package, higher-than-expected inflation, and improved tax discipline) and some additional spending items related to early parliamentary elections and employment subsidies for people with a disability.

The debt ratio recorded a substantial decline, but vulnerabilities remain high in view of large upcoming repayment needs amid tightening financing conditions. The public debt stock declined substantially, to 69.5% of GDP at the end of 2022 after peaking at 105% of



GDP at the end of 2020. This large fall was driven by strong GDP growth in 2021-2022 and the use of government deposits to repay maturing debt. As a result, the stock of government deposits declined to 1.9% of GDP at the end of 2022, down from 9.4% in 2021. Large repayments of public debt, amounting to 11% of GDP, are due in 2025 and will require substantial new borrowing. With global financing conditions worsening,

debt-related vulnerabilities remain high.

While Montenegro's macroeconomic policy mix is constrained by the lack of an autonomous monetary policy, an expansionary fiscal policy contributed to widening budget and current account deficits and surging inflation. As the unilateral use of the euro means that the Central Bank of Montenegro cannot influence interest rates and money supply, prudent fiscal policy remains a key tool to manage the economic cycle. While global commodity prices had a substantial impact, higher wages and pensions added to rapidly rising inflation. Even though inflation is gradually abating, debt-related vulnerabilities, including large debt repayments in 2024-2027, require careful fiscal management in the years to come. Vulnerabilities in the health sector require a close monitoring.

Functioning of product markets

Business environment

A growing number of registered businesses was supported by the improving economic outlook and the influx of foreign citizens. Although electronic registration is still only available for single-member limited liability companies, but not for larger firms, the number of businesses had increased by 11.8% to 73 358 by the end of 2022. The number of newly

registered businesses reached 10 096 in 2022, compared with 5 559 in 2021. Around 80% of new companies were set up by foreign citizens. Following the adoption of a scheme to attract digital nomads in July 2022, the Parliament amended the Law on foreigners, which regulates the stay of digital nomads, as part of the broader efforts to attract foreign teleworkers to Montenegro.

Efforts to improve the regulatory business environment decelerated. The dynamic development of local companies and foreign investors' activities is hindered by weaknesses in the regulatory environment, such as inefficiencies and delays in dealings with the administration, excessive complexity of the legal framework, and the administrative burden of local taxation and parafiscal charges. Further obstacles are related to insufficient transparency in decision-making, arbitrary interpretation and law enforcement by public authorities, and access to finance for SMEs. Systematic involvement of business partners in designing and drafting measures that affect businesses remains the focus of the Competitiveness Council, but in 2022, the level of activity declined due to the political stalemate and uncertainty. The standstill in the decision-making of public administration also played a part in the slowdown in digital transformation reforms, which already suffered from a series of large-scale cyberattacks on the state's IT infrastructure in the second half of 2022. Due to the cyberattacks, the single online portal for SME support, which provides all necessary information and contacts regarding advice and assistance for businesses, has been disabled since August 2022, and its update is ongoing. At the end of 2022, 382 services were available on the eGovernment Portal, of which 73 were electronic, 254 for businesses, 109 for citizens, and the rest for the public administration.

The government is yet to develop specific reform measures to reduce the informal economy, which is a major obstacle to Montenegro's competitiveness. Deficiencies in the institutional and regulatory environment, weaknesses in the labour market, insufficient enforcement capacity of public authorities, corruption and tax non-compliance are conducive to informality, which is especially harmful to legally operating SMEs and microenterprises in the service sector. In July 2022, the Ministry of Finance published the results of a survey on informality, estimating the size of the informal economy at 20.6% of GDP, considering businesses and employees working in the formal sector. However, this estimate increases to 37.5% of GDP when including the fully informal sector. The government has yet to act on the survey's recommendations. The adoption of a comprehensive action plan on informality was postponed again, to the end of 2023.

State influence on product markets

While the most recent tax measures aimed to contain price increases, a broader issue relates to ensuring transparency and efficiency of State aid in Montenegro. The government reduced excise duties on the sale of unleaded fuel and gas oils by 50% in June 2022. When global oil prices stabilised, this reduction was revised, and finally abolished. The decision to reduce the VAT rate on the sale and import of basic foodstuffs (flour, sunflower oil, and salt) expired at the end of 2022, while the decision to reduce the VAT rate on bread (to 0%) and heating pellets (from 21% to 7%) is valid until the end of 2023. In March 2023, the government launched a 'Stop Inflation' programme in cooperation with the country's largest supermarket chains, in an effort to address the problem of surging staple food prices and to lower inflation expectations. The Agency for Protection of Competition (APC) carried out fewer State aid investigations in 2022 than in 2021. In August 2022, the APC issued a third decision ordering further recovery of illegal State aid to the major State aid beneficiary, Montenegro Airlines. The responsible Ministry of Capital Investments is still to adopt a plan and take action to recover the funds. In January 2023, EPCG, a state-owned national electric

power company, notified the APC of the purchase of the troubled steel producer Niksic, only after the contract was signed in late 2022. The APC has not yet published any opinion or decision concerning this case.

Privatisation and restructuring

Advancing reforms and privatisation of SOEs and improving their governance and profitability remain a challenge. The caretaker government stepped back from previous plans to formulate the state's ownership strategy and set out a portfolio of key companies that should remain in state possession, and improve SOEs' management practices and financial performance. As there was no political agreement on the direction and scope of such reforms, the government also stepped back from its plans for a holding company to manage and reform SOEs and limited the scope of its 2022 measures to set up a small unit in the Ministry of Finance to monitor fiscal risks related to SOEs. The performance of Montenegro's SOEs, including those at the local level, could be enhanced by transforming SOEs' management structures, eliminating political patronage and improve financial performance to reduce fiscal risks. Privatisation did not make much progress, as the government decided to increase the state capital in some SOEs, with the revised 2022 budget earmarking EUR 25 million for this purpose for the health institute of Simo Milosevic in Herceg Novi, the Meljine hospital, and wine producer Plantaze. The government also increased its ownership in the port of Bar to ensure a two-third majority in the managing board. In December 2022, the government decided to reintegrate the bankrupt (privatised) Meljine hospital into the public health system until the ongoing court proceedings are finalised. The government is yet to decide on the restructuring of wine producer Plantaze's tax debt. In February 2023, the government assigned the operation of the only ferry line crossing the Boka bay to the public company for coastal zone management (Morsko dobro), in an apparent violation of public procurement rules and transparency. At the same time, the government annulled its 2019 decision assigning the management of the ferry line in the Boka bay to a local private company (Maritime transport).

Functioning of the financial market

Financial stability

The banking system remains stable and liquid, but the quality of banks' balance sheets needs close monitoring in a rising interest rate environment. Despite the expiry of pandemic-related support measures, the banking system maintained strong capital and liquidity buffers, both of which exceeded pre-COVID-19 levels. However, risks remain to be closely monitored, in particular in view of recent strong credit growth and rising global interest rates. The capital adequacy ratio stood at 19.3% in late 2022, well above the statutory minimum of 10%. Banks continued to fund themselves mainly through domestic deposits. Non-performing loans made up 5.7% of total loans at the end of 2022, down from 6.2% in 2021. The banking system recorded a significant profit of EUR 83.3 million at the end of 2022, compared with EUR 27.5 million 1 year earlier.

Access to finance

Credit activity continued to grow, supporting the corporate sector in particular. Annual loan growth decelerated slightly to 6.1% in 2022, from 6.6% in 2021, before recovering to over 10% in January-February 2023. The main driver was lending to businesses and households (rising by 9% and 6.7% year on year, respectively) throughout the whole period, while there was a rapid increase in inter-bank lending in early 2023. Loans to the public sector have been declining since the beginning of 2022. The recovery of the economy was reflected in a very fast increase in banks' deposits, whose growth rate accelerated from 12.8%

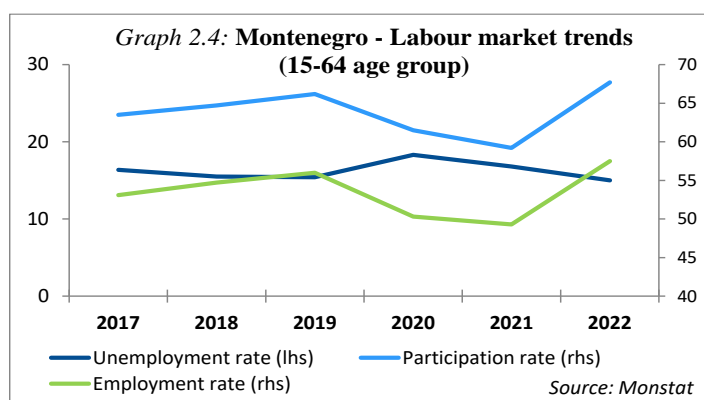
year on year in 2021 to 23.3% in 2022 and continued to expand at over 20% year on year in the first 2 months of 2023. Non-resident deposits accounted for around one fourth of all deposits during this period. Borrowing costs increased with the nominal weighted averaged lending rate reaching 5.3% in early 2023, compared with 4.3% at the end of 2021.

The size of the non-bank financial sector remains very limited. Microfinance is the most commonly used source of alternative finance, with the sector's assets accounting for some 1.3% of GDP in 2022. The role of insurance in the local economy is also limited as their assets declined slightly to 1.8% of GDP in 2022.

Functioning of the labour market

With the economic recovery, labour market indicators also continued to improve and surpassed pre-crisis levels, but structural challenges remain.

According to the labour force survey (LFS), the average unemployment rate declined to 15% in 2022, down from 16.8% in 2021. The number of employed rose by 18.2% and the average employment rate stood at 57.5%. Despite these improvements, the 2022 LFS results once again confirmed large regional disparities, with the unemployment rate standing



at 5.6% in the tourism-heavy coastal region, at 9.3% in the central region, and at 31.6% in the poorer northern region. The gender gap widened after the pandemic, but the unemployment rate of women (aged 15-64) declined faster (by 2.3 percentage points) than that of men in 2022, while women's activity rate (61.4%) remained significantly below that of men (73.9%). Remaining major structural challenges are youth unemployment, standing at 29.4% for the population aged 15-24, and long-term unemployment, as 75.6% of all unemployed have been looking for a job for more than 12 months. Despite ongoing reform efforts, the public employment service's capacity for job mediation remains weak and lacks a continuous monitoring of active labour market policies, which in turn prevents the design of quality, targeted and effective employment activation measures. The Employment Agency of Montenegro's reform and readiness remain key challenges and are important for not only implementing the Youth Guarantee, but also for ensuring a healthy, well-functioning labour market in the long term. The average gross wage increased by 11% in nominal terms to EUR 883, while the average net wage rose by nearly 34% to EUR 793 in 2022, supported by a large decline in the labour tax wedge.

2.3.2. The capacity to cope with competitive pressure and market forces within the EU

Montenegro has made **limited progress** and is **moderately prepared** to cope with competitive pressure and market forces in the EU. The education system still faces numerous challenges, as shown by the results of international tests. Although public financing of research and development remains modest, some progress was made in attracting private investors. Efforts to advance a green and digital transition have continued, but large infrastructure gaps persist. The administrative and financial capacity to identify, prioritise and implement major public investments remains limited, hampering the use of EU support. Despite some progress in the metallurgy sector and the good performance of tourism, further efforts are needed to diversify Montenegro's narrow production base. The low value added of

domestic products, the small size of local companies, and their low level of participation in exports represent obstacles to increasing the productivity and competitiveness of local firms.

The 2022 recommendations were implemented to a limited extent and remain mostly valid. In the coming year, Montenegro should in particular:

- continue implementing digital services for micro, small and medium-sized enterprises and prioritise the development and implementation of an interactive e-government platform for transactional electronic services;
- improve programmes for dual vocational education and training and tertiary education in close cooperation with business associations;
- improve the institutional and regulatory environment for the green transition and increase energy resilience by adopting the national energy and climate plan and completing the implementation of the national energy action plan;
- implement the public investment management assessment recommendations, prioritising key public infrastructure works within the available fiscal space while avoiding exceptions regarding project selection.

Education and innovation

The quality of education needs further improvements. A comprehensive 2015-2020 education sector analysis (ESA) was presented in November 2022, focusing on early childhood, primary and secondary education. It underlined a low level of education quality (based on the results of the Programme for International Student Assessment and the Trends in International Mathematics and Science Study) both in the fourth grade of primary school and in the first year of upper-secondary education. An additional concern relates to the distribution of scores, as in both tests, more than 40% of students are below the level of the international benchmark for 'low performance', i.e. not reaching the minimum levels of competency, while only a negligible share of students had high achievements (less than 2%, compared with around 10% on average in OECD countries and 20% or more in the best-performing countries). The ESA underlines the need to provide more appropriate school infrastructure (70% of children attend primary schools with insufficient infrastructure) and improve the curriculum, the qualifications of teachers, the quality of teaching, enrolment rates, and the provision of support to the most vulnerable groups. A mismatch of skills remains a significant challenge, particularly for graduates of vocational education and training or higher education, despite some recent efforts to improve the transition from education and training to the labour market. Although tertiary educational attainment is still lower than the EU average, the labour market cannot absorb the numbers of tertiary graduates in certain areas, such as business and humanities. The OECD's report on labour migration in the Western Balkans found that in Montenegro, 28% of respondents disagree with the claim that skills learned in the education system meet the needs of their job, and 51% of surveyed firms identify applicants' lack of skills as a reason for unfilled vacancies.

Public and private investment in research, development and innovation is low. In the European Innovation Scoreboard for 2023, Montenegro has a summary innovation index of 47% relative to the EU's 100%, which is below the average of the 'emerging innovators' (50.0%). While the country's index has been improving, the performance gap with the EU has widened. The links between academia, research institutes and business are still weak. Only 2.2% of Montenegrin micro, small and medium-sized enterprises invest in research and development, compared with 22% at regional level. Research staff are employed almost exclusively by the government or in the higher education sector. With a rate of 0.36% of

GDP invested in research and development, Montenegro's spending was just over one sixth of the EU-28 average (2.18% of GDP) in 2019. In parallel with strengthening its capacity, the Innovation Fund continued to administer a collaborative grants programme and an innovation voucher scheme to encourage cooperation between private-sector and research institutions in developing innovative projects and products. As a result, private sector investment in innovation projects exceeded EUR 1 million in 2022. Innovation and Entrepreneurship Center Tehnopolis Nikšić continued to help start-ups through seven support programmes, and in parallel worked on strengthening cooperation with local universities. A 5-year strategic plan for the newly set up Science and Technology Park Montenegro was developed and a public call for tenants is under preparation.

Physical capital and quality of infrastructure

Productivity-enhancing investment remains low. In 2022, the share of gross fixed capital formation in GDP declined slightly to 21.7%. There was a slowdown in private investment, while public investment increased slightly to 5% of GDP. Net FDI rose to 13.5% of GDP, up from 11.7% in 2021, with more than one third of these inflows going into real estate, driven partly by purchases by Russian citizens.

Little progress was achieved in improving energy infrastructure. While the use of renewable energy sources is high, there is a lack of diversification of renewable sources and insufficient focus on environmental standards in energy infrastructure projects (some 43% of the electricity production in 2020 came from renewable sources, mostly hydropower and biomass). Montenegro needs to address a number of energy-related challenges, including energy efficiency. Montenegro needs to take a strategic decision on how to replace the thermal (lignite) power plant in Plevlja, which currently produces approximately 50% of Montenegro's electricity and is vital for security of supply and the stability of the country's power system but remains the main polluter. Finding an alternative solution for energy production did not progress, as any decisions in this regard are not expected until the government has adopted the national energy and climate plan in 2024. With regard to offshore exploration and production of hydrocarbons, two concession contracts signed in 2016 with Eni and Novatek were terminated in December 2022, following negative results of explorations, while the 2017 contract with Energean expired in July 2022.

Investment in digital infrastructure continued, albeit with some delay. While in the previous years, Montenegro made steady progress with digitalisation, the pace of digital transformation reforms slowed down in 2022, due to protracted political uncertainty, frequent organisational changes and a series of large-scale cyberattacks on the state's IT infrastructure in the second half of 2022, which interrupted the timeline of the digital transformation reforms. These cyberattacks spurred Montenegro's government to focus one of the new reforms on cybersecurity. The telecoms operator auctioned the 5G spectrum and awarded it to three major operators in December 2022. All three operators are obliged to activate 5G in every municipality by the end of 2024 while providing 5G coverage to 50% of population by 2026.

Modernising the transport sector requires broad action. The strategic steer for developing the sector should be revised, in line with the EU development priorities and Transport Community Treaty commitments (on sustainable and smart mobility), and move away from the current emphasis on road transport. Montenegro scores very low on connectivity. Progress on improving and modernising short sections of the road and rail networks is slow and mainly thanks to EU funding. The first section of the Bal-Boljare highway was finished in July 2022. For the completion of the entire Bal-Boljare highway, an outdated feasibility study needs to be updated, in line with the forecast traffic volumes and envisaging a

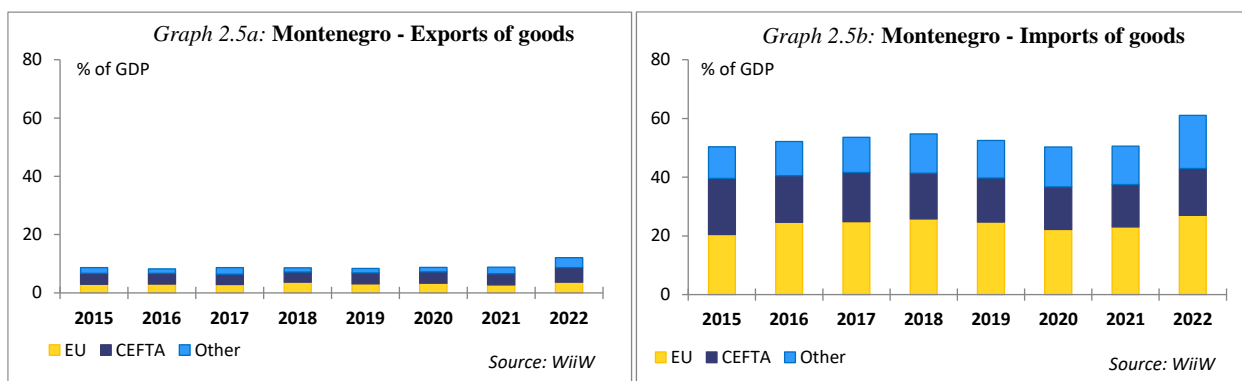
multimodal corridor, encompassing rail, road and the port of Bar. Works on upgrading the Bar-Vrbnica railway, a core network corridor, continued during the reporting period. Further action is needed to open up the rail market to competition and to complete regulatory reforms that have been neglected for years. The (currently suspended) tender for a concession to maintain and upgrade the country's two main airports in Podgorica and Tivat could help address the country's limited accessibility by air.

Sectoral and enterprise structure

The structure of the economy remains broadly unchanged, although certain adjustments are taking place within sectors. Micro, small and medium-sized enterprises constitute the backbone of the Montenegrin economy, accounting for 57.8% of total employees in 2022. They continue to be dominated by micro enterprises, accounting for 99% of all firms. Across sectors, the distribution of employment remained broadly stable in 2022, with the services sector absorbing 76.7% of total employment, while industry and construction (19%) as well as agriculture (4.3%) accounted for much lower shares. Employment in the ICT sector surged by 48% year on year in 2022, affected by the immigrant workers from Russia registering businesses in Montenegro, which coincides nevertheless with a severe drop in knowledge-intensive services exports. The share of agriculture in gross value added declined to 6.7% in 2021, compared with an average of 7.6% in the previous 10 years, while the shares of industry and construction were roughly stable at some 10% and 5%, respectively. Over the same period, the share of wholesale and retail trade increased to 14%, up from 12%. The metallurgy sector is undergoing a major transformation after the closure of aluminium smelter KAP and Nikšić steelworks due to unsustainable production costs. In December 2022, Nikšić steelworks was taken over by the state-owned electric power company EPCG, which plans to repurpose the plant for solar panel production.

Economic integration with the EU and price competitiveness

External trade surged to a record high in 2022. Montenegro's foreign trade expanded by 43.9% year on year, while bilateral trade with the EU grew by 33.7%. Overall, trade openness (the total exchange of goods and services as a share of GDP) increased significantly to 128.7% of GDP, largely surpassing pre-pandemic levels. Exports continued to be dominated by services, which at 40.6% of GDP exceeded goods exports (12.1% of GDP) by a very wide margin. The EU remains Montenegro's main trade partner, accounting for 30.3% of total exports and 44.3% of total imports of goods. CEFTA countries also constitute an important market, accounting for 41.7% of Montenegro's total exports and 26.1% of total imports of goods. The EU also remains the main source of FDI inflows for Montenegro, accounting for 33% of total FDI inflows in 2022, compared with 36.4% in 2021. Other countries with a sizeable share in Montenegro's FDI inflows include Russia and the United Arab Emirates, mainly due to active participation of investors in the controversial economic citizenship programme. Montenegro's price competitiveness was damaged by a widening inflation differential with the euro area.



2.4. PUBLIC PROCUREMENT, STATISTICS, FINANCIAL CONTROL

Chapter 5: Public procurement

EU rules ensure that the public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.

Montenegro is **in between moderate and a good level of preparation** in the area of public procurement. **Some progress** was achieved in 2022 in aligning with the EU *acquis* and in further improving the functioning of the electronic procurement system.

The recommendations from last year were partially implemented. Therefore, some remain valid. In the coming year, Montenegro should, in particular:

- focus on the effective implementation of public procurement and public-private partnership legislation;
- greatly reduce the number and value of negotiated procedures without a prior publication of contract notice;
- fully respect the public procurement rules in all cases.

Institutional set-up and legal alignment

The **legal framework** on public procurement is well aligned with the EU *acquis*. Amendments to the Law on public procurement entered into force in January 2023. Together with the related implementing acts, these amendments further aligned Montenegrin legislation with the EU legal acts in this area. In February 2023, the government adopted a report on the implementation of the 2021-2025 strategy for enhancing public procurement and public-private partnership policy in Montenegro and a corresponding action plan for 2023.

The electronic public procurement system (CEJN) is fully operational. All public procurement procedures in the country are conducted through the system. Improvements to the CEJN were announced in 2022, but were postponed to the end of 2023. These include functional connections with other electronic registers of the state (criminal records of the Ministry of Justice, records on tax obligations and on mandatory social security contributions of the Revenue and Customs Administration and records of the Agency for the Prevention of Corruption).

The tender for the concession to operate Airports of Montenegro has been suspended since 2020. For Montenegro to meet the requirements of this negotiating chapter, it is essential to

comply fully with the EU rules on and standards of fair and transparent public procurement, providing value for money, competition, and strong safeguards against corruption.

Implementation and enforcement capacity

Montenegro's **public procurement market** corresponded to 8.74% of GDP in 2022 and the value of all public procurement procedures amounted to some EUR 506 million. This was much above the values achieved in 2021, but significantly below the record level of 2020 (13.1% of GDP, EUR 545 million). The use of the CEJN helped improve the implementation of public procurement procedures in the country, with a shorter average duration of procurement procedures and an increased average number of bids per procedure (3.5) in comparison to previous years. However, the number and value of negotiated procedures without a prior publication of contract notice remains very high, at over 11% of all procurements in terms of value, conducted through the CEJN. The use of such procedures by public authorities should be exceptional, given the potential for irregularities and corruption.

In the area of **monitoring of contract award and implementation**, the Public Procurement Inspectorate carried out 266 checks, which was 11% less than in 2021, due to the reduced number of inspectors. Most checks related to contract conclusion, contract execution and implementation of simple procurements.

A regulatory and institutional framework on **integrity and conflict of interest** in public procurement is in place.

The **capacity to manage public procurement** processes improved thanks to the full implementation of e-procurement. However, the high number of small contracting authorities undermines the efficiency of procurement processes. In particular, the capacity of small municipalities to conduct more complex procurement procedures, including for EU-financed projects, remains limited.

The administrative capacity of the Directorate for Public Procurement Policy in the Ministry of Finance and Social Welfare remained stable. The Directorate systematically organises training sessions on public procurement rules and preparation courses for procurement officers. The Directorate also prepares and publishes technical instructions and expert guidance on procurement rules.

Efficient remedy system

The legislation on the **right to appeal** is in line with the EU *acquis*. Cases are handled by the Commission for the Protection of Rights in Public Procurement Procedures. The Commission is currently understaffed. There were no significant delays in treating and resolving complaints and the remedy system works efficiently.

The Commission for the Protection of Rights resolved 169 complaints in 2022. The number of complaints remained stable in comparison to the previous period, even though the number and value of procurement procedures significantly increased year-to-year. Appeals to the Administrative Court of Montenegro were filed against some 16% of the cases resolved by the Commission. The Administrative Court returned roughly half of these appeals to the Commission for reconsideration.

The Supreme Court of Montenegro carried out six extraordinary reviews of the decisions taken by the Administrative Court on procurement procedures and in five cases rejected the lawsuits as unfounded, while in one case modified the decision as regards the costs of the dispute.

Chapter 18: Statistics

EU rules require Member States to produce statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules are in place for the methodology, production and dissemination of statistical information.

Montenegro is **moderately prepared** in the area of statistics. **Limited progress** was made on last year's recommendations. Work continued on harmonising the statistical methodology with EU standards and increasing transmission of data to Eurostat. However, pending issues remain regarding insufficient financial and human resources of the Statistical Office of Montenegro (MONSTAT) and its lack of expertise in some areas; systematic cooperation and coordination of tasks between the Ministry of Finance, the Central Bank of Montenegro and MONSTAT; and transmission of some fundamental datasets such as government finance statistics, as well as financial accounts and excessive deficit procedure tables to Eurostat. The planned national population and housing census requires careful handling by the authorities, notably as concerns sensitive issues of ethnicity, religion and language.

The recommendations from the 2022 report remain valid. In the coming year, Montenegro should in particular:

- considerably strengthen the human and financial resources of MONSTAT, so that it can fully fulfil its responsibilities and retain expert staff;
- make significant progress in aligning with the European System of Accounts (ESA) 2010, including by starting to transmit to Eurostat government finance statistical data, as well as properly filled excessive deficit procedure tables;
- carry out the national population and housing census in line with EU requirements and recommendations and allocate sufficient resources to it.

The legal framework for **statistical infrastructure** is broadly in line with the European Statistics Code of Practice. MONSTAT is the main producer and overall coordinator of statistics. The number of MONSTAT employees remains low at 60% of the number of posts envisaged in the organisation chart. The Ministry of Finance has still not made new premises available to MONSTAT. This remains a serious issue, as the current building is not appropriate for a national statistical office. In 2022, MONSTAT carried out a user satisfaction survey and published the results on its official website.

On **classifications and registers**, there is high compliance in terms of implementation of the current versions of the NACE (nomenclature of economic activities), CPA (classification of products by activity), ISCO (international standard classification of occupations) and ISCED (international standard classification of education) classifications.

In the area of **macroeconomic statistics**, Montenegro improved the presentation of the gross national income (GNI) inventory, including the process tables. Compliance with national accounts according to ESA 2010 is at medium level. In the next period, MONSTAT should focus on improving estimates and updating and extending the GNI inventory. Regarding the consumer price index / harmonised index of consumer prices (HICP), the automatisisation of the data processing and dissemination process was completed. MONSTAT has successfully corrected the aggregation inconsistencies in the HICP back series. Montenegro does not produce the HICP at constant taxes and is working on its introduction, and it needs to improve the production of the house price index (HPI) and send the data to Eurostat. Montenegro sends quarterly balance of payments (BOP) and international investment position (IIP) data according to the methodology set out in the balance of payments and international investment

position manual (BPM6) to Eurostat, but it still does not send monthly balance of payments statistics and needs to improve the geographical breakdown of BOP and IIP data. Government finance statistics (GFS) were never sent to Eurostat and excessive deficit procedure (EDP) tables are sent mostly empty. Work is also ongoing on amending the Law on official statistics.

In the area of **business and trade statistics**, Montenegro is fully compliant for 7, partly compliant for 5 and non-compliant for 2 datasets of the 14 short-term business statistics (STS) datasets (relevant out of the total of 16 STS datasets). Punctuality of the transmitted datasets is good and the reasons for non-compliance are partial coverage of NACE activities and lacking adjustments. Data on quarterly business demography and services producer prices is lacking. As regards structural business statistics, Eurostat received some data in 2022 with reference year 2020. Compliance in the area is low, but there is progress compared to last year. On international trade in services, Montenegro is highly compliant, while on international trade in goods, there is medium compliance and further work is needed.

In the area of **social statistics**, the Parliament adopted the Law on the census of population, households and dwellings in December 2022. The government decided that the census should be carried out in the first part of November 2023. MONSTAT is preparing for the implementation of the census and in that sense cooperates with the Administration for Cadastre and State Property, and local authorities responsible for updating the register of spatial units.

In the area of **agriculture statistics**, the preparation of the agricultural census in accordance with the new EU legislative framework is ongoing and its implementation is planned for 2024. The population and housing census will be used to check who will need to be covered by the agricultural census.

In the area of **environmental statistics**, Montenegro is considered fully compliant on waste statistics, but it does not report data on water statistics and on environmental accounts.

Energy statistics are overall moderately compliant. MONSTAT is fully compliant with semestral statistics, but on annual statistics progress is needed especially in terms of quality, while monthly statistics are non-compliant.

Chapter 32: Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the euro against counterfeiting.

Montenegro is **moderately prepared** in the area of financial control. Overall, **limited progress** was made in implementing last year's recommendations. A new public finance management reform programme was adopted in December 2022, which means that the strategic framework for public internal financial control is now broadly in place. The reform programme contains measures on the application of managerial accountability, complementing those in the public administration reform strategy, even though their implementation is still limited. On external audit, the State Audit Institution improved its capacity to monitor the implementation of audit recommendations and continued to work for more open and transparent communication with the Parliament. Nevertheless, efforts are needed notably to further strengthen the financial management and to complete the legal framework for the fight against fraud. Last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- further operationalise the centralised budget inspection function of the Ministry of Finance, by allocating appropriate human resources;
- extend the application of managerial accountability in public administration, with increased delegation of authority in the field of financial management and internal control;
- further align its legislation with the EU *acquis* on the fight against fraud to the EU's financial interests and further strengthen the coordination capacity of the National Anti-Fraud Coordination Service, including by adopting amendments to the Criminal Code and a new national anti-fraud strategy for 2024-2027.

Public internal financial control (PIFC)

Montenegro's **strategic framework for PIFC** is broadly in place. The public administration reform (PAR) strategy for 2022-2026 is now accompanied by a new public finance management (PFM) reform programme, which was adopted in December 2022. The government adopts annual reports on the implementation of the PAR strategy and the PFM reform programme as well as on governance and internal control in the public sector.

As concerns **managerial accountability**, the new strategic framework provides a solid basis for further work, as both the PAR strategy and the PFM reform programme include development of managerial accountability as one of the key objectives. However, the application of managerial accountability in public administration remains limited, notably as concerns the delegation of authority in the field of financial management and internal control.

The legislative and operational framework for **internal control and internal audit** is in place, covering also local government entities and state-owned enterprises. A revised Law on governance and internal control is in preparation. The legislative framework is in line with international standards based on the Committee of Sponsoring Organizations of the Treadway Commission (COSO) framework. In November 2022, the government adopted implementing legislation to harmonise the internal audit system with the Decree on the organisation and manner of work of the state administration.

The legal and operational framework for **financial management control** is largely in place and in line with international standards. Further efforts are necessary to align programme-based budgeting and performance reporting with managerial accountability, as well as to upgrade risk management from operational to strategic level. The centralised budget inspection function of the Ministry of Finance needs to be substantially strengthened.

In the area of **internal audit**, there is no appropriate staffing at neither central nor local level. In 2022, the Ministry of Public Administration created a specialised internal IT audit unit carrying out IT audits in all public institutions. An internal IT audit strategy is in preparation.

The **Central Harmonisation Unit** (CHU) is responsible for developing and disseminating methodological guidance on PIFC, and for monitoring and reporting on implementation of internal financial control. Moreover, the CHU ensures quality review of financial management, internal control and internal audit activities. Its annual reports contain recommendations on how to improve the effectiveness of the internal control systems in the public sector.

At the level of PIFC, an **anti-corruption** system exists but requires further improvement. All public entities are informing the CHU on suspicions of irregularities and fraud through the reporting system. CHU keeps the register on these cases and monitors the mitigation measures and actions undertaken. However, very few bodies have reported any irregularities.

External audit

The Constitution of Montenegro and the current legal framework ensure the functional, operational and financial independence of the State Audit Institution (SAI), in line with the standards of the International Organization of Supreme Audit Institutions (INTOSAI). The SAI further improved its **institutional capacity** in terms of auditing staff. Most of its auditors (90%) are certified and have access to internal and international training. The SAI president's tenure ended in July 2022, but the Parliament has not appointed a new president yet. Also, the position of one of the five members of the SAI Senate remains vacant.

On **quality of audit work**, the SAI adopts and implements its annual audit plan based on risk assessment and on clearly stated criteria. During the reference period, it performed 38 audits. The SAI improved its performance audit capacity. It now has more sectors, it can carry out a greater number of parallel audits, and its audit staff have improved their skills by attending training programmes. The SAI carried out a self-assessment of its work by applying the international methodology for performance measurement, forming the basis for the strategic development plan of the SAI for 2023-2027, which was adopted in March 2023.

The SAI continued to increase the **impact of its audit work** by improving the process of monitoring the implementation of audit recommendations and by strengthening cooperation with key stakeholders. All SAI reports are publicly available, and in 2022, the SAI also started to publish reports on the implementation of recommendations from audit reports. During the reporting period, the SAI published 30 such reports. Furthermore, the SAI drew up a register of audit recommendations, which enables the public to monitor the status of implementation of audit recommendations. The SAI submitted all reports timely to the Parliament, which considered the SAI's annual report on performed audits and activities, including the audit of the final state budget account. However, the Parliament still does not ensure a structured follow-up of the SAI recommendations.

The **Audit Authority** increased its oversight capacity in terms of both human resources and the number of performed audits, with improvements in management, accountability and transparency in the use of EU funds. In November 2022, the government appointed a new Head of the Audit Authority, but the Authority's human resources are yet to be further strengthened as 12 positions remain vacant.

Protection of the EU's financial interests

As concerns **alignment with the EU *acquis***, amendments to the Criminal Code are yet to be adopted to fully align national legislation with the EU Directive on the fight against fraud to the EU's financial interests by means of criminal law. Supported by an EU-funded twinning project, the Anti-Fraud Coordination Service (AFCOS) improved its capacity to fight irregularities and fraud and to coordinate the AFCOS network for the protection of the EU's financial interests. A new national anti-fraud strategy for 2024-2027 with a corresponding action plan is still not in place.

Cooperation and exchange of information with the European Commission (OLAF) during investigations remains active. The cyberattack of August 2022 negatively affected direct communication with OLAF as the Irregularity Management System (IMS) was disabled. Despite this, five new irregularity cases were reported in IMS. Montenegrin authorities should continue building a track record of reporting of irregularities and of cooperation with OLAF on investigations.

Protection of the euro against counterfeiting

Montenegro's **legislation** on protecting the euro against counterfeiting is in place. The

country has the necessary **structures** for technical analysis and classification of counterfeit money, including euro banknotes and coins.

Since 2021, the Decision of the **Central Bank of Montenegro** (CBCG) on authenticity and fitness checking and recirculation of euro banknotes and coins has been fully harmonised with the relevant Decision of the European Central Bank (ECB).

Activities to protect the euro against counterfeiting in line with harmonised EU and ECB regulations and standards continued. The CBCG monitored cash handlers' work standards and tested cash handling devices. It also continued cooperation and exchange of information with the Police Directorate and the Higher Prosecutor's Office. The CBCG continued cooperating and exchanging information under agreements signed with the ECB, the European Commission and other international institutions on protecting the euro against counterfeiting. Montenegro participated actively in the EU Pericles programme.

3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Good neighbourly relations and regional cooperation form an essential part of Montenegro's European integration process and contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past.

Montenegro maintained its engagement in a number of regional initiatives, such as the Central European Free Trade Agreement (CEFTA) where it took over the chairmanship in January 2023, the Energy Community, the Transport Community, the South-East European Cooperation Process and the Regional Cooperation Council. From 1 July 2022 to 30 June 2023, Montenegro chaired the South-East European Cooperation Process. The priorities of the Montenegrin Chairmanship-in-Office were to: strengthening of economic and security co-operation and infrastructural connectivity, protection of human rights rule of law, strengthening of democratic institutions, mitigating and overcoming the health, economic and other consequences of the Covid-19 pandemic, environmental protection and European integration of countries from the region of Southeast Europe. Montenegro also actively participates in initiatives such as the Central European Initiative (CEI) and the Centre for Security Co-operation (RACVIAC).

The **EU-Western Balkans Summit** in December 2022 took place for the first time in the region, in Tirana. The summit focused on support to the region in the fields of energy and migration, and on youth cooperation, roaming, green lanes and overall progress on implementing the Economic and Investment Plan.

In August 2023, President Milatovic participated at an informal discussion on EU enlargement in Athens, hosted by the Greek PM Mitsotakis, whereas PM Abazović participated at the Bled Strategic Forum together with the other WB leaders.

On the **Common Regional Market**, a political breakthrough was achieved at the Berlin Process Summit in Berlin in November 2022, where leaders adopted the three mobility agreements. The Parliament has ratified all three Common Regional Market agreements on the freedom of movement based on identity cards, on recognition of professional qualifications for regulated professions, and on recognition of academic qualifications. However, the agreements have not yet been signed by the President. A number of important decisions agreed at the technical level within CEFTA remain blocked.

In May 2023, Montenegro hosted the **Connectivity Summit**, which achieved a joint declaration *Taking forward the Green Lanes* signed by all participants, and a high-level understanding on indicative maps of the trans-European transport network in the Western

Balkans between the EU and the contracting parties to the Transport Community Treaty.

Montenegro continued to closely cooperate with Croatia, Bosnia and Herzegovina and Serbia under the **Sarajevo Declaration Process**, which aims to find sustainable solutions for refugees and displaced persons as a result of the armed conflicts in ex-Yugoslavia during the 1990s. By the end of March 2023, 617 housing units had been built, purchased or reconstructed in Montenegro under the **Regional Housing Programme**. These units can accommodate 2 117 people. Significant challenges remain regarding the economic and social integration and wellbeing of many families, needed to ensure sustainability of return.

Montenegro continued to participate actively in the regional **Missing Persons Group** and contributed to the implementation of the provisions of its framework plan. The Commission on Missing Persons of Montenegro continued to cooperate with neighbouring countries under bilateral cooperation protocols. There are 51 active cases of missing persons who are Montenegrin citizens or whose families reside in Montenegro.

Montenegro generally maintains good bilateral relations with other enlargement countries in the region and with neighbouring EU Member States.

Relations with **Albania** remained good with occasional high-level bilateral visits. In February 2023, the governments of Albania and Montenegro held the second joint government session in Podgorica, confirming the good and friendly relations between the two countries. The Prime Ministers signed a series of bilateral agreements/memorandums intended to improve cooperation in several areas of common interest related to energy, fishing, plant protection, labour and social protection, sports, culture, media, defence, health and infrastructure. On the latter, an agreement for the construction of a bridge on the Buna River to connect the coastal areas of Ulcinj (Montenegro) and Velipoja (Albania) was reached and the opening of the border point Saint Nicholas – Pulaj was announced.

Relations with **Bosnia and Herzegovina** remained good overall. The agreed border demarcation is yet to be physically marked and three joint border crossing points remain to be set up. In December 2022, the Council of Ministers of Bosnia and Herzegovina and the government of Montenegro signed a memorandum of understanding and cooperation on the implementation of infrastructure projects. The participation of the Montenegrin Finance and Justice Ministers on 9 January 2023 in a ceremony in Banja Luka celebrating the unconstitutional day of Republika Srpska sparked strong reactions and controversy in Montenegro and regionally. In February 2023, the Minister of Foreign Affairs of Bosnia and Herzegovina paid an official visit to Podgorica.

Relations with **Kosovo** remained good. In October 2022, Montenegro and Kosovo signed a Memorandum of Understanding on co-operation on the implementation of infrastructure projects. The President of Kosovo visited Montenegro in February 2023 and the Prime Minister of Montenegro visited Kosovo in April 2023. A number of meetings took place at the level of Prime Ministers and Foreign Ministers at the margins of international and regional events.

Relations with **North Macedonia** remained good. In February 2023, the Minister of Foreign Affairs of Montenegro and the Minister of Foreign Affairs of North Macedonia met in Skopje to discuss the development of bilateral relations, regional cooperation, the process of European integration, and the strengthening of the countries' partnership under the NATO alliance. In March 2023, the Prime Ministers met at the margins of the World Economic Forum in Davos. The Foreign Minister of North Macedonia held meetings with the President and Prime Minister of Montenegro in the margins of the Adriatic Charter Meeting in March 2023. The two Prime Ministers met in the margins of the Delphi Economic Forum in March

2023. The two countries signed a Programme of Cooperation in the area of culture for the period 2023-2026.

Relations with **Serbia** are overall stable, with occasional mutual accusations. In September 2022, the Prime Minister of Montenegro visited Serbia, for a wine fair. Controversy was sparked in mid-December 2022 when mayors and heads of local assemblies of six Montenegrin municipalities, all representatives of the former Democratic Front, attended a session of the Serbian Parliament's Committee for Diaspora and Serbs in the Region, discussing the position and status of ethnic Serbs in Montenegro. In ministerial meetings, economic opportunities and the strengthening of bilateral cooperation took the forefront rather than bilateral issues. After an inaugural visit to Brussels, in July 2023 the President of Montenegro paid his first official visit abroad to Belgrade to discuss with the President of Serbia the appointments of Ambassadors to their countries. The two Presidents met again shortly after in Athens. In August 2023, the entry ban of the former Serbian Ambassador to Montenegro Bozovic, was lifted.

Bilateral relations with **Türkiye** remained stable. Montenegro provided financial and humanitarian assistance to Türkiye following the devastating February 2023 earthquakes.

Relations with **Ukraine** remained good. Montenegro continued to provide unequivocal support to Ukraine in light of the Russia's war of aggression including humanitarian and military aid. In December 2022, the Prime Minister of Montenegro and the President of Ukraine signed a joint declaration on the Euro-Atlantic perspective of Ukraine.

Relations with the **Republic of Moldova** are overall good. In February 2023, allegations of Montenegrin and Serbian football fans' involvement in destabilising activities promoted by Russia in Moldova created short-lived tensions. The Presidents of Montenegro and Moldova met at the margins of the European Political Community in Chisinau in June 2023. Montenegro and Moldova also maintain relations through the South-East European Cooperation Process (SEECp).

Relations with **Georgia** are generally friendly, although the level of engagement is not as extensive as the relations with other enlargement countries. In April 2023, the Parliament Speaker of the Montenegrin Parliament met her Georgian counterpart.

Relations with **Croatia** remained good with occasional tensions arising in relation to pending bilateral issues and/or some historical events. In January 2023, the Prime Ministers met at the margins of the World Economic Forum in Davos. In September and October 2022, then Foreign Affairs and Defence Ministers, together with their Croatian counterparts, erected memorial plaques on the Croatian island Vis and at the former Yugoslav People's Army-run Moringj detention camp in Montenegro, commemorating events from the 1990s. This caused controversy and the Basic State Prosecution Office opened a preliminary investigation against the Ministers. There was no progress regarding the pending border demarcation between the two countries. The dispute between the two countries regarding the ownership of the sailing ship "Jadran" continues. In August 2023, the Croatian Ministry of Foreign Affairs sent a strong protest note to Montenegro due to Montenegro's celebration of the ship's 90th anniversary.

Relations with **Italy** remained good. In June 2022, the Ministers of Defence met in Rome, followed by meetings with the Chairman of the Defence Committee in the Lower House and the Chairman of the Defence Committee of the Senate. In July 2022, the Minister of Foreign Affairs met with the President of the Italian Chamber of Deputies.

4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

CLUSTER 2: INTERNAL MARKET

This cluster covers chapters 1-free movement of goods, 2-freedom of movement for workers, 3-right of establishment and freedom to provide services, 4-free movement of capital, 5-company law, 7-intellectual property law, 8-competition policy, 9-financial services, and 28-consumer and health protection. All nine chapters are open, with closing benchmarks that remain to be fulfilled in each chapter. This cluster is key for Montenegro's preparations for the requirements of the EU's internal market and is of high relevance for early integration and the development of the Common Regional Market.

Progress was achieved in different areas e.g. on market surveillance, accreditation and standardisation; continued alignment with the Services Directive and EU postal *acquis*; legislation on accounting, work on a new company law; progress on *acquis* alignment on intellectual property rights, adoption of a new national comprehensive strategy on Intellectual Property and accession to the European Patents Organisation and European Patents Convention. State aid transparency and strengthening of administrative capacities, alignment of the banking sector of Montenegro with the latest EU *acquis* also advanced, as well as adoption of implementation legislation on health protection.

In the coming period, Montenegro is invited to focus on the following areas: alignment with the EU *acquis* governing standardisation; step up efforts to improve the institutional set-up and administrative capacity of the Employment Agency, establish a fully operational point of single contact, continue with the implementation and enforcement of the new postal market rules, continue to develop qualifications for regulated professions; accelerate progress on electronic company registration, align with the *acquis* on capital movements and payments, including on the acquisition of property rights and monitor the phasing out of the investors' citizenship scheme; align with the Transparency Directive; adopt the new company law, finalise the revision of the Corporate Governance Code, start implementing the new national intellectual property strategy and the activities under its 2023 Action Plan; improve the track record in the area of competition and State aid, adopt a plan to ensure the financial independence of the Agency for the Protection of Competition and progress on the major State aid cases including follow up on the recovery of unlawful State aid; complete alignment of national legislation with the EU consumer protection and health protection *acquis*; significantly advance work on the insurance and capital market laws aligned with EU legislation.

Chapter 1: Free movement of goods

The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.

Montenegro is **moderately prepared** in the area of free movement of goods. **Some progress** was made overall, by further aligning national legislation with the EU *acquis*, notably on technical requirements for products and conformity assessment as well as on standardisation and metrology. Montenegro also took further steps to make the national standardisation body a full member of both the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (CENELEC). On chemicals management, Montenegro adopted implementation legislation and a new 2024-2026 chemicals management strategy. The sector's situation in terms of human resources and funding improved overall, but further strengthening of the quality infrastructure bodies is required.

Therefore, some of last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- continue to align its legislation with the EU *acquis*, as envisaged in Montenegro's accession programme;
- ensure the implementation and enforcement of the Montenegrin legislation on chemicals management that is aligned with the EU *acquis*;
- continue to strengthen the human and financial capacity of its quality infrastructure bodies.

General principles

Montenegro continued to make progress in aligning its legislation with the EU *acquis*, as envisaged in the national action plan. In December 2022, the Parliament adopted amendments to the Law on technical requirements for products and conformity assessment. The amendments introduce a 'multilateral clause' for all products belonging to the non-harmonised area. Under this clause, such products can be placed on the Montenegrin market without additional legal obstacles if they are placed on the market of the EU, the EFTA countries and Türkiye. The government adopted implementing legislation on standardisation and metrology. In March 2023, the government adopted the 2023 annual plan for the adoption of Montenegrin standards and related documents along with the 2023 work programme and financial plan of the Institute for Standardisation of Montenegro (ISME).

Non-harmonised areas

Montenegro continued to implement its action plan for compliance with **Articles 34-36 of the Treaty on the Functioning of the European Union** (TFEU) on prohibition of quantitative restrictions and with the new EU Regulation on notification of technical regulations.

Harmonised area: quality infrastructure

As concerns **standardisation**, ISME published 1 952 Montenegrin standards aligned with EU standards. In the first quarter of 2023, CEN/CENELEC assessed ISME's adoption rate at almost 91% of European standards at national level (89.27% for CEN standards and 91.46% for CENELEC standards), representing a slight improvement over the year. Following ISME's application for full membership of CEN/CENELEC, CEN/CENELEC conducted an assessment visit, during which it identified eight non-conformities. In January 2023, CEN/CENELEC sent formal recommendations to ISME to revise its action plan to ensure fulfilment of all required criteria. ISME's human resources require further strengthening as only 77% of established job positions are filled. ISME's 2023 budget increased by 62% compared to 2022.

On **metrology**, the capacity of laboratories for temperature and pressure and for testing precious metal articles improved. The Bureau for Metrology recruited two new staff but kept the same number of posts overall (49).

The **Accreditation Body of Montenegro** (ATCG) accredited 44 conformity assessment bodies (26 testing laboratories, 2 calibration laboratories, 2 medical examination laboratories, 8 inspection bodies, 3 bodies for product certification and 3 bodies for certification of management systems), broadly similar to the last reporting period. Of these, two accredited conformity assessment bodies are temporarily suspended. In October 2023, ATCG signed a Multilateral Agreement in the framework of the European co-operation for Accreditation

(EA).

On **market surveillance of products**, inspection services carried out 3 487 market surveillance inspections (3 114 inspections in the area of proactive surveillance and 373 inspections in the area of reactive surveillance) compared with 2 137 in the previous reporting period. A total of 1 284 types of dangerous and non-compliant products were identified (37 504 items). Relevant inspection services imposed corresponding administrative measures. The Administration for Inspection Affairs recruited two new health inspectors, but it needs further staff.

Harmonised area: sectoral legislation

Regarding **‘new and global approach product legislation’**, Montenegro amended implementing legislation in the areas of construction (transitioning to Eurocodes), energy efficiency and eco-design to ensure further alignment with the EU *acquis*. Since 1 January 2023, the application of Eurocodes for calculating building structures is mandatory in Montenegro.

Similarly, on **‘old approach product legislation’**, the government adopted implementing legislation on dangerous chemicals and on the content of information on cosmetic products placed on the market to increase the level of alignment with the relevant EU *acquis*. The government adopted a number of secondary legislative acts to implement the Law on chemicals, and the new chemicals management strategy for 2024-2026 was adopted in August 2023.

National legislation is not yet aligned to the latest EU *acquis* on motor vehicles, two or three wheeled vehicles, tractors (agricultural, forestry), or non-road mobile machinery emissions.

On **procedural measures**, Montenegro’s legislation is aligned with the EU *acquis* as concerns the technical requirements on crystal glass and textile labelling. In the reporting period, the maximum prices of all medicines were set according to Montenegro’s legal framework and made publicly available.

As concerns **anti-corruption measures** under this chapter, the Administration for Inspection Affairs adopts annually an integrity plan that determines anti-corruption measures and identifies risks. In addition, Montenegro’s Law on medicines contains provisions aiming at the prevention of corruption.

Chapter 2: Freedom of movement for workers

Citizens of one EU Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

Montenegro has **some level of preparation** in this area. In the reporting period, **limited progress** was achieved related to the further conclusion of bilateral social security agreements. Montenegro needs to address the long-standing recommendations to step up the administrative and technical capacity of the Employment Agency.

In the coming year, Montenegro should in particular:

- step up efforts to reform the institutional set-up and improve the administrative and technical capacity of the Employment Agency with a view to ensure the provision of relevant and evidence based active labour market policies;
- further strengthen structures to implement the EU *acquis* in this area;
- continue to work on the conclusion of further bilateral social security agreements.

Concerning **access to the labour market**, there were no major legislative developments. The constitutive meeting of the Chapter 2 Working Group only met once, on 27 March 2023 during which the new membership structure of the group was confirmed and the accession programme of Montenegro for 2023-2024 was discussed. The Commission notes that the Action Plan related to the implementation of EU *acquis* in this area expired in 2022. In July 2022, the Parliament adopted amendments to the Law on foreigners that defined the concept of digital nomads and introduced temporary residence permits for the said category of persons. Furthermore, three rulebooks related to this Law were adopted. These amendments are part of broader efforts to create sustainable solutions to attract foreign companies' teleworkers to Montenegro. Work is ongoing on further amendments to the Law on foreigners to align with a number of EU directives to ensure that EU migrant workers enjoy same work conditions, social and tax exemptions as domestic workers. In November 2022, due to lack of administrative and technical capacity, the government decided to postpone until EU accession, the application of procedures for handling foreigners' requests for temporary residence and seasonal employment permits through Montenegro's representations in their countries of origin. Based on the Decision on determining the annual number of permits for temporary residence and work of foreigners for 2023, in the period January-May 2023, a total of 14,185 permits for temporary residence and work were issued, which is about 30% more compared to the same period of the previous year.

In preparing to join **EURES** (European network of employment services) upon accession to the EU, there were limited developments due to delays in launching technical assistance projects. A twinning project to strengthen the capacity of the Employment Agency started in April 2023. On the **coordination of social security systems**, the number of signed bilateral agreements in force is 24. An agreement on social insurance was signed with Albania in February 2023. The ratification of the said agreement is pending in Parliament. In December 2022, the Parliament ratified the Agreement on Social Security between Montenegro and Romania. Negotiations with Serbia and Bosnia and Herzegovina remain pending. The draft Law on Voluntary Pension Funds is being prepared, to allow additional retirement rights of employees and self-employed persons in the context of freedom of movement of workers.

The **European Health Insurance Card** is recognised under the Law on compulsory health insurance but will only be introduced after EU accession. No progress was achieved during the reporting period. The number of agreements with EU Member States on the use of the card remained at five (Austria, Germany, Luxembourg, Slovakia and Slovenia). In line with the 2022 Health Insurance Fund staffing plan, three executors were hired for the position of senior adviser for international health insurance (Regional Units: Podgorica, Bar and Herceg Novi) through a public call. A public call was launched in March 2023 for two further similar posts in Pljevlja and Bijelo Polje.

Chapter 3: Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradual market opening to competition, and the establishment of an independent regulator.

Montenegro remains **moderately prepared** in this area. **Limited progress** was registered during the reporting period through the completion of alignment with the Regulation on cross border parcel delivery services as per last year's recommendations, which remain largely valid.

In the following period, Montenegro should in particular:

- set up a fully operational Point of Single Contact (PSC);
- continue inter-ministerial coordination and ensure proper monitoring of legislative alignment with the EU Services Directive, and the EU acquis on the mutual recognition of professional qualifications including the Professional Qualifications Directive and the Proportionality Test Directive, while continuing the implementation and enforcement of the new postal market rules;
- accelerate the alignment of all study programmes with the Professional Qualifications Directive and continue coordination with the Commission specifically on alignment with minimum training requirements under the Directive.

On the **right of establishment and freedom to provide cross-border services**, Montenegro continued to align its sectorial legislation with the EU Services Directive, along with efforts to improve the mechanism to monitor this legislative alignment. As part of an EU technical assistance project, preparatory activities to set up a PSC for services portal were launched. A Decree on cooperation and exchange of information between institutions for access and provision of PSC services was adopted in July 2023. Efforts to introduce electronic company registration continued, albeit at a much slower pace than in 2021.

On **postal services**, the national legislation is aligned with the EU Postal Services Directive where Montenegro has made good progress over the years. The reserved area was abolished already in 2013, and complemented by bylaws to implement European quality standards for the provision of postal services in 2020. Montenegro has also completed its alignment with the EU Regulation on cross-border parcel delivery services in December 2022, when the Agency for Electronic Communications and Postal Services adopted amendments to the rulebook on the type and method of submitting data by postal operators. The number of postal operators is currently 26. In April 2023, the government adopted the implementation report of the 2022 action plan on the postal development strategy and the 2023 action plan. A new Strategy for the Development of the Postal Service for the period 2024-2028 is envisaged. Montenegro should continue monitoring the proper implementation and enforcement of the new postal market rules.

On **mutual recognition of professional qualifications**, Montenegro has a satisfactory level of alignment with the EU *acquis*. Montenegro, however, should follow up on measures set out in the national plan to develop qualifications for regulated professions: this will ensure continuous alignment with the EU *acquis*. In April 2023, the Parliament adopted the Law on confirmation of the Agreement on the recognition of professional qualifications for doctors of medicine, dentists and architects under the Central European Free Trade Agreement signed within the framework of the Berlin Process. This law is currently pending signature by the President. More effort in the alignment with the minimum training requirements of all sectoral professions under Directive 2005/36/EC on the recognition of professional qualifications is needed.

Chapter 4: Free movement of capital

In the EU, capital and investments must be able to move without restrictions, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.

Montenegro is **moderately prepared** in this area. **Some progress** was made during the reporting period. The legal framework on payment systems was further aligned with the EU

acquis. The investor citizenship scheme was phased out at the end of 2022, but a number of pending applications are still being processed.

All past recommendations not fully addressed remain valid. In the coming year, Montenegro should in particular:

- continue aligning with the EU *acquis* on capital movements and payments, including on the acquisition of property rights by EU nationals;
- strengthen the anti-money laundering supervision of the non-financial sector, particularly in high-risk areas, such as games of chance, by amending the Law on games of chance and the Law on the prevention of money laundering and terrorism financing;
- continue to monitor risks related to money laundering when processing pending applications to the investor citizenship scheme.

In the area of **capital movements and payments**, since 2017, a regime of free movement of capital, no limitation on the transfer of property, and no foreign exchange or currency control has been in place. However, Montenegro needs to further align its legal framework with the EU *acquis*. Montenegro has yet to implement its obligations under the Stabilisation and Association Agreement as regards amending the Law on ownership rights, removing preferential treatments and ensuring that EU nationals can buy real estate or farming land under the same conditions as Montenegro nationals.

As regards the **payment system**, the Parliament adopted amendments to the Law on payment systems in September 2022 to align it with the EU *acquis*. Four implementing acts to this law were adopted by the Central Bank of Montenegro, to align the regulatory technical standards in the area of payments to the ones of the EU. Further to the adoption in December 2021 of a Law on comparability of fees related to consumer payment accounts, payment account switching and payment accounts with basic features, in September 2022, the Central Bank adopted two implementing regulations, which entered into force on 9 January 2023.

In the area of **anti-money laundering and terrorist financing**, Montenegro has yet to align its legal framework with the fifth Anti-Money Laundering Directive and with the recommendations of the Financial Action Task Force. Amendments to the Law on games of chance were prepared but have yet to be adopted. The Law on international restrictive measures, a crucial act against the background of international and EU sanctions, has yet to be aligned with EU standards.

Montenegro currently has three payment institutions. The Central Bank continued to fulfil its supervisory function in the area of anti-money laundering and prevention of terrorist financing. In 2022, it performed regular on-site controls of nine banks, one payment institution, two microcredit institutions and one company, to check the compliance of their operations. It also performed one thematic targeted control upon request of the Financial Intelligence Unit, embedded in the police, and several follow up controls of financial institutions. In 2022, the Directorate for supervision in the area of prevention of money laundering and international restrictive measures of the Ministry of Interior conducted 136 inspections of reporting entities. Some 65 misdemeanour orders were issued, for an amount of EUR 113 900.

The Central Bank organised training sessions for the 28 reporting entities of Montenegro, to improve their knowledge and capacity on prevention of money laundering and terrorist financing. The fifth round of evaluation of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) is ongoing.

The **economic citizenship scheme** expired at the end of 2022. Between January 2019 and December 2022, 556 applications were lodged (556 applicants and 1 281 family members). By 15 June 2023, the government had issued 954 positive decisions (293 applicants and 661 family members). Some 398 applications were still pending on 15 June 2023 (398 applicants and 710 family members). Montenegro should closely monitor risks related to money laundering when processing pending applications to the investor citizenship scheme, as such schemes pose risks as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime, and are incompatible with the EU *acquis*.

Chapter 6: Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.

Montenegro has a **good level of preparation** in the area of company law. **Limited progress** was made on the 2022 recommendations by adopting the implementing act to the Law on accounting.

All past recommendations not fully addressed remain valid. In the coming year, Montenegro should therefore, in particular:

- finalise, adopt and start implementing the draft Company Law to further align national legislation with the EU company law *acquis* including on the encouragement of long-term shareholder engagement, the use of digital tools and processes, and cross-border operations (mergers, divisions, conversions);
- complete alignment with the Transparency Directive, including the sanctioning regime;
- finalise the revision of the Corporate Governance Code.

In the area of **company law**, Montenegro is preparing a new company law to further align national legislation with the company law *acquis* including a number of directives in the areas of long-term shareholder engagement, the use of digital tools, cross-border operations (mergers, divisions, conversions), employee participation in cross-border operations, and the directive on gender balance on corporate boards. No progress was registered on revising the Corporate Governance Code. In the future, the national business register should be technically ready to interconnect with the EU Business Registers Interconnection.

In the area of **company reporting**, the government adopted implementing acts to the Law on accounting, including rules on company financial statements. An initiative to further amend the Law on accounting was launched. Currently, all companies must comply with international financial reporting standards (IFRS / IFRS for SMEs), while reduced obligations exist for micro and small companies (balance sheet and profit and loss account only). Montenegro will need to align with 2022 EU Directive on corporate sustainability reporting. Legislative work to achieve full alignment with the *acquis* on transparency requirements for listed companies is ongoing. The Capital Market Authority operates a registry as the Officially Appointed Mechanism for the central storage of regulated information. An initiative to amend the Law on auditing was also launched. Statutory audits are performed based on international auditing standards (ISAs) and are mandatory for public-interest entities. In February 2023, the government adopted a decision on the appointment of a new convocation of the Audit Council (composed of the chairperson and four members). The human resources capacity of the Department for Audit Oversight was strengthened with a quality assurance inspector, with two further posts to fill in the pipeline. Furthermore, a head

of accounting and one further independent adviser were appointed to the accounting division.

Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover, for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting.

Montenegro has a **good level of preparation** in the area of intellectual property law. **Good** progress was made in aligning national legislation with the EU *acquis* in the area of industrial property notably by adopting amendments to respective Laws on patents and trademarks, , and with the adoption of the new national intellectual property strategy, and accession to the European Patent Convention and the European Patent Organisation. However, improvements need to be made concerning the track record on investigations, prosecutions and judicial follow-up due to staff shortage.

In the coming year, Montenegro should in particular:

- Start implementing the new and comprehensive national intellectual property strategy for 2023-2026 and the activities indicated in the Action Plan for 2023;
- further align its legislation on copyright and related rights and enforcement of Intellectual Property Rights (IPR) with the EU *acquis*;
- improve its track record on investigations, prosecutions and judicial follow-up including by addressing staff shortages.

In the area of **copyright and neighbouring rights**, in January 2023, the government adopted the Law on amendments to the Law on copyright and related rights, which was positively assessed by the European Commission and is currently pending adoption by the Parliament. Amongst other things, these amendments aim to align national legislation with three EU Directives on certain permitted uses of works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled, coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission and enforcement of intellectual property rights. Montenegro started work on the upcoming amendments to the Law on copyright and related rights, which will aim at implementing the Directive on online transmissions of broadcasting organisations and retransmissions of television and radio programmes (SatCab II) and the Directive on copyright and related rights in the Digital Single Market.

Concerning **industrial property rights**, in March 2023, Montenegro successfully completed the test phase for an electronic submission of applications system. On 1 October 2022, Montenegro became a member state of the European Patent Organisation and acceded to the European Patent Convention. In December 2022, the Parliament adopted the Law on amendments to the Law on patents for alignment with the EU industrial property *acquis* concerning the supplementary protection certificate for medicinal products, the Law on amendments to the Law on trademarks to approximate the laws of the Member States relating to trademarks, and the Law on ratification of the Singapore Treaty on the Law on trademarks. In March 2023, the Directorate for Intellectual Property completed the translation of new terms for the Harmonised Database. In June 2023, Montenegro acceded to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications: its

ratification is pending by the parliament.

On **enforcement**, in March 2023, the Ministry of Economic Development and Tourism approved the 2023 action plan of the Working Group for organising and implementing joint action to combat infringements of IPR. In addition, the Ministry participated in international joint customs operations with the aim to detect, inter alia infringements of IPR. The number of misdemeanour warrants and the value of goods seized by the Administration for Inspection Affairs – Market Inspection show a slight increase in comparison to previous years. In the period June 2022 - April 2023, 729 controls were conducted, and 34 misdemeanour warrants were issued, amounting to EUR 34 600. More efforts are needed to improve the track record on investigations and judicial follow-up including addressing shortage of staff for both sectors. The Unit for Copyright and Related Rights carried out a special check of the compliance of the operations of all collective organisations with the 2021 amendments to the Law on copyright and related rights related to collective management of rights.

In July 2023, the country adopted the new national **intellectual property strategy** for 2023-2026 and its action plan for 2023. This comprehensive strategy aims to improve the efficiency of the system of registration and enforcement of intellectual property rights, by, inter alia, strengthening administrative capacity.

Chapter 8: Competition policy

EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and abuse of a dominant position, and also include rules on concentrations between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, to prevent the distortion of competition.

Montenegro is **moderately prepared** in this area. **Some progress** was made by further following up on a number of State aid cases including the Montenegro Airlines and Air Montenegro cases, by adopting secondary legislation in the field of State aid and through recruitment of additional personnel thus strengthening the administrative capacity. Decisions and opinions issued by the State aid authority are timely published in the State aid registers, which further increases transparency. Last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- conclude the Montenegro Airlines case and follow up on the setting-up of the new national air carrier branded Air Montenegro to provide clarity on state aid and legal continuity between the two, as well as progress on other major ongoing investigations of non-notified/possible State aid (including UNIPROM KAP, Bar-Boljare highway) and if necessary, recover the corresponding funds;
- in addition to ensuring transparency on all State aid decisions and operational independence of the State aid authority, prepare legislation to empower the Agency for the Protection of Competition (APC) to impose fines and adopt a plan to ensure the APC's financial independence;
- further improve the track record in the areas of antitrust/mergers and State aid by continuing to increase staffing of the APC, building the administrative capacity of the APC and of courts, further promoting the use of leniency policy, and carrying out more in-depth investigations and on-site inspections.

Antitrust and mergers

The **legislative framework** is broadly aligned with the EU *acquis* (Articles 101 and 102

TFEU) and the Stabilisation and Association Agreement. The Roadmap for implementing measures to achieve the closing benchmarks under Chapter 8 has not been finalised; efforts should step up to redraft the Roadmap in the form of an Action Plan, adopt it and start its implementation. No legislation in the field of competition was adopted in the reporting period. In June 2023, the Ministry of Economic Development and Tourism adopted the Decree on the termination of the Block Exemption Decree.

As regards **the institutional framework**, in August 2022, the APC adopted the rulebook on internal systematisation and organisation, which is a positive step in strengthening its administrative capacity. The APC cannot impose administrative fines on companies breaching competition law, while the European Commission and many competition authorities of EU Member States have this power. In November 2022, the vacancy of APC director was finally filled: the APC director was appointed for a period of 5 years. This completes the composition of the APC Council and should significantly facilitate the implementation of APC's activities.

In the area of **enforcement capacity**, the APC's administrative and financial capacity need to be strengthened. Only 13 out of the 18 planned posts in the area of antitrust and mergers are occupied. The APC was further strengthened with the appointment of eight additional staff members.

As regards **implementation**, concerning prohibited agreements, the APC issued one decision while another proceeding is ongoing. Furthermore, seven procedures for individual exemption from prohibited agreements were initiated at the request of the parties, six were resolved (one from the previous period and five from the current period), while two procedures are ongoing. Out of five cases initiated before the Court, one case was resolved, while the other four cases are ongoing. The APC submitted a request to initiate proceedings for infringements before the Court, which are ongoing.

In the reporting period, the APC issued 52 decisions concerning concentration. During the reporting period, one request to investigate a possible infringement of competition law was submitted to the APC and is ongoing.

State aid

The **legislative framework** is largely in line with the EU *acquis* (Articles 107 and 108 TFEU). The 2018 Law on State aid control sets out the notion of aid as well as procedural State aid rules. Six related implementing acts were adopted during the reporting period. These set out, among other things, instructions on how to calculate the equivalent of the subsidy and the return interest rate. However, it is essential to further amend the Law on State aid control and related implementing acts to ensure full compliance with EU State aid rules.

As regards the **institutional framework**, the APC is responsible for enforcing the legal framework.

The **enforcement capacity** of the APC Council needs further strengthening. It has seven employees in the field of State aid, the same number as in 2021. To strengthen its expertise and enforcement capacity, the APC should make significant efforts to recruit new staff and build related capacity. All concerned institutions should help strengthen the position of the APC and its Council to ensure an independent and functioning system of State aid control. It is imperative that grantors of potential State aid notify and consult with the APC *ex ante* with sufficient notification. The APC should be perceived as a partner by aid grantors – advising on State aid rules in specific cases.

In the area of **implementation**, in 2022, the APC Council adopted 45 State aid decisions.

Concerning State aid to Montenegro Airlines, in August 2022, the APC issued a third decision ordering further recovery of illegal State aid. The bankruptcy case of Montenegro Airlines is pending at the Commercial Court. The APC also initiated examination procedure on possible State aid granted to Air Montenegro between 2012-2017. In the cases of the Bar-Boljare highway and its operations, UNIPROM KAP and the Niksic steel mill, the APC started pre-examination activities. The APC also started examining investigations on possible State aid granted to the Plantaže company, which was disbursed without proper notification to the APC. In the reporting period, two recovery decisions were adopted and appealed against before the Administrative Court. To prove a solid enforcement track record, the APC needs to have timely access to all necessary information to provide opinions and take binding decisions. The APC has not yet published any opinions or decisions concerning possible State aid cases in the energy sector. The APC should continue monitoring the implementation of State aid rules in large projects carried out in cooperation with third countries.

Montenegro made progress towards ensuring transparency on State aid decisions, with the APC publishing decisions and opinions, including its annual reports, on its website in a timely manner. Additionally, the APC created a general register of State aid cases, which can also help increase transparency, along with two specialised registers (related to COVID-19 and *de minimis* aid). The APC should continue to advocate for further strengthening of awareness of State aid rules among aid grantors at both central and local levels.

Liberalisation

The Law on the protection of competition and the Law on State aid control apply to public undertakings and undertakings with special or exclusive rights. This does not apply to cases where the laws would obstruct the performance of the particular tasks of services of general economic interest (SGEI) assigned to such undertakings, in line with Article 106 TFEU and with the Stabilisation and Association Agreement. There is no evidence of the existence of commercial monopolies within the meaning of Article 37 TFEU.

Chapter 9: Financial services

EU rules aim to ensure fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.

Montenegro is **moderately prepared** in the area of financial services. Overall, **some progress** was achieved, with good progress on bank and financial conglomerates, some progress on insurance; and limited progress on capital markets. Last year's recommendations remain valid.

In the coming year, Montenegro should:

- complete legislative alignment with the latest revisions of the capital requirements and bank recovery and resolution legislation;
- continue to work on alignment with the insurance legislation,
- significantly advance work on the draft Law on investment funds, the draft Law on alternative investment funds and the draft Law on pension funds, aligned with EU legislation.

On **banks and financial conglomerates**, legislation is largely aligned with the EU *acquis*. Alignment with the latest bank recovery and resolution legislation continued, including by drafting amendments to the Law on resolution of credit institutions, and by preparing the

2023 resolution plans for credit institutions. In July 2022, banks made their first annual contributions to the Resolution Fund. In December 2022, the Central Bank of Montenegro adopted several implementing acts in the area of banking, including on capital adequacy of credit institutions. Work was also initiated on a draft Law regulating the area of supplementary supervision of financial conglomerates.

In the area of **insurance and occupational pensions**, in the second half of 2022, the Insurance Supervision Agency (ISA) adopted several implementing acts to the current Law on insurance. Work continued on a new draft Law on insurance, aligned with the latest EU rules, in particular Solvency II Directive. In 2023, the ISA adopted implementing acts on the internal organisation and governance structures of insurance companies and on pre-contractual information, bringing these aspects closer to EU standards.

Regarding financial market infrastructure, there were no relevant developments. Central Securities Depository and Clearing Company, supervised by the Capital Markets Authority, is the depository of securities, owner, and operator of the securities settlement system.

On securities markets and investment services, in the second half of 2022, public consultations were held on the draft Law on alternative investment funds, the draft Law on open-ended investment funds with public offering, and the draft Law on pension funds. Work on preparing the final drafts of these laws continued.

In the area of **sustainable and digital finance**, Montenegro's National Strategy for Sustainable Development contains a chapter on financing sustainable development. In March 2022, the Central Bank of Montenegro adopted a policy to reduce the adverse climate change impact on the financial system and on greening the financial system.

Chapter 28: Consumer and health protection

EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats, including communicable diseases.

Montenegro is **moderately prepared** in the area of consumer and health protection. Overall, **limited progress** was made on last year's recommendations. Some alignment to the EU *acquis* took place in the field of health protection, notably the Law on health care was adopted. Also, the construction of a mental health clinic started, and the capacity of the healthcare institutions to fight against COVID-19 was strengthened by targeted financial allocations to healthcare institutions. The composition of the Consumer Protection Council, an advisory body to the government, was changed to include representatives of all stakeholders in the area of consumer protection. There is a need to strengthen administrative capacity and ensure full implementation of the EU *acquis*. Last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- complete the alignment of national legislation with the EU consumer protection *acquis* and health protection *acquis* on substances of human origin, tobacco control and patients' rights in cross-border healthcare, as set out in Montenegro's accession programme;
- strengthen the role and effectiveness of the Council for Consumer Protection;

→ adopt a new strategy for the development of the healthcare system and start its implementation.

Consumer protection

Regarding the **legislative framework for consumer protection**, several pieces of legislation are pending adoption: a law on consumer protection to align national legislation with the EU *acquis* on digital content, a law on collective actions to align national legislation with the EU *acquis* on representative actions for protection of collective interests of consumers, a law on consumer credits to align national legislation with the relevant EU *acquis*, a law on tourism and catering to align national legislation with the EU *acquis* on package travel and linked travel arrangements, and amendments to the Law on market surveillance to fully align national legislation with the latest EU *acquis* in this area. Further alignment should be ensured with the EU consumer protection cooperation regulation. Some measures were taken to implement the 2022 and 2023 action plans under the national **consumer protection programme** (2022–2024). These included the appointment in October 2022 of members of the new Council for Consumer Protection, which met twice. During the reporting period, a consumer protection NGO won a collective lawsuit against a bank; the court found that the bank violated the Law on consumer credit and the collective rights of consumers.

An **EU peer-review** visit concerning consumer protection concluded that Montenegro should ensure timely alignment of its national legislation with and implementation of relevant EU legislation, speeding up legislative processes and taking a more proactive approach in consultation processes. It also recommended that Montenegro: (i) strengthen the **administrative capacity** of its market surveillance authorities, in line with its relevant strategy and internal organisational structure; and (ii) develop relevant education and training programmes and allocate additional financial resources to them. Other recommendations included strengthening support to the non-governmental sector and out-of-court dispute resolution mechanisms and strengthening the engagement of local government in consumer protection.

As concerns the **protection of the economic interests of consumers**, the Administration of Inspection Affairs carried out 33 259 inspections, identifying 4 876 irregularities leading to administrative and punitive measures.

Montenegro's legal framework on **product safety** is mostly aligned with the EU *acquis*. During the reporting period, 3 487 inspections were conducted, of which 3 114 inspections in the area of proactive surveillance and 373 in the area of reactive surveillance. Based on these inspections, 1 284 types of dangerous and non-compliant products were found, amounting to 37 504 items. This led to 536 dangerous and non-compliant products (15 285 items) being withdrawn from the market. Temporary circulation bans for products not posing a serious risk and for non-compliant products (until the removal of identified non-compliances) were imposed on 761 types of products (22 627 items).

Public health

National legislation on **public health** is partly aligned with the EU *acquis*. Implementing legislation in the field of medically assisted reproduction was adopted to further align the national legislation with the EU *acquis* on substances of human origin. In 2022, the state budget for the health sector was EUR 420 million, an increase compared to 2021. The adoption of the 2023-2027 strategy for the development of the healthcare system is pending, while the Law on health care was adopted.

On **anti-microbial resistance**, awareness-raising and education activities were carried out by

the national authorities, the World Health Organization and other institutions, including on bacterial resistance to antibiotics, rational use of antibiotics and strengthening the diagnostic capacity in hospitals. However, further work on this remains necessary.

On **tobacco control**, national legislation on smoking in public places and the sale of tobacco products to minors is still not sufficiently enforced. In May 2023, the government adopted the strategic document "Program for the control of the use of tobacco products 2023-2025 with the Action Plan 2023-2025".

The government's 2022-2024 programme on **alcohol-related harm reduction** and its related action plan are being implemented. However, there is no overview of the situation due to lack of data collection on harmful consequences of alcohol consumption. Regarding **drug abuse prevention and harm reduction**, civil society organisations continued their prevention action and services, including some financed by the government. The public health institute organised educational activities on drug addiction for 56 service providers from 13 health institutions.

In February 2023, the Ministry of Health published a report on the implementation of the 2021-2023 action plan for the **mental health** strategy for 2019-2023, showing that only 16% of planned measures have been implemented. In July 2022, the construction of a mental health clinic started, still in process, with financial support from the government. When completed, it will have Montenegro's first child and adolescent psychiatry department.

On **blood, tissues, cells and organs**, the national blood transfusion institute continued to ensure that enough safe blood is available for people's needs. In the area of blood, Montenegro's legislation is almost fully aligned to the EU *acquis*. However, the system for reporting on adverse effects and reactions is not yet in place.

Regarding **patients' rights in cross-border healthcare**, Montenegro has yet to adopt implementing legislation on conditions, means and procedures for administering cross-border healthcare.

On **communicable diseases**, the Ministry of Health distributed more than EUR 5 million for the fight against COVID-19 to seven healthcare institutions to improve their capacity and raise the level of their healthcare services. Regarding HIV/AIDS, the Institute for Education organised training sessions for teachers and educators, while civil society organisations continued their services for key population groups. Between September and December 2022, Montenegro organised its first human papillomavirus (HPV) vaccination programme. It resulted in the vaccination of nine-year old girls. According to UNICEF, the coverage for the first vaccination dose against measles, mumps and rubella fell from 90% in 2010 to 18% in 2022. The situation is mostly due to focusing resources on COVID-19 vaccination and reluctance of parents to bring their children to health centres during the pandemic. In February 2023, the government adopted a programme for mandatory immunisation of population against certain communicable diseases and related implementing legislation.

Implementation of the programme for the control and prevention of **non-communicable diseases** continued.

In the area of **health inequalities**, vulnerable groups have access to healthcare services, with the exception of persons without regulated legal status, including Roma and Egyptians not having proper legal status. People, in particular the elderly, living in remote rural areas face difficulties to reach health care facilities. Also, the lack of accessible healthcare facilities, appropriate equipment and special healthcare services remains a concern for people with disabilities.

According to a public survey conducted by an NGO, almost 60% of people living in Montenegro have seen **corruption** in the healthcare sector. They mostly refer to irregular payments for health treatments, often voluntarily done by patients.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster covers chapters 10-digital transformation and media, 16-taxation, 17-economic and monetary policy, 19-social policy and employment, 20-industrial policy, 25-science and research, 26-education and culture, and 29-customs. All eight chapters are open, with closing benchmarks set in all but two, namely chapter 25-science and research and 26-education and culture – both of which are provisionally closed. Closing benchmarks remain to be fulfilled in each of the other six chapters. This cluster and the reforms concerned have significant links to Montenegro's Economic Reform Programme.

Some progress was achieved in different areas e.g. signature of the Association Agreement concerning the Digital Europe Programme, tax legislation and the automatic exchange of bank account information; as well as on further implementation of the revised industrial policy. There was slow progress on preparations for accession to the Convention on common transit procedure and implementation of the action plan for alignment with the EU *acquis* in the area of economic and monetary policies.

In the coming period, Montenegro is invited to step up legislative alignment in the electronic communications, information technologies and audiovisual media sectors, and ensure the media sector's independence; make further progress on removing VAT and other exemptions that are not aligned to the EU *acquis*; ensure practical cooperation amongst relevant public authorities and develop appropriate capacity to produce government finance statistics and fiscal notifications; monitor the implementation labour law, in addition to focusing on the employment activation measures in addition to the further development of the Youth Guarantee; continuing efforts on improving safety at work particularly regarding labour inspection; evaluate the results of its 2019-2023 industrial policy strategy and prepare a new industrial policy, in cooperation with relevant stakeholders; continue to support financially research and innovation especially regarding smart specialisation and the Green and Digital Agendas; build on the quality and accessibility of education and training and plan for further education reform; and finalise all preparations for the accession to the Convention on a common transit procedure.

Chapter 10: Digital transformation and media

The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audiovisual services. The rules protect consumers and support the universal availability of modern services.

Montenegro remains **moderately prepared** in the area of digital transformation and media. There was **limited progress**, mainly directed at reducing the impact and addressing the consequences of the August 2022 cyberattack by making the government's IT infrastructure once again operational. Montenegro joined the Digital Europe Programme in June 2023. However, last year's recommendations have not been met and remain valid.

In the coming year, Montenegro should in particular:

- align national legislation with the EU *acquis* on electronic communications and information technologies and on audiovisual media, ensuring the operational independence of media regulators and the public service broadcaster;
- grant the Agency for Electronic Media (AEM) powers to impose a complete set of

measures, including warnings, fines, suspensions and revocation of licences ensuring proportionality and effectiveness;

→ achieve a track record on enforcement of the EU *acquis* on electronic communications, information society services, open data and in particular audiovisual media services, including as regards regulatory independence.

Concerning **electronic communications and information technologies**, Montenegro needs to intensify efforts to complete the alignment of its national legislation with the *acquis* on electronic communications and information technologies. Montenegro has not yet aligned its national legislation with the European Electronics Communication Code, the Toolbox for 5G Cybersecurity, the e-Privacy Directive and the eIDAS Regulation on digital identity and trust services.

In November 2022, the Ministry of Economic Development and Tourism set up a working group to draft the Law on electronic communications. However, in April 2023, in a separate procedure, the Parliament adopted amendments to the Law on electronic communications with a view to dismiss existing members of the EKIP Council and Executive Director before the end of their mandate. These Amendments were proposed by a number of Members of Parliament, without a public debate and despite a negative opinion from the Government and the Agency for Electronic Communications and Postal Services (EKIP). Such developments seriously risk intruding on the independence of the Agency.

Work continued on the draft strategy for the development of 5G mobile communication networks for 2023-2027. Broadband infrastructure development progressed with EU support. According to Montenegrin statistical information, the share of households with access to fixed high-speed internet (at least 100 Mb/s) and the share of the population with access to mobile high-speed internet both increased in 2022 compared to 2021, from 76.7% to 78.5% and from 97.2% to 97.5%, respectively. The total number of fixed broadband internet connections increased by 4.4% compared to 2021. In October 2022, the Agency for Electronic Communication launched an auction for the spectrum in the 700 MHz, 3.6 GHz and 26 GHz bands and awarded three existing telecom operators with frequency resources in the 700 MHz and 3.6 GHz bands.

Regarding **digital transformation**, the Ministry of Public Administration (MPA) should intensify efforts and accelerate alignment of the national legislation with the Network and Information Security Directive (NIS 2) and the Open Data directive. Alignment with the Digital Services Acts and Digital Markets Act needs to be stepped up, to provide predictability for the business community. In December 2022, the MPA set up the Digital Academy – an online platform for education and building digital and leadership skills of public servants, students, and vulnerable groups. The signature of the Association Agreement to the Digital Europe Programme between the European Commission and Montenegro took place in June 2023 during the meeting of the 2nd Regulatory Dialogue for the Western Balkans. The association agreement goes into retroactive effect from 1 January 2023. It would be highly advisable to seek alignment with the new legislation in place (namely, the Interoperable Europe Act) and with the services related to the Interoperable Europe Academy. A massive cyber-attack at the end of August 2022 disrupted the work of public services, businesses and people alike. The official gov.me website and all official email accounts of civil servants at state level were not operational for several months. In response, in December 2022, the MPA set up a new Directorate for Information Security known as the government CIRT (Computer Incident Response Team). At the end of 2022, the number of e-government services was 403, down from 410 in 2021, due to internal reorganizing and

preventive actions related to the cyber-attack. A small number of new services came into operation, including applications for enrolment in preschool institutions and student dormitories.

The Ministry of Culture and Media is responsible for audiovisual policy. In the area of **audiovisual policy**, the Regulatory Agency for Electronic Media (AEM) continued to exercise its mandate in a professional manner. In September 2022, the AEM suspended the broadcasting of the morning TV show of the Belgrade-based Pink M in Montenegro for a period of 6 months, for inciting hatred, intolerance and discrimination against ethnic Montenegrins. The AEM still lacks the authority and measures to effectively monitor and penalise broadcasters and rules, and its operational capacity has yet to be strengthened.

The Law on audiovisual media services, the amendments to the Law on media, and the Law on the national public broadcaster have not been adopted yet. Montenegro urgently needs to fully align its legislation with the 2018 revision of the EU Audiovisual Media Services Directive (AVMSD) and with the recommendations and legal opinions of the Council of Europe and the Organization for Security and Co-operation in Europe within the required timeline to ensure the country's continued participation in all aspects of the Creative Europe Programme. The new rulebook on the distribution of funds from the Media Pluralism Fund entered into force in January 2023. In October 2023, Montenegro adopted its media strategy for 2023-2027 together with an accompanying action plan 2023-2024.

Chapter 16: Taxation

EU rules on taxation cover value-added tax, excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.

Montenegro is **moderately prepared** in the area of taxation. Overall, **limited progress** was made on last year's recommendations. Progress was made on tax legislation and in preparing the automatic exchange of bank account information.

In the coming year, Montenegro should in particular:

- further remove value added tax (VAT) and other tax exemptions that are not aligned with the EU *acquis*;
- ensure adequate administrative capacity and the required infrastructure in the central and local tax offices to implement and enforce tax legislation and to effectively collect taxes;
- strengthen the technical capacity and infrastructure needed for the application of the EU IT systems, such as Excise Movement Control System (EMCS) and VAT Information Exchange System (VIES), and the IT systems necessary for tax cooperation and exchange of information in the field of direct taxation.

In the area of **indirect taxation**, on 16 December 2022, the Parliament adopted amendments to the Law on value added tax to further harmonise it with the *acquis* on the common VAT system. On 28 February 2023, the Parliament adopted amendments to the Law on excise duties notably to gradually increase the specific part of the excise duty on cigarettes.

In the area of **direct taxation**, in December 2022, the Law on personal income tax was amended to widen the scope of taxable income and to create a normative environment conducive to attracting 'digital nomads'. To calculate interest on loans, credits and other financial instruments, implementing legislation requires the application of the 'arm's length' principle as of 2023. As concerns the rules on transfer prices of transactions, adopted implementing legislation is based on recommendations of the Organization for Economic Co-

operation and Development (OECD).

International assessment of the Revenue and Customs Administration (RCA) of Montenegro is ongoing to test the country's readiness to start the envisaged **automatic exchange of financial account information** in the OECD framework on base erosion and profit shifting, scheduled for September 2023. Montenegro adopted legislation requiring financial institutions to report such accounts.

On **operational capacity and computerisation**, some activities were carried out to address the issues highlighted by the TADAT analysis, notably to improve the programme of inspection supervision and risk assessment for VAT refund requests. Among the issues that are yet to be addressed are the structuring of the tax debt and the implementation of a modern approach to risk management in compliance with tax regulations.

The RCA still needs to adopt a **human resources** strategy and a personnel and training plan.

Chapter 17: Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

Montenegro is **moderately prepared** in the area of economic and monetary policy. **Limited progress** was achieved in implementing last year's recommendations, mainly on publishing quarterly statistics on international investment position data. The government adopted the 2023-2025 Economic Reform Programme (ERP) in time. Core reforms of the ERP focus on the identified key challenges to the economy, but macrofiscal plans do not include a medium-term fiscal consolidation strategy. The implementation of the reforms remains weak and last year's recommendations remain valid.

In the coming year, Montenegro should:

- continue to implement the revised action plan for alignment with the EU *acquis* under this chapter;
- ensure that the Ministry of Finance and Social Welfare, the Central Bank of Montenegro and Monstat cooperate, coordinate among themselves and have appropriate capacity to produce government finance statistics and fiscal notifications in accordance with the ESA 2010 methodology.

Montenegro does not have standard **monetary policy** tools at its disposal, as it uses the euro as legal tender, leaving fiscal policy as the main macroeconomic policy instrument. Montenegro's use of the euro is based on a decision that the authorities made under exceptional circumstances and is fully distinct from membership of the euro area.

In June 2023, proposals for amendments to the Law on the Central Bank of Montenegro (CBM), prepared by the CBM and aimed at further alignment of CBM operations with the EU *acquis*, were adopted by the government. In a fully separate procedure, in April 2023, the Montenegrin Parliament adopted its own amendment to the Law, which assigns to the Parliament the right to appoint the CBM governor and members of the CBM Council, based on a public competition. The amendment also shortens the remaining term of office of the governor and incumbent CBM Council members. However, the president of Montenegro refused to sign the new version of the Law, voted by the Parliament, while the draft prepared by the CBM and adopted by the government is yet to be transmitted to the parliament.

In the area of **economic policy**, there were no significant developments in terms of alignment

with Council Directive 2011/85/EU on requirements for budgetary frameworks of the Member States, or introduction of European System of Accounts (ESA 2010) standards. Delays in introducing accrual accounting and producing government finance statistics based on ESA 2010 standards remain a key obstacle in this chapter. Efforts should be made to ensure practical cooperation between the Ministry of Finance, Central Bank of Montenegro and Monstat, and development of appropriate capacity to produce government finance statistics and fiscal notifications, in accordance with the EU *acquis*.

In February 2023, the Parliament adopted amendments to the Law on budget and fiscal responsibility that make it possible to set up an independent Fiscal Council. A public call for three members of the Council was launched in April 2023. However, the president of Montenegro did not sign the amended law and the selection procedure remains stalled.

The government adopted and submitted its 2023-2025 **Economic Reform Programme** on 25 January 2023. The programme integrates macroeconomic, fiscal and structural reform plans into a single strategic document. Core reforms under the ERP continue from the previous programme and focus on the identified key challenges to the economy. However, macro-fiscal plans do not include a medium-term fiscal consolidation strategy. The limited implementation of 2022 policy guidance jointly agreed with the EU demonstrates the importance of strengthening the government's commitment to carrying out structural reforms.

Chapter 19: Social policy and employment

EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at EU level.

Montenegro has **some level of preparation** in the area of social policy and employment. **Some progress** was made during the reporting period on social protection through a significant increase in the expenditure on social benefit.

While some steps have been made, the recommendations from last year's report remain valid. In the coming year, Montenegro should in particular:

- strengthen the Employment Agency to enable it to efficiently play its role as a modern public employment service and to prepare it for the implementation of the Youth Guarantee and the future use of the European Social Fund (ESF);
- continue efforts to reform the provision of active labour market policy measures with an emphasis on their labour market relevance, including work-based learning, and establish a continuous monitoring mechanism that will enable evidence-based active labour market policy design;
- based on the Roadmap of reforms on social assistance and social and child protection services, establish a clear timeline and financial planning for the reform of the social and child protection system and start implementing the reforms.

During the reporting period, the Ministry of Labour and Social Welfare faced institutional and technical drawbacks, due to its previous repositioning within the government system and the August 2022 cyberattack. The reconstituted Ministry did not manage to adopt all relevant strategic documents in time. The Chapter 19 Working Group was set up again, but after the constitutive meeting on 27 March 2023, it did not meet again in the reporting period.

From 6 June 2022 until 31 March 2023, the Labour Inspection made 5 588 inspection visits in the area of labour relations and employment, and found 2 132 irregularities, of which 944 related to labour relations and 1 188 related to occupational safety and health. The Labour

Inspection detected 1 024 illegal employment cases (concerning 516 foreigners and 508 Montenegrin nationals); on the inspectors' order, 115 people (34 foreigners and 81 Montenegrin nationals) entered employment, in line with the law.

In 2022, the Labour Inspection detected 42 cases of non-formal employment of children aged between 15 and 18. In these cases, inspectors imposed fines on employers, warned them against irregularities, and requested documents (medical certificates and parental approval certificates) necessary for legal employment. The Labour Inspection did not discover any cases of severe forms of child labour in any economic activity.

Concerning **health and safety at work**, in December 2022 the government adopted the national strategy for occupational safety and health (2022-2027) and its 2023 action plan. There was no progress in setting up the occupational safety and health fund envisaged under the previous sector strategies (for 2010-2014 and for 2016-2020). During the reporting period, inspectors carried out 1 520 inspections in the field of occupational safety and health, including 14 investigations of work accidents (3 fatal accidents, 10 serious accidents and 1 collective accident). The Labour Inspection remained understaffed, with only 11 inspectors in charge of occupational safety and health.

In December 2022 social partners signed a new general collective bargaining agreement. Overall, **social dialogue** remains weak. The involvement of the tripartite Social Council in relevant policymaking is low. During the reporting period, the tripartite Social Council held only two sessions, and its Presidency three sessions.

In the area of **employment policy**, on 22 December 2022, the government adopted the 2023 action plan for employment. Monitoring the implementation of the action plan for employment and the national strategy for employment remains a challenge due to the lack of real-time and accurately disaggregated data. On 22 December 2022, the government adopted the action plan for the interoperability of selected information systems and databases that have a role in governing Montenegro's labour market. The plan sets out measures and activities required to bring about interoperability of the Employment Agency database with the tax administration databases. Appropriate exchange is also required with social welfare centres to enable high-quality monitoring of unemployed people. Several, mostly EU-funded, initiatives and activities started to strengthen the technical and human capacity of the Employment Agency. The local branches of the Agency remain understaffed. Multiple personnel and management changes and amendments to the Systematisation Act slowed down the reform process of the Employment Agency.

The Working Group for the Youth Guarantee Programme is working with experts from the International Labour Organization and the European Training Foundation on improving the draft Youth Guarantee implementation plan. The share of youth aged 15-29 in total registered unemployment in May 2023 was 19.92% (8 392 people, of whom 5 162 are women), compared to 23.83% (10 132 and 13 679 respectively) in 2021. The rate of NEETs among young people in 2022 decreased to 23.2%, compared to 26.5% in 2021.

In 2022, the labour market partially recovered compared to 2021. The overall activity rate grew from 54.4% in Q4 2021 to 59.9% in Q4 2022. The employment rate was 51.2% in Q4 2022, compared with 46.1% in Q4 2021. The unemployment rate was 14.5% in Q4 2022, compared with 15.4% in Q4 2021. The share of long-term unemployment in total registered unemployment was 57.49% in 2022, a large drop compared to 2021 (65.6% to 63.7% between Q1 and Q4 2021). The youth employment rate grew from 36.3% in Q1 2022 to 39.9% in Q4 2022, which is 5.3% higher than in Q4 2021. The share of women in total registered unemployment at the end of December 2022 was 57.64%, a reduction compared to

the same period in 2021, when this share amounted to 60.16%.

As regards labour inspection, an appropriate legislative framework involving sufficient resources and modernised planning of inspection activities and addressing issues such as gender that disproportionately impact on women, is not yet in place. A substantial turnover of staff is currently ongoing with the retirement of a significant number of experienced inspectors, increasing the need for training. No progress was made regarding legislative and non-legislative measures focused on work-life balance.

Regarding activities related to preparations for the **European Social Fund (ESF)**, Montenegro needs to decide which institutions will be the contracting and management authorities for setting up the sectoral operational programme on employment and social inclusion.

The **social protection and inclusion** sector continues to face human resource and capacity limitations. In light of the recent changes to the legal and strategic framework, taxes and social benefits for children, the overall social policy and employment system needs thorough assessment and reforms to effectively respond to the needs of most at-risk groups and labour market demands. The Social Protection Law and the social protection strategy have yet to be adopted. The Ministry of Labour and Social Welfare issued 36 licences to social and child protection services. However, much more involvement of, support to and cooperation with civil society is needed to achieve sustainable and effective results in the social sector, both in planning and monitoring of social policies and for implementing them through social services, including at the local level. In 2022, Montenegro adopted two amendments to the Child Protection Law, extending the right to child allowance to cover children up to 18 years old in an attempt to address the very high rate of children at risk of poverty and social exclusion (45.5% of children under the age of 18 in 2021). Centres for social work continued to be understaffed while their scope of work increased as they need to manage the new entitlements. Children from Roma and Egyptian communities are heavily engaged in child begging. The Institute of Social and Child Protection lacks resources and its role in the overall social protection system should be clarified. During the reporting period, the implementation of the integrated Social Welfare Information System (SWIS) enabled timely enforcement of all legislative changes. According to the MONSTAT Survey of Income and Living Conditions (data for December 2021), the national ‘at-risk-of-poverty’ or social exclusion rate (AROPE) was 38.9% (EU rate for 2021 was 21.7% of the population).

There was no progress on **deinstitutionalisation** and the transition to community and family-based services, especially regarding children. The deinstitutionalisation strategy, initially planned for Q4 2022, has yet to be adopted. Social welfare centres still do not have sufficient capacity to support the Ministry of Labour and Social Welfare in implementing the transition from institutional service provision to community-based care.

In the area of **non-discrimination** in employment and social policy, the Law on a unified disability determination system has not yet been adopted, although the draft law and the public consultation were completed in 2022. The Law on professional rehabilitation and employment of persons with disabilities, planned to be adopted in 2023 was also postponed. Civil society organisations are still not sufficiently included in policymaking processes. The number of people with disabilities included in the unemployment register at the end of 2022 was 9 864, of whom 6 755 or 61.78% were women (10 970 in 2020).

On **equality between women and men in employment and social policy**, Montenegro’s Gender equality index value in 2019 was 55 (out of maximum 100 points), which is lower than the EU average of 67.4. According to MONSTAT the difference between male and

female activity rates (population aged 20-64) is even bigger (79.7% for men and 66.8% for women). According to the World Bank, the share of women in top management is only 15%, and in business ownership 24%. In July 2022, the government adopted the report on the implementation of the 2021 action plan for implementing the strategy for development of women's entrepreneurship for 2021-2024 to respond to the lower share of women in entrepreneurship as opposed to men. The authorities and other institutions set up several programmes and took active labour market measures to increase the overall employment rates of women and young people. However, social support services for vulnerable groups remain scarce and unsustainable. They are mostly organised by civil society organisations, without continuous support from the local or national level.

Chapter 20: Enterprise and industrial policy

EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs)

Montenegro is **in between moderate and a good level of preparation** in the area of enterprise and industrial policy. In 2022, **some progress** was made in implementing enterprise and industrial policy. Further action by the government should ensure consistency of various national strategies and programmes in this area and the necessary inter-ministerial cooperation.

In the coming year, Montenegro should:

- evaluate the results of its 2019-2023 industrial policy strategy and prepare and adopt a new industrial policy, in cooperation with relevant stakeholders;
- align with the EU Late Payments Directive by adopting amendments to the Law on deadlines for settlement of monetary obligations;
- ensure continuous coordination of industrial policy with other key national strategies.

In the area of **enterprise and industrial policy principles**, in December 2022, the government adopted the national circular transition strategy for the period until 2030, with an action plan for 2023 and 2024. The strategy identifies four priority sectors – agriculture, forestry, construction and tourism – as well as horizontal focus areas necessary for circular transformation in key economic sectors. In June 2023, the government adopted a new 2023-2026 strategy for the development of micro, small and medium enterprises.

The government suspended work on setting up the Credit Guarantee Fund, intended to facilitate access to credit for micro, small and medium enterprises. Another concept to provide credit is under analysis. Reforms in the area of state-owned enterprises were downscaled by the government, despite commitments agreed in the 2022 Joint Conclusions of the Economic and Financial Dialogue. Future reform plans still need to be re-defined. Montenegro has yet to adopt the planned amendments to the Law on deadlines for settlement of monetary obligations, which aim to align the Law with the EU *acquis* on combating late payments.

In the area of **enterprise and industrial policy instruments**, the government implemented eight financial and non-financial programmes to develop entrepreneurship and the private sector under the overarching 2022 programme for improving the competitiveness of the economy. A total of 353 companies received support under this EUR 4 million programme. In March 2023, the government adopted the 2023 programme for improving the competitiveness of the economy, with nine programme lines, worth EUR 3 million, targeting

in particular support for young entrepreneurs and women. The single online portal for SME support (Single Access Point) was disabled due to the August 2022 cyber-attacks, and its update is ongoing.

In 2022, the Investment and Development Fund of Montenegro (IDF) provided financing worth EUR 185 million to Montenegrin enterprises, and an additional EUR 66 million in the first 5 months of 2023. In July 2022, the IDF signed a EUR 50 million loan agreement with the EIB, a second tranche of the previously approved loan of EUR 150 million. This loan aims to support climate-friendly and energy-efficient investment by local SMEs.

In April 2023, the government signed the Association Agreement for Montenegro's participation in the EU's Single Market Programme. Montenegro will participate in three pillars of the programme (Improving the Internal Market, SMEs, and Consumers).

In the area of **sectoral** policies, the report on the execution of the 2022 action plan for the implementation of industrial policy was adopted in March 2023. Out of the planned EUR 215.4 million, EUR 166.6 million was invested. In early 2023, the government launched the evaluation of the 2019-2023 industrial policy strategy.

The government decided to finance the Innovation Fund using part of the receipts from the controversial Economic Citizenship Programme without carrying out any due diligence on the origin of the funds. The Innovation Fund administered two programme lines – the collaborative grants programme and the innovation voucher scheme – to encourage cooperation between the private sector and research institutions in developing innovative projects and products. Following this support, the private sector investment in innovation projects through various programme lines exceeded EUR 1 million in 2022 (*see also Chapter 25: Science and research*).

In January 2023, to ensure consistency of the industrial policy with other national strategies and programmes, a coordination body was set up at management level in the Ministry of Economic Development and Tourism. The first test of the strengthened inter-ministerial cooperation would be the implementation of a newly developed programme of financial support to companies that wish to improve their energy efficiency using innovative technologies and renewable energy, which should start in 2023.

Chapter 25: Science and research

The EU provides significant support to research and innovation. All Member States can participate in the EU's research and innovation programmes and benefit from them, especially where there is scientific excellence and solid investment in research and innovation.

Montenegro has a **good level of preparation** in this sector. **Good progress** was made on each of the 2022 recommendations, by continuing the implementation of the smart specialisation strategy and by increasing participation in the Horizon Europe programme. In 2023, the government budget for science and innovation further increased. Two of last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- continue to implement the smart specialisation strategy;
- continue to strengthen academia-business cooperation, and further support knowledge transfer between them, also to deliver on green deal priorities;
- put in place the new strategy for scientific research activities.

In the area of **research and innovation policy**, Montenegro adopted two implementing acts that aim to fully implement the Law on scientific research activities. These acts laid down: (i) the conditions and more detailed criteria for awards for scientific achievements as well as award amounts; and (ii) further conditions for licensing scientific research institutions. Montenegro has yet to adopt the new strategy for scientific research activities, which will list instruments to increase the number of researchers.

The latest available statistics, from 2019, indicated that research and development funding stood at 0.36% of GDP in 2019 (0.50% in 2018), with an investment share of 0.12% provided by the private sector. For 2023, the government budget for science and innovation amounted to EUR 4.08 million. This increased budget supports the country's economic recovery, while helping to address the issue of brain drain of researchers and young people.

Montenegro continues to successfully implement the smart specialisation strategy. In June 2022, the government established a new composition of the Council for Innovation and Smart Specialisation, presided by the Minister of Science and Technological Development.

In December 2022, the Council adopted the Information on the innovation programmes of the Innovation Fund of Montenegro for 2023, based on which the Innovation Fund prepared the 2023 work plan, adopted by the government in April 2023. The Innovation Fund published a call for proposals under its collaborative grants programme with a budget of EUR 670 000. Seven project proposals were accepted for financing. The Innovation Fund also published a call for proposals under its Innovation Vouchers Programme and six additional programme lines have been launched in the period May-June 2023 (value EUR 1.65 million). The Call for co-financing national scientific research projects with total funds amounting to EUR 2.3 million was published in May 2023. Montenegro has yet to adopt the Programme for Encouraging Innovation in the Function of Energy Efficiency in Industry.

The cooperation with the European Innovation Council is good: the Collaborative Grants for Innovation scheme, managed by the Innovation Fund of Montenegro, was officially certified for the Plug-In scheme to the European Innovation Council Accelerator. The Law on incentive measures for research and innovation promoted the investment of EUR 1 934 000 in 19 start-ups. The cooperation with the European Institute of Innovation and Technology (EIT) is also good.

In the area of **framework programmes**, in Montenegro's first two years as a member of the Horizon Europe programme, Montenegrin participants gained already EUR 3 million (compared with EUR 4.62 million received over the seven years of Horizon 2020). The Ministry of Science and Technological Development provided EUR 230 000 to support co-financing of innovation activities under several strands of the programme, among other for covering participation in EUREKA.

Chapter 26: Education and culture

The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policies through the 'open method of coordination'. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

Montenegro has a **good level of preparation** in this area. **Some progress** was made during the reporting period although certain steps were taken towards achieving more inclusive education. However, increased efforts are needed to progress on other outstanding recommendations. Therefore, last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- adopt a budgeted plan including an economic impact analysis for wide-ranging education reforms, also addressing inclusive education, and improve access to quality education at all education levels;
- speed up the implementation of the new strategy on early and preschool education for 2021-2025 to improve preschool enrolment for all children;
- finalise and adopt the 2022-2023 national vocational education and training (VET) implementation plan under the VET strategy for 2020-2024, and put in place the mechanism to evaluate practical learning at VET and higher education levels;

In the area of **education and training**, in the period July 2022 till end of 2022, Montenegro adopted amendments to the Law on primary education, to the general Law on education, to the Law on higher education, and to the Law on professional training for persons with acquired higher education. On 4 April 2023, Montenegro adopted the Law on the confirmation of the Agreement on the Recognition of Qualifications in the Field of Higher Education in the Western Balkans.

In 2022 spending on education was EUR 231.8 million (4% of GDP), a slight decrease from 2021 (4.3%). The pre-school enrolment rate stood at 52.99% (male: 53.47% and female: 52.46%) in 2021/2022. In 2022/2023 the enrolment rate was 49.04% (male: 49.74% and female 48.28%).

Montenegro participates in other international assessments, by conducting a Trends in International Mathematics and Science Study (TIMSS), a study on progress in international reading literacy (PIRLS) as well as piloting a Teaching and Learning International Survey (TALIS). Montenegro is not participating in the ICILS (International Computer and Information Literacy Study).

In July 2022, Montenegro adopted quality standards for the creation of digital content as part of its digital strategy. The objectives of the 2022-2027 Montenegro Education System Digitalisation Strategy is to align with the EU Digital Education Action Plan 2021-2027. Efforts towards effective, coherent and inclusive digital transformation of the Montenegrin education and training systems, including the capacity of the systems to develop digital skills remain high on the agenda. Montenegro has made use of EU self-reflection tools, such as SELFIE for schools.

Regarding green education, Montenegro's education system implements the education for sustainable development by including, under all school subjects, the issues of climate change, green economy, environment protection, sustainable cities and settlements, biodiversity, and health education.

As part of the early and preschool education strategy for 2021-2025, the Ministry of Education continued efforts to increase the enrolment of children in public preschool institutions including through awareness-raising campaigns. For the 2022/2023 school year, nearly 25 000 children (out of which nearly 12 000 girls and nearly 13 000 boys) enrolled in public and private preschool institutions, which is 7% more than in 2021. However, regional disparities remain, with low -take-up in the north.

In terms of inclusive education, vulnerable children coming from the Roma and Egyptian communities now have greater possibilities for early childhood development and education. In June 2022, 26 educators received training for work with Roma and Egyptian families, which resulted in 267 children attending kindergarten. In accordance with the 2021-2025 action plan for the implementation of the strategy of social inclusion of Roma and Egyptians in Montenegro, scholarships (worth nearly EUR 54 500) were provided to high-school

students and students of the Roma and Egyptian community in September-December 2022. The engagement of Roma and Egyptian mediators in education continued, as 25 mediators were hired in primary schools. This practice proved to be very useful for including children from the Roma and Egyptian communities in the education system, as well as for reducing school dropout rates.

A programme was also set up to include children from Ukraine in the educational system of Montenegro.

Furthermore, the Bureau for Textbooks and Teaching Aids prepared didactic material for 520 students, mostly for mastering teaching material, support for literacy, mathematics, managing emotions and behaviour. A consultation of school principals was held on topics including augmentative and alternative communication, the picture exchange communication system, social stories and Cboard, an application for children and adults with speech and language impairments, aiding communication with symbols and text-to-speech. A training session for about 150 representatives from 40 schools (IT coordinators, professional service staff, and active classroom and/or practical teachers) followed. The Cboard application is used in 13 preschool institutions, in 4 primary schools, and in resource centres. In total, 81 tablets were allocated and are used in work with about 120 students.

In the area of skills and **VET**, the Ministry of Education is committed to the Osnabrueck Declaration and reforms to address skills mismatches, including work-based learning and curricula reforms. Montenegro is yet to draft and adopt its report on the implementation of the 2020-2022 action plan related to the VET strategy and the new action plan for the period until the expiration of the strategy in 2024. Montenegro helped prepare the report on the Turin Process with a focus on system performance indicators and lifelong learning. The implementation of dual education continued with around 400 students placed with more than 200 employers. Regarding skills mismatches, the main issues remain overqualification or working in professions for which people lack appropriate education/skills. The study on career guidance done together with the European Training Foundation (ETF) in 2022 includes proposals for guiding students and adults to help address skills mismatches.

Furthermore, Montenegro is still to adopt its strategy on higher education for 2023-2027 and a new law on higher education.

Montenegro benefits from the international dimension of the 2021-2027 Erasmus+ programme. In 2022, around 320 higher education staff members and 460 students from Montenegro were selected to undertake a mobility period in EU Member States or associated third countries to the programme, while Montenegrin higher education institutions are expected to host around 275 staff members and 240 students from Europe. Montenegro was invited to take part in the European Education Area working groups 2021-2025.

In the area of **culture**, Montenegro is yet to adopt a national strategy for the development of culture for 2023-2027. Montenegro participates in the EU Creative Europe Programme. The Ministry of Culture continued to raise awareness of opportunities for Montenegrins under the 2021-2027 programme.

The Ministry of Sports and Youth formed a working group end of August 2022 to work on the amendments to the **Youth Law**, to further specify youth services and implementation procedures. However, Montenegro is yet to approve the amendments to the Law and adopt its new youth strategy, which should replace the strategy that expired in 2020. The new strategy should be accompanied by a time-bound action plan on its implementation. The fact that the new strategy is still to be adopted is also preventing the operationalisation of the youth centres. Furthermore, intersectoral cooperation between various ministries dealing with youth

issues needs to improve.

Draft amendments to the Law on Sports and the Sports development Strategy 2023-2026 were not yet tabled.

Chapter 29: Customs union

All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment, as well as adequate implementing and enforcement capacity and access to common computerised customs systems.

Montenegro is **moderately prepared** for the customs union. It made **some progress**, advancing preparations for its accession to the Convention on a common transit procedure, and implementing measures envisaged in the trade facilitation strategy for 2018-2022, thus partially addressing last year's recommendations. Staff shortage slowed down the implementation of many IT projects. Challenges related to the illicit tobacco trade through the port of Bar were partially addressed, but close monitoring and follow-up action is needed.

In the coming year, Montenegro should in particular:

- implement an EU-compatible computerised transit system and finalise accession to the Convention on a common transit procedure;
- ensure sufficient staffing levels and funding to implement and upgrade customs IT systems.

In the area of **customs legislation**, in February 2023, Montenegro started implementing a new Customs Code, aligned with the Union Customs Code. The Law on accession to the Convention on a common transit procedure (CTC) and the planned legislation to control the production of and trade in drug precursors are not yet adopted. Implementing legislation on the customs status of goods and the national transit procedure with a view to implementing the new computerised transit system (NCTS) and acceding to the CTC is already in place.

Montenegro applies the Regional Convention on pan-Euro-Mediterranean (PEM) preferential rules of origin and implements transitional rules of origin based on the revised PEM Convention.

Montenegro has yet to further align legislation on customs security with the EU *acquis*, and to adopt implementing legislation on the export control of cultural goods. Fees continue to be charged to lorries in inland customs terminals located in privately owned facilities, which is not in line with the EU *acquis*.

Agreements between the European Commission and Montenegro on participation in the Customs and Fiscalis programmes were concluded in November 2022.

In the area of **administrative and operational capacity**, the Revenue and Customs Administration (RCA) hired several new employees in the area of customs. However, staff shortages, in particular of IT specialists, remain a significant concern.

Work on the delayed implementation of the NCTS continued, with a pilot application of the system in progress. The start of the national implementation of the NCTS is planned for September 2023, with full application not expected before the second half of 2024. This also delays accession to the CTC until the second half of 2024. Several projects funded by the EU and its Member States are under way to upgrade various customs IT systems or build capacity in various areas of the customs service operation. The accreditation process for the customs laboratory is still ongoing.

In 2022, the gross collection of customs revenues amounted to approximately EUR 1 billion, over 24% more than in 2021. The upward trend continued in 2023, with customs revenues reaching EUR 1.22 billion by the end of June, 25% more than in the first 6 months of 2022.

Following the implementation of the decision to ban the storage of tobacco products in the free zone of the port of Bar, the RCA seized over 1.5 billion cigarettes worth some EUR 202 million. In February 2023, the government's stake in the port of Bar increased to 78.55% after the purchase of shares from minority shareholders. The government intends to become the sole owner of the port of Bar and take over Port of Adria, the operator of the free zone in the port of Bar. This could make it possible to introduce a much more efficient surveillance and control of all port operations, including any shipments of tobacco products. To address the gaps in the current monitoring and tracing arrangements, Montenegro should ensure close monitoring of all tobacco-related operations in the port, including by implementing the cargo targeting system, which enables pre-arrival risk analysis of containers in the port of Bar and electronic record keeping of containers.

CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

This cluster covers chapters 14-transport policy, 15-energy, 21-trans-European networks and 27-environment and climate change. All four chapters are open, with closing benchmarks that remain to be fulfilled in each chapter. This cluster and the reforms concerned have significant links to Montenegro's Economic Reform Programme, the Commission's Economic and Investment Plan and the Green Agenda for the Western Balkans endorsed by Montenegro.

Some progress was achieved on creating a functioning day-ahead energy market. Montenegro successfully joined the Paris Memorandum of Understanding on port state control. Good progress was made on the implementation of Intelligent Transport Systems in road transport. There was limited progress on implementing the Transport Development Strategy and none on its review. There was very limited progress concerning environment and climate change.

In the coming period, Montenegro is invited to focus on the following areas: complete key recommended reforms in the transport area, in particular on rail transport and on the review of Transport Development Strategy; adopt and implement the law on security of supply of oil products and couple the day-ahead energy market with neighbouring countries; strengthen the administrative capacities to prepare for trans-European networks in the areas of transport, telecommunications and energy; considerably step up ambitions towards a green transition and step up its efforts on implementation and enforcement work to achieve the closing benchmarks in Chapter 27 and in particular on waste management including organising awareness raising campaigns on recycling and waste separation and necessary enforcement targeting citizens and local authorities, adopt the Strategy on Air quality 2021-2029, address water quality issues, nature protection and adopt the national energy and climate plan to achieve decarbonisation by 2050 without further delays.

Chapter 14: Transport policy

The EU has common rules on technical and safety standards, security, social standards, state aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

Montenegro is **in between moderate and a good level of preparation** in the area of transport policy. There was **good progress** on key reforms, notably on the implementation of intelligent transport systems (ITS) in the road sector and on accession to the Paris Memorandum of Understanding on Port State Control. Other recommendations from last

year's report remain valid.

In the coming year, Montenegro should in particular:

- adopt a new railway law to ensure the operational independence and appropriate staffing of the railway regulatory body and railway safety authority;
- lay down the strategic ITS framework for the rail and maritime networks;
- urgently adopt and start implementing a new road safety strategy for 2023-2030.

As regards **general transport**, alignment of the national transport strategy with the sustainable and smart mobility strategy for the Western Balkans of the Transport Community, intended to provide a shift towards greener transport modes, is pending. Implementation of the action plans endorsed by the Transport Community continued, but progress was slow to moderate. Appropriate financing of the Commission for Investigation of Accidents in Maritime, Rail and Air Transport is yet to be secured. There was still no progress on alignment of national legislation with the *acquis* concerning public service obligations, procedures and criteria for the award of public service contracts in road, rail and maritime transport. For larger transport agglomerations, sustainable urban mobility plans that respect environmental and social standards should be developed, following EU practice.

In the area of **road transport**, in December 2022, the Parliament adopted amendments to the Law on roads, making it possible to collect charges for the use of roads and road land. Implementation of intelligent transport system solutions started on the Bar-Boljare road, including in the Sozina tunnel and on the section of the highway, opened in 2022.

The implementation of 2020-2022 programme for road safety brought some improvements to the data collection and analysis, but did not yield the expected results in terms of safety, with no improvement or reduction of fatal and serious road traffic accidents. A new road safety strategy for 2023-2030 is still at a draft stage and should be adopted as soon as possible. Montenegro should also set up a dedicated road safety agency. Challenges remain in effectively enforcing the international agreements on carriage of dangerous goods by road.

In March 2023, the government adopted the 2023 programme for reconstruction and maintenance of state roads. However, no mid-term road maintenance and rehabilitation programme has been prepared.

On **rail transport** legislation, there was no progress on alignment with the EU *acquis*. Montenegro is invited to align its legislation to the 4th railway package to ensure a fully open market for passenger and freight services. The government continued to heavily subsidise the state-owned company Railway Infrastructure of Montenegro to ensure regular maintenance of the railway infrastructure. Montenegro has yet to introduce performance-based multiannual maintenance contracts based on effective cost control, benchmarking and regulatory supervision. Plans for sustainable and rationalised railway infrastructure rehabilitation and multiannual maintenance still need to be urgently developed.

In the area of **maritime transport**, Montenegro is yet to align national legislation with the EU *acquis* on ports and to adopt legislation based on the Port Services Regulation. Following a successful assessment and removal of the last legal obstacles, Montenegro became a member to the Paris Memorandum of Understanding on Port State Control on 1 July 2023. Montenegro is currently implementing the national maritime single window and upgrading the vessel traffic monitoring and information system, but progress is moderate to slow due to pending administrative issues.

In February 2023, the government increased its ownership in the port of Bar to 78.55%,

increasing its majority in the management board. This provides additional leverage for future strategic decisions, including a potential takeover of Port of Adria, the operator of the free zone in the port of Bar. In February 2023, operation of the only ferry line crossing the Bay of Kotor was assigned to the public company for coastal zone management. The government terminated the contract with the private company that had previously operated this line. For sustainable and safe operations of ferry services it is important to ensure fair and transparent concession award and termination procedures.

In the area of **inland waterway transport** in Montenegro, no progress was achieved in aligning national legislation with relevant EU *acquis*.

As regards **aviation**, in April 2023, the Parliament ratified amendments to the European Common Aviation Area Agreement and its Annex I, on the rules applicable to civil aviation. However, the law was not signed by the president. Certification of Podgorica airport was successfully finalised in May 2023, the procedure is still ongoing for Tivat airport. The adoption of several implementing laws during 2023 provided further alignment on common rules in the field of civil aviation, air safety and air traffic operations. In November 2022, the national airline company, To Montenegro, received an Operational Safety Audit certificate from the International Air Transport Association. The company currently operates four aircrafts and slowly develops its connection network.

Concerning **combined transport**, the government is yet to start the implementation of a business plan prepared under the feasibility study for transforming the port of Bar into a sustainable multimodal platform. Again, there was no progress on drafting new legislation for combined freight transport.

Montenegro should increase efforts to align with and implement EU passenger rights legislation.

Chapter 15: Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear safety, radiation protection and nuclear safeguards.

Montenegro has reached a **good level of preparation** in the area of energy. **Some progress** was made, mainly by creating a day-ahead energy market and in moving to market-based schemes for renewable energy production. Last year's recommendations were thus partially addressed.

In the coming year, Montenegro should, in particular:

- finalise and adopt the national energy and climate plan (NECP);
- transpose and implement the Electricity Integration Package and accelerate the move to market-based support schemes for renewable energy production based on streamlined permitting and connection procedures;
- adopt the Law on security of supply of oil products and appoint the stockholding body for the mandatory oil reserves.

In the area of **security of supply**, Montenegro has an energy development strategy up to 2030. In July 2022, the government set up a national council responsible for analysing and monitoring the security of energy supply and adopted a decision on the long-term energy balance of Montenegro for 2023-2025. In November 2022, the government adopted the energy balance of Montenegro for 2023.

The Ministry of Capital Investments prepared a draft law on compulsory strategic reserves of

oil and petroleum products. The draft received a positive opinion from the Energy Community Secretariat, but a consultation procedure between various government departments is still ongoing. Oil stocks remain very low, and Montenegro intends to secure strategic oil reserves by introducing stock-keeping obligations on importers of petroleum products, in addition to the reserves to be kept and managed by Montenegro's Hydrocarbons Administration.

Work on the National Energy and Climate Plan (NECP) was delayed, with the expected adoption postponed to the second quarter of 2024. The NECP will become the new strategic plan for the development of the energy sector until 2030, include policy and measures in the field of renewable energy and energy efficiency and align Montenegro's energy policy with 2030 Energy Community targets.

Work on trans-Balkan electricity corridor continued, but the construction of the electricity interconnection with Serbia did not start. The costly refurbishment of the thermal power plant in Pljevlja progressed, despite numerous controversies concerning environmental and State aid aspects of this investment and Montenegro's international commitments on greenhouse gas emissions (*see also Chapter 27: Environment and climate change*).

Following the adoption of the Energy Support Package for the Western Balkans in November 2023, Montenegro received EUR 27 million of budget support from the European Commission to reduce the immediate socio-economic impact of the energy crisis on vulnerable social groups and SMEs. As part of the package, Montenegro's Parliament adopted the national energy action plan in January 2023. The plan consists of 13 measures, covering a range of targets, including the preparation of a strategic framework for the NECP and implementation of the Commission's recommendations on energy included in the annual report by January 2024.

The adoption of the Energy Support Package incentivised national authorities to strengthen the interinstitutional coordination and a multi-stakeholders dialogue. Nevertheless, administrative capacity still needs to be strengthened.

Concerning the **internal energy market**, the transposition and implementation of the Electricity Integration Package is still pending. Montenegrin Power Exchange LTD finalised preparatory activities to support the legal, operational and technical functioning of the day-ahead market. BELEN, the operator of the Montenegrin Power Exchange or MEPX launched the day-ahead market on 26 April 2023 for the territory of Montenegro. The launch of the intraday market is still pending. A total of 63 participants are registered to participate in the wholesale electricity market of Montenegro.

In the area of **hydrocarbons**, national legislation is aligned with the Hydrocarbons Licensing Directive. The Law on safety measures in offshore exploration and production of hydrocarbons is still pending adoption by the Parliament. The exploration period granted to concessionaires for offshore hydrocarbons exploration expired. The construction of Montenegro's section of the Ionian-Adriatic Gas Pipeline (IAP) did not progress. The advancement of the project depends on the ability of the government to conclude appropriate public consultations and reach an agreement with concerned municipalities on the preferred alignment.

In the area of **renewable energy**, in 2021, 39.3% of gross final consumption of energy came from renewable sources, which exceeded the 33% target to be achieved by 2020 under Montenegro's national action plan. Five large renewable energy projects (one hydropower plant, two wind energy and two solar energy plants) are in preparation and expected to be gradually implemented once the NECP is adopted. It remains essential that all new renewable

energy projects are developed in conformity with the *acquis* on concessions, State aid and the environment.

In the area of **energy efficiency**, in December 2022, the Parliament adopted amendments to the Law on energy efficiency, resulting in an improved legal framework and better alignment with EU directives on energy efficiency and energy performance of buildings. Preparations are ongoing to introduce the NECP as key planning document in the field of energy efficiency, instead of the current energy efficiency action plan. The Ministry of Capital Investments continued coordinating several programmes on energy-efficiency improvement for private households as well as for public buildings, with a focus on the healthcare and educational sectors. Nevertheless, the certification of the energy performance of buildings is not yet implemented and the long-term building renovation strategy is yet to be finalised and adopted.

Regarding **nuclear energy, nuclear safety and radiation**, Montenegro does not have a nuclear industry, research reactor or any other facility producing radioactive material. National legislation prohibits the construction of nuclear facilities. Montenegro continues to participate in several regional initiatives for the early exchange of information in the event of a radiological emergency or hazard including the European Community Urgent Radiological Information Exchange. Montenegro is yet to join the European Radiological Data Exchange Platform and currently has no intention to participate in the Capital and Advisory Committee of the Euratom Supply Agency.

On **nuclear safeguards**, upon accession, the existing systems of accountancy and control of nuclear materials in Montenegro would need to be adapted to accommodate for the safeguard provisions (chapter 7) of the Euratom Treaty.

Chapter 21: Trans-European networks

The EU promotes trans-European networks in transport, telecommunications and energy to strengthen the internal market and contribute to growth and employment.

Montenegro is **in between moderate and a good level of preparation** in trans-European networks. There was **limited progress** in this area, mostly on the implementation of rail projects. Numerous delays in developing transport and energy infrastructure demonstrate weaknesses in Montenegro's project design, decision making and management capacity. Last year's recommendations remain valid.

In the coming year, Montenegro should in particular:

- review the transport development strategy and align it with the strategy for sustainable and smart mobility in the Western Balkans, confirming a policy shift towards rail, multimodality, reduction of CO₂ emissions and other environmental impacts;
- develop institutional policies to hire and retain skilled staff to manage infrastructure projects in the areas of transport, telecommunications and energy;
- revise institutional policies to improve decision-making on infrastructure projects and increase the capacity to absorb funding.

In the area of **transport networks**, Montenegro continued cooperating with the Transport Community Secretariat and implementing its six action plans, but progress was moderate. The revision of the transport development strategy to align it with the strategy for sustainable and smart mobility in the Western Balkans, and to provide a shift towards greener transport modes is pending.

As part of the proposed revision of the Regulation on the trans-European transport network (TEN-T), the European Commission and Montenegro conducted bilateral discussions on adapting the indicative map of the transport-infrastructure network for Montenegro and agreed on two changes, adding the Montenegrin section of the rail line between Podgorica and Capljina (Bosnia and Herzegovina) and the airport of Tivat to the comprehensive TEN-T network. In May 2023, revised TEN-T maps for the Western Balkans were endorsed in a high-level understanding on indicative maps for TEN-T. The amended maps will become part of the revised TEN-T Regulation.

In the area of **transport-infrastructure development**, road and rail projects and investment faced significant delays, which shows that the responsible administrative bodies have limited absorption and management capacity.

The EU-funded feasibility study for the entire Bar-Boljare highway, including environmental and social assessments, was made public in October 2022. Montenegro's government confirmed its commitment to continue the highway project with the help and financing of the EU partners. In December 2022, the EU provided financial support for an update to the feasibility study and a detailed design of the next priority section. However, work on preliminary designs for the next highway sections (Matesevo-Andrijevisa and the Podgorica bypass) was delayed and remains incomplete.

Work was also delayed on the main design of the Scepan Polje-Pluzine road, part of TEN-T Route 2b, comprehensive network. Montenegro endorsed an agreement with Bosnia and Herzegovina for the construction of an interstate bridge over the Tara river on the same TEN-T route. The preliminary design work on the Budva bypass, a 30 km section of the Adriatic-Ionian highway, continued with further delays until its completion in April 2023. A public consultation on a new spatial plan for Montenegro covers a new alignment of the Adriatic-Ionian highway, disregarding previously adopted studies on this route. The newly proposed alignment is not included in the TEN-T extension to the Western Balkans.

As regards the rail network, work on various rail projects continued with EU funding, including on upgrading the Bar-Vrbnica railway, which is part of the core network corridor. The government considers the rail corridor, parallel to the Bar-Boljare highway, as subsidiary to the highway. A change in Montenegro's strategic thinking and planning is needed towards an integrated transport corridor approach with a focus on minimising CO₂ emissions and other environmental impacts.

A multimodality study for the port of Bar was completed. The study recommends investment to improve bulk cargo handling and make it environmentally friendly.

In the area of **energy networks**, work continued to interconnect the electricity systems of Serbia, Bosnia and Herzegovina, Italy and Montenegro. There was no progress on the Ionian-Adriatic Gas Pipeline (IAP) project. The progress of this project depends on the government's ability to complete the public consultations and reach an agreement with relevant municipalities on the preferred alignment of the pipeline.

Overall, infrastructure investment needs to comply fully with the EU standards on public procurement, State aid and environmental impact assessment. New investment needs to address changing strategic priorities, decarbonisation, digitalisation and resilience of transport and energy networks, including prior cost-benefit analyses carried out in line with EU best practice.

Montenegro is yet to fully align its legislation with the **EU *acquis*** on the TEN-T and the trans-European energy network.

Chapter 27: Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the environment. EU rules contain provisions addressing climate change, water and air quality, waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

Montenegro has **some level** of preparation in this area. **Limited progress** was made in further aligning national legislation with the EU *acquis* on water, nature protection and climate change. Significant efforts are still needed on implementation and enforcement, particularly on waste management, water and air quality, nature protection and climate change. Montenegro should considerably step up and accelerate its ambitions towards a green transition.

In the coming year, Montenegro should in particular:

- intensify implementation and enforcement work to achieve the closing benchmarks in Chapter 27, in particular in the water, nature protection, air quality, industrial pollution and climate change sectors;
- adopt and start implementing the Waste Management Law and the national waste management plan and the Strategy on air quality management for 2021-2029;
- finalise, adopt and start implementing the national energy and climate plan in a transparent manner, in line with the EU's 2050 zero emission target and the Green Agenda for the Western Balkans.

Environment

As regards horizontal **legislation**, in June 2023, the government adopted the fourth semi-annual report on the implementation of the action plan for fulfilment of the closing benchmarks in Chapter 27. The report showed that out of 102 planned activities, only 39 were implemented (38.23%). The highest level of implementation was in the area of water quality, industrial pollution and chemicals, the lowest in the area of air quality, noise and climate change. In the reporting period, Montenegro completed 1 strategic environmental assessment (SEA) and 65 environmental impact assessments (EIA). In the area of environmental crime, in the reporting period, 97 new cases were registered, and 53 cases were legally resolved. Montenegro still needs to urgently address the lack of sufficient administrative capacity at central and local level and in inspection bodies, the insufficient interinstitutional coordination, and the lack of a sustainable financial framework. In January 2023, the head of the working group for Chapter 27 was finally appointed. Public participation in decision making process is taking place but requires further improvement.

As regards **air quality**, there was no significant progress. The adoption of the strategy on air quality management for 2021-2029 and the related action plan are still pending. At the beginning of winter, an increase in air pollution was recorded due to heating with wood, specifically in the urban part of the Pljevlja municipality. During December 2022, the value of the average daily concentration of particulate matter 10 (PM10) particles exceeded the limit in several municipalities particularly in Pljevlja and Podgorica.

In the area of **waste management**, national legislation remains partially aligned with the EU *acquis*. Considerable efforts on strategic planning and investment are needed to implement the national strategy for waste management until 2030. The new Law on waste management, was finalised and is pending adoption by Parliament. Amongst other issues this new Law bans the use of lightweight plastic carrier bags with a thickness between 15 and 50 microns,

at retail establishments, and introduces the extended producer responsibility program. The drafting of the state waste management plan for 2023-2028 is ongoing. Infrastructure for separate waste collection and recycling exists, however it is not used properly by citizens, and illegal and temporary waste disposal have yet to be resolved. Media campaigns for awareness raising and proper enforcement rules, targeting citizens and local authorities, about separating waste disposal and recycling, are needed. The database on hazardous and non-hazardous waste treatment, hampered following the August 2022 cyber-attack, needs to become operational.

Alignment of national legislation with the EU *acquis* on **water quality** remains limited and significant efforts are needed to step up the process. The Ministry of Agriculture, Forestry and Water Management increased its administrative capacity in this area by hiring new personnel. On 12 January 2023, the government adopted the 2023 programme for monitoring surface and ground water. Montenegro ensured alignment of its legal framework with the Marine Strategy Directive by completing the marine environment monitoring programme and developing a database on the basis of the Geographic Information System. To further align its national legislation with the urban waste water *acquis*, the waste water treatment plants in Andrijevića and Petnjica as well as the Volujica sewage pumping station in Bar were completed. Work is also ongoing for the urban waste water treatment plants in Podgorica and Pljevlja.

In the area of **nature protection**, Montenegro's national legislation remains partially aligned with the EU *acquis*. Progress in this field was limited in the reporting year. The drafting of amendments to the Law on nature protection is still ongoing. Work has not yet started on the new national strategy for biodiversity and the amendments to the Law on forests and the amendments to the Law on wildlife and hunting remain pending. Activities continued regarding the identification of potential Natura 2000 areas. In the reporting period, a total of eight management plans were adopted, three for the marine protected areas: Platamuni, Stari Ulcinj, and Katić and five for the national parks: Biogradska gora, Durmitor, Lovćen, Skadarsko jezero and Prokletije. However, the management plan for the Ulcinj Salina is still pending. More active involvement of the municipality of Ulcinj and the government is essential to avoid delaying any decisions and advance towards the closing benchmark. Some activities are also ongoing to implement the recommendations of the Bern Convention regarding Lake Skadar.

No significant progress was registered on **industrial pollution control and risk management**; Montenegro's national legislation remains partially aligned with the EU *acquis*. In line with the Law on industrial emissions, the Agency for Environmental Protection received three new requests for an integrated permit and finalised two requests for revision of an integrated permit. One request for revision of an integrated permit and one request for termination of an integrated permit are still being processed. The European Commission notes that the ecological reconstruction plan for the Pljevlja coal power plant will not address the core issues. Montenegro needs to step up its efforts to permanently close the plant to meet EU emission standards. Montenegro needs to plan for a just transition in the region, by providing economic alternatives to the communities that will be affected the most by the coal phase-out.

On **chemicals**, Montenegro's legislation remains partially aligned with the EU *acquis*. In July 2022, the government adopted the report on the implementation of the 2021 action plan for the implementation of the national chemicals management strategy for 2019-2022. The 2024-2026 national chemicals management strategy was adopted in August 2023 and focus should now be directed towards its implementation to ensure enforcement of legislation and

measures to reduce the risks of hazardous chemicals for better protection of human health and the environment. Over the reporting period, the government adopted a number of secondary legislative acts to implement the Law on chemicals. Amendments to the Law on biocidal products are finalised and pending adoption by Parliament.

In the field of **noise**, the Ministry of Ecology, Spatial Planning and Urbanism (MESPU) is finalising the amendments to the Law on protection from noise in the environment with the aim of increasing inspection supervision in the field of environment noise protection. No measures were taken to raise public awareness on environmental noise protection.

As regards **civil protection**, Montenegro has been a member of the Union Civil Protection Mechanism (UCPM) since April 2015. In November 2022, the government adopted the national plan for rescue and protection from radiation and nuclear accidents. In December 2022, the Parliament adopted amendments to the Law on rescue and protection as well as related secondary legislation. The necessary communication equipment, the Secure Trans European Services for Telematics between Administrations (sTESTA), is installed in the Police Directorate, thus fulfilling the pre-requisite to connect to the Common Emergency Communication and Information System (CECIS). As a member of the UCPM Montenegro needs to swiftly proceed with establishing connection to the CECIS. Montenegro has provided assistance under the UCPM to Türkiye in response to the earthquake in February 2023.

Climate change

In the area of **climate change**, the level of alignment of Montenegro's national legislation with the EU *acquis* remains limited. Montenegro has a climate-change strategy in place but must intensify its work to ensure consistency with the EU's 2030 climate and energy policy framework. Montenegro needs to strengthen its administrative capacity to enable the implementation and enforcement of the EU *acquis*. Considerable work is still required to align national legislation with the EU *acquis*, such as incorporating the remaining aspects of the EU Emissions Trading System (ETS), the Effort Sharing Regulation and the Governance Regulation. In February 2023, the National Council for Sustainable Development set up a permanent working group for mitigation and adaptation to climate change. The aim of the working group is to set up a monitoring and reporting system for greenhouse gas emissions and to prepare policies and measures for adaptation and mitigation to climate change in accordance with the EU *acquis*. Concerning the implementation of the Decree on activities that emit gases that cause the greenhouse effect, a public auction for the allocation of emission credits was organised for the first time in February 2023. The proceeds – worth EUR 9.2 million – will encourage the construction of renewable energy sources, protecting and improving the environment, and encouraging innovation. The MESPU promoted the purchase of cars with low fuel consumption and CO₂ emissions by issuing a guide in 2022. Together with the United Nations Development Programme, the MESPU is also preparing a national climate-change adaptation plan. The national energy and climate plan to achieve decarbonisation by 2050 is not yet in place and is delayed for yet another year. Montenegro needs to take decisive steps for the establishment of a mechanism on carbon pricing, aligned with the EU ETS to advance the implementation of the EU *acquis* and adequately prepare for the EU Carbon Border Adjustment Mechanism that entered into force in its transitional phase on 1 October 2023.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

This cluster covers: agriculture and rural development (Chapter 11); food safety, veterinary

and phytosanitary policy (Chapter 12); fisheries and aquaculture (Chapter 13); regional policy and coordination of structural instruments (Chapter 22); and financial and budgetary provisions (Chapter 33). All five chapters are open, with closing benchmarks that remain to be fulfilled in each chapter. This cluster comprises policies linked to European structural funds requiring particular preparation for developing the capacities to assume responsibilities of a future Member State.

Progress was achieved in different areas e.g. in agriculture, food and fisheries through further support for agricultural establishments and rural food companies to align with the EU standards and in implementing IPARD II. The Strategy for agriculture and rural development for 2023-2028 was also adopted. On financial and budgetary provisions, progress was achieved through improved coordination and management of own resources. In the coming period, Montenegro is advised to accelerate the spending of EU funds under IPARD II to avoid de-commitments and start the implementation of IPARD III programme. Furthermore, Montenegro should accelerate legislative alignment in the area of agriculture (such as the Law on organic farming, Law on wine and on Olive Oil), and fisheries and aquaculture (adopt the Law on structural measures and State aid in fisheries and aquaculture and Law on marine fisheries and mariculture), adopt and start implementing the new 2023-2028 fisheries and aquaculture strategy; and in the area of food to continue upgrading food establishments and further strengthen administrative capacity in particular on food safety controls; to update the action plan for meeting EU cohesion policy requirements while strengthening capacities to manage IPA programmes; to further align the institutional framework and rules of administration for the own resources system.

Chapter 11: Agriculture and rural development

The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.

Montenegro remains **moderately prepared** in the area of agriculture and rural development. **Some progress** was achieved on last year's recommendations, mainly in implementing the Instrument for Pre-accession Assistance for Rural Development (IPARD II and III) programmes, by organising further calls, adopting the Sectoral Agreement for IPARD III, requesting to roll over entrustment and receiving entrustment for the 'Farm diversification and businesses development' measure. The capacity of the IPARD Agency was strengthened. Progress was also registered with the adoption of the strategy for agriculture for 2023-2028. The implementation of the action plan on EU *acquis* on agriculture and rural development alignment was limited.

In the coming year, Montenegro should in particular:

- use to the best possible extent the remaining budget under IPARD II, open the first new calls for applications under IPARD III, work on completing the entrustment of the technical assistance, and submit new measures for entrustment;
- further implement the action plan for alignment with the EU *acquis* on agriculture and rural development, including by setting up a decentralised branch of the paying agency;
- significantly progress with the roll-out of the land parcel identification system (LPIS) across the whole territory.

As regards **horizontal issues**, the strategy for agriculture and rural development for 2023-2028 was adopted in June 2023. Montenegro still needs to bring its support measures fully in line with EU *acquis*.

Progress in setting up the integrated administration and control system (IACS) remained slow. The land parcel identification system (LPIS) has yet to be rolled out across the whole territory. Preparations are ongoing to secure new orthophotographs to update the system. Efforts to further develop the farm accountancy data network (FADN) need to continue. Farm advisory services have yet to be strengthened.

As regards the **common market organisation**, Montenegro needs to step up implementation of the activities under the action plan on EU *acquis* alignment. The Law on wine needs to be updated in line with EU *acquis*. Work is under way to develop an electronic vineyard register. In January 2023, a Law on spirit drinks in line with the EU *acquis* was adopted.

Amendments to the Law on olive growing and olive oil, laying down, clearer rules for the production and placing on the market of olive oil as well as on control provisions are pending adoption by Parliament.

The 2023 programme for improving the availability of food under the schools scheme was adopted. Procedures and conditions for administering preferential customs quotas for the import of agricultural products were improved.

In the area of **rural development**, two new calls were issued which means that Montenegro now has a total of 11 IPARD II calls. In March 2023, the European Commission entrusted Montenegro with budget implementation tasks for the IPARD measure ‘Farm diversification and business development’, which enables the country to contract projects from its first call. The external audit assessment of the IPARD measure ‘Technical assistance’ was provided to complete the entrustment package that Montenegro sent to the European Commission in February 2022. A second automatic decommitment of funds took place after the end of the financial year 2022, and there is significant risk of losing additional funds at the end of 2023. The last call under the IPARD II programme closed in June 2023. The fact that the IPARD II programme is still running should not slow down the start of the implementation of the IPARD III programme. Authorities are encouraged to put further efforts into ensuring full absorption of available funds.

In June 2022, the European Commission approved Montenegro’s IPARD III. After adoption by the government, the Montenegrin Parliament confirmed the programme in December 2022 by adopting the national Law on the management and implementation of the IPARD III. The instrument’s implementation can be launched once the full regulatory framework is in place. Montenegro continued to strengthen the administrative capacity of the IPARD Agency by hiring additional staff. Work on setting up IPARD Agency’s regional offices is ongoing, albeit slowly.

As regards **quality policy**, the registration of products under the National Quality Scheme continued. All recommendations of the 2019 EU peer-review mission require proper follow-up, including activities to strengthen the control system.

The **organic farming** sector needs support to fulfil its potential for further development and expansion. The Ministry of Agriculture, Forestry and Water Management is implementing a pilot scheme to apply for entrustment of IPARD measure 4 ‘Agri-environment-climate and organic farming’. Work is still ongoing in drafting the Law on organic production, which aims to further align national legislation with the EU *acquis*.

Chapter 12: Food safety, veterinary and phytosanitary policy

EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with quality of seeds, plant protection material, protection against harmful organisms and animal nutrition.

Montenegro remains **moderately prepared** on this chapter. **Some progress** was achieved over the reporting period, including the adoption of the second update of Montenegro's strategy for transposition and implementation of the EU *acquis* together with a general action plan and a specific action plan for control and eradication of classical swine fever and the adoption of implementing legislation to align with the EU *acquis* in the food safety, veterinary and phytosanitary area. There is a need to step up the strengthening of administrative capacity and infrastructure. The Commission's recommendations from last year remains valid.

In the coming year, Montenegro should in particular:

- continue to implement the strategy for aligning national legislation with and implementing the EU *acquis*;
- further increase the share of food establishments compliant with EU standards;
- continue to strengthen administrative capacity and infrastructures in particular on food safety controls and implement robust disease surveillance and vaccination, as applicable.

In the area of **general food safety**, the government adopted in September 2023, the second update of Montenegro's strategy for alignment with and implementation of the EU *acquis* relevant for Chapter 12 including a General action plan and a Specific action plan for control and eradication of classical swine fever. The Administration for Food Safety, Veterinary and Phytosanitary Affairs (AFSVPA) implemented the 2022 programme for food and feed safety and quality measures and adopted the 2023 programme. The AFSVPA strengthened its administrative capacity to a certain extent by recruiting one food inspector.

As regards **veterinary policy** and animal welfare, the AFSVPA adopted further implementing legislation to align national legislation with the EU *acquis*. The AFSVPA implemented the 2022 programme of mandatory animal health protection measures, despite problems related to the August 2022 cyber-attack and the subsequent blockage of the electronic database on animals and the central register of farms. The AFSVPA adopted the 2023 programme envisaging intensified awareness-raising campaigns, strengthening passive surveillance of priority diseases (avian influenza, bluetongue disease, African swine fever and rabies) and fulfilling the conditions for acquiring status for some of the diseases (bovine tuberculosis, brucellosis and enzootic bovine leucosis).

The AFSVPA implemented disease surveillance programmes. Montenegro successfully implemented the autumn 2022 and spring 2023 rabies vaccination campaigns with EU support. In November 2022, the World Organisation for Animal Health accepted the self-declaration of Montenegro as a rabies-free country. Montenegro's application to be added to the European Commission's list of rabies-free countries, which would enable exemptions from serological tests and thus ease the conditions for non-commercial movement of pets, is currently under consideration by the Commission. There were no new cases of avian influenza during the reporting period; measures to prevent, detect and control the disease are in force.

The AFSVPA continued harmonising legislation and improving the national system for residual control and veterinary medicines. The 2022 programme for monitoring residues in animals and products of animal origin was implemented. Furthermore, a new programme for

monitoring prohibited substances in intestines was introduced as a new monitoring product. Montenegro's request to be included in the list of countries for which residue monitoring has been approved, was approved by the European Commission in June 2023.

The AFSVPA continued to improve the national regulatory and control system for poultry production and poultry products, and to harmonise it with systems in the EU. The finalisation of the veterinary information system was delayed because of the August 2022 cyber-attack. Four calls have been published under IPARD II (2014-2020), focusing on education about improving existing animal welfare conditions in housing facilities for food producing animals.

As regards administrative and inspection capacity, the AFSVPA hired two veterinary inspectors.

In the area of **placing on the market of food, feed and animal by-products**, the AFSVPA continued implementing the national programme for the upgrading of food establishments. This resulted in a high percentage of establishments fulfilling their obligations under the improvement plans. The number of facilities licensed to export to the EU remained the same at 19.

The outstanding issues regarding the location of the facility for processing animal by-products resulted in a delay in the implementation of activities linked to the management of animal by-products not intended for human consumption.

Montenegro continued to implement its national programme for improving raw milk quality and handling non-compliant milk. National milk laboratory staff received training on all laboratory information management system modules. Their connection with the veterinary information system is delayed due to the August 2022 cyber-attack. In the area of **food safety rules and specific rules for feed**, the AFSVPA implemented the 2022 programme of food and feed safety measures and adopted the 2023 programme.

The 2022 programme of **phytosanitary measures** was implemented along with the programme of control of production of seed and propagating material. The 2023 programme was also adopted. The AFSVPA adopted further implementing legislation in the phytosanitary area and timely carried out the 2021-2026 national plan for sustainable use of pesticides. On 31 March 2023, the European Commission accepted Montenegro's self-declaration as a country that it is free from *Xylella fastidiosa*. The AFSVPA strengthened its administrative capacity by hiring two phytosanitary inspectors and one consultant in the department for pesticides.

On **genetically modified organisms**, the AFSVPA implemented the 2022 programme for genetically modified food and feed monitoring and started implementing the 2023 programme.

Chapter 13: Fisheries and aquaculture

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

Montenegro has **some level of preparation** in this area. **Limited progress** was made in the areas of strengthening the administrative capacity, improving data collection and good cooperation within the General Fisheries Commission for the Mediterranean (GFCM)

framework. Last year's recommendations remain valid. Montenegro continued to be a reliable partner in international fora.

In the coming period, Montenegro should in particular:

- finalise and adopt the new fisheries and aquaculture strategy with the action plan on aligning national legislation with and enforcing the EU *acquis*;
- adopt the pending legislation on market organisation, structural measures and State aid in fisheries and aquaculture and on governing marine fisheries and aquaculture;
- continue to strengthen administrative, data collection, scientific advice, inspection and control capacity.

Montenegro is still preparing the new 2023-2028 fisheries and aquaculture strategy and its action plan. The Law on market organisation in fisheries and aquaculture and the Law on structural measures and State aid in fisheries and aquaculture are still pending adoption by the Parliament. Work is ongoing on the organisation of a Technical Assistance and Information Exchange mission to review the draft law on marine fisheries and mariculture with a view to adopt the Law by end of 2023. In April 2023, the Ministry of Agriculture, Forestry and Water Management (MAFWM) adopted secondary legislation on the technical conditions applicable to the place of first sale of fish and fisheries products and the conditions and method of sale.

Concerning **administrative capacity**, the MAFWM hired one additional member of staff in its Directorate for Fisheries, Department for Structural Measures, Market and State Aid. The ecologic and social feasibility of a port construction in Ulcinj continued.

As regards **resource management**, the MAFWM's Directorate for Fisheries, in cooperation with the Institute of Marine Biology, implemented activities set out in the 2022 annual data collection programme on Montenegrin fisheries, for both commercial catches and biological data. The said programme continued in 2023. The development of management plans for demersal and pelagic resources, as well as certain types of small coastal fisheries (beach seines) is ongoing. In the area of **fleet management**, through the first grant support for investments in fishing vessels, including fishing equipment and electronic devices, three vessels were successfully acquired (MIDAS 2 project). As an outcome of the second call that was launched in March 2023, 9 new applications for the support were received.

Regarding **inspections and control**, the Directorate for Fisheries set up the electronic licensing system for sport and recreational fishing at sea. Montenegro is currently developing new functionalities within the existing subsystems of the Fisheries Information System related to gathering socio-economic data in fisheries. Equipping ten landing places with devices for measuring and registering catches is underway. Dialogue continued with Albania to harmonise the management of the joint European eel resources and on control of illegal, unreported and unregulated fishing. In February 2023, the two countries signed an agreement on the joint management of fisheries on Lake Skadar and in the Bojana river. The next step in the process is the formation of a joint committee and harmonisation of legislation for managing common fisheries resources. There were no developments in the areas of **structural action, market policy and State aid**.

Montenegro remained a reliable partner in **international fora**. Work on implementing the EU Strategy for the Adriatic and Ionian Region (EUSAIR) continued, especially on implementing the first pillar of the EUSAIR related to blue growth, jointly coordinated by Montenegro and Greece. Montenegro also continued its cooperation with the General Fisheries Commission for the Mediterranean (GFCM). Montenegro is encouraged to promote

regional cooperation with partner countries in the Adriatic-Ionian. Montenegro needs to fully implement a significant number of GFCM recommendations particularly on the Adriatic small pelagics multiannual plan and the European eel recommendation. In addition, Montenegro should work to reduce by-catch of sensitive species and should promote the use of selective gear.

Chapter 22: Regional policy and coordination of structural instruments

Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU acquis elements such as environmental or public procurement legislation.

Montenegro is **moderately prepared** in the area of regional policy and coordination of structural instruments. **Limited progress** was made over the reporting period, particularly in respect of key decisions yet to be reached on the institutional framework for preparing future cohesion policy programmes and on administrative capacity, which requires strengthening. The 2022 recommendations remain valid.

In the coming year, Montenegro should in particular:

- update and restart implementation of the action plan to meet requirements under EU cohesion policy;
- safeguard Instrument for Pre-accession Assistance (IPA) funds more effectively by increasing and consolidating the administrative capacity of central, regional and local bodies and put in place a structure to manage the administration of future cohesion policy funds; strengthen capacity in procurement, management and monitoring of capital investment, while also strengthening existing coordination mechanisms;
- work on a credible pipeline of projects, along with a framework for strategic sectoral orientations and policies, while improving project preparation, procurement and implementation in line with EU and international standards.

Regarding the legislative framework, on 27 December 2022, the Parliament adopted Amendments to the Public Procurement Law, in force as of January 2023. Amendments to the Law on the Budget and Fiscal responsibilities were adopted on 28 February 2023

On the **institutional framework**, limited progress was made. According to the action plan for Chapter 22, the work on the Law on European Structural and Investment Funds, which is to formalise and lay down the institutional framework, is ongoing while the adoption is only planned for Q3 2024. However, the EU Regulation setting up IPA III for 2021-2027 emphasised the importance and urgency of laying down such framework. The institutional set-up and the system for managing IPA funds under indirect management still need to be adapted to IPA III requirements. Decisions on the appointment of institutions and bodies that will implement IPA III need to be urgently formalised, taking into account these institutions and bodies' future role in cohesion policy. In March 2023, the government set up the working group for Chapter 22 again to revamp the work on fulfilling the remaining obligations under Chapter 22.

In the area of **administrative capacity**, Montenegro must strengthen its resources for procurement, contract management, preparation and implementation of key structural

reforms. Montenegro continued its staff retention policy and maintained the salary supplement for staff in the IPA structure. To build capacity and motivate staff, the hiring and retention of staff should be based on merits and a transparent recruitment process, and for ministries' management boards to provide clearer strategic directions. Training programmes continue to be needed for further capacity development in the IPA structure. By the deadline of end-December 2022, Montenegro contracted only 76.41% of the 2018 IPA allocation for indirect management. The pace of procurement by entrusted contracting authorities remains suboptimal with only 6.31% of 2020 IPA funds contracted by the end of 2022. The contracting rate for the IPA II indirect management stands at 81.29%. Preparatory activities to disburse 2021 IPA funds are slow. Coordination between contracting authorities and line ministries needs strengthening. Investment in resources must be stepped up, by ensuring that recruitment and retention are based on quality and merits, and by providing targeted training. The capacity of indirect management structures still needs to be strengthened to ensure they are compatible for an *ex post* control environment.

In the area of **monitoring and evaluation**, regular activities continued in line with IPA procedures. On **financial management, control and audit**, the Audit Authority appointed its Auditor General in Q4 2022.

Chapter 33: Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.

Montenegro has **some level of preparation** regarding EU financial and budgetary provisions. **Some progress** was made in meeting last year's recommendations, mostly in aligning the legal basis for the underlying policy areas affecting the own-resources system, notably taxation, and in strengthening the coordination and management of EU own resources in the Ministry of Finance and other institutions.

In the coming year, Montenegro should in particular:

- strengthen the administrative capacity of the Directorate for Coordination and Management of EU Own Resources and of all other institutions involved in the own-resources system, notably by developing organisational and procedural links between these institutions;
- fully implement the improvements to the IT system of the Revenue and Customs Administration enabling a full audit trail and reporting on customs duties;
- adopt implementing legislation on collection of debts on movable and immovable property and procedures for writing off uncollectible customs debt and start their implementation.

There was some progress in the underlying policy areas indirectly affecting the own-resources system (*for progress in these areas, see Chapters 16: Taxation, 18: Statistics, 29: Customs union, and 32: Financial control*).

On **traditional own resources**, the analysis of accounting rules continued, and progress was made on marking and identifying income. Simulation exercises were organised for accounting and reporting of observed cases of fraud and irregularities. Fraud reporting in

accordance with the own resources database (OWNRES) requirements was improved by preparing several reports on seized goods. Several improvements to the IT system of the Revenue and Customs Administration were introduced, more specifically for generating reports related to A and B accounts. These improvements included a complete audit trail from the determination of the claim to its payment, subsequent control, administrative procedures and all other steps related to the collection of all customs duties on behalf of the European Commission. However, these improvements are yet to be fully implemented. Montenegro is preparing implementing legislation on compulsory collection of debt on movable and immovable property in line with the Law on tax administration. Instructions for writing off customs debt in conformity with the new Customs Code adopted in July 2022 have yet to be finalised. A manual on recognition and write-off of uncollectible customs debt, interest and penalties is pending approval, in order to align national legislation with the EU *acquis*.

As regards **VAT-based resources**, in December 2022, the Law on VAT was amended to further align the VAT system with the EU *acquis*, notably on energy import.

In the area of **gross national income-based resources**, Montenegro's GDP is calculated using the European system of national and regional accounts 2010 methodology.

As regards **administrative infrastructure**, the Directorate for Coordination and Management of EU Own Resources in the Ministry of Finance continued to improve its capacity, focusing on planning, coordination, calculation and administrative conditions of own resources. However, it is necessary to substantially strengthen all institutions involved in the own-resources system, notably by developing organisational and procedural links between these institutions. Implementation of the government own resources action plan is ongoing.

CLUSTER 6: EXTERNAL RELATIONS

There are two chapters in this cluster, namely Chapter 30: External relations, which was provisionally closed in June 2017, and Chapter 31: Foreign, security and defence policy, where the single closing benchmark (concerning Montenegro's bilateral immunity agreement with the United States) has yet to be fulfilled.

Montenegro is invited to continue legislative alignment where necessary, and is also encouraged to implement actions under the Common Regional Market, based on the EU rules.

Chapter 30: External relations

The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.

Montenegro has achieved a **good level of preparation**. During the reporting period, **limited progress** was achieved, mainly in the field of regional cooperation. While the parliament voted on ratifying Common Regional Market agreements on the freedom of movement based on identity cards, on recognition of professional qualifications for regulated professions, and on recognition of academic qualifications, the laws were not signed by the president. Amendments to the country's legal and institutional framework on development and humanitarian aid have yet to be adopted. Montenegro should continue working on this chapter in accordance with its overall action plan on external relations. The recommendations from last year remain valid.

In the coming year, Montenegro should in particular:

- continue to actively participate in the implementation of measures under the Common Regional Market action plan for 2021-2024 and ensure constructive participation in the negotiations on Additional Protocol 7 to the Central European Free Trade Agreement (CEFTA) on dispute settlement;
- adopt amendments to the Laws on international development cooperation and international humanitarian assistance.

As regards the **common commercial policy**, Montenegro continued to coordinate its positions with those of the EU, including in the World Trade Organization.

Montenegro continued to participate actively in CEFTA working groups, including in the negotiations on CEFTA Additional Protocol 7 on trade dispute settlement. In April 2023, the Parliament ratified three agreements of the Common Regional Market concerning freedom of movement based on identity cards, recognition of professional qualifications for regulated professions (medical doctors, dentists and architects), and recognition of academic qualifications. However, the agreements were not signed by the president.

In May 2023, the government established the Trade Facilitation Council, which will be in charge of planning and coordinating reforms of Montenegrin administration in the field of trade and trade facilitation. The Council will monitor the implementation of WTO Trade Facilitation Agreement, CEFTA Additional Protocol 5 and other bilateral and multilateral agreements. It will also manage the loan agreement with International Bank for Reconstruction and Development for establishment of a single window in cross-border trade.

Legislation on **dual-use goods** is in force and aligned with EU rules. Montenegro's application process to join the Wassenaar Arrangement is ongoing. The application for membership in the Australia Group is still in preparation.

Montenegro is still preparing implementing legislation to the Law on the Investment and Development Fund, which regulates the issuing and financing of export credits. The implementing legislation will address the issue of export credit insurance against non-market risks. The Investment and Development Fund did not issue any credits yet.

Montenegro has 24 bilateral investment treaties in force, 15 of which are with EU Member States.

In December 2022, the government launched negotiations with Hungary on an agreement on mutual protection and promotion of investment. The Montenegrin Bilateral Investment Treaty model serves as a basis for these negotiations.

Regarding **bilateral trade agreements**, in November 2022, the government launched negotiations with Ukraine to amend the Free Trade Agreement concerning rules of origin and methods of administrative cooperation. In March 2023, the Parliament ratified the Agreement on Economic Cooperation with South Korea.

The negotiations for an Agreement on Trade, Partnership and Cooperation between Montenegro and the United Kingdom of Great Britain and Northern Ireland continued. In these negotiations, Montenegro should avoid any violation of its obligations under the Stabilisation and Association Agreement.

In the area of **development policy and humanitarian aid**, Montenegro has yet to adopt amendments to the Law on international development cooperation and international humanitarian assistance, aiming to improve and update the country's legal and institutional

framework in these areas. A database on donor support projects that would use the OECD Development Assistance Committee methodology has yet to be developed.

Chapter 31: Foreign, security and defence policy

Member States must be able to conduct political dialogue under the EU foreign, security and defence policy, align with EU statements, take part in EU actions, and apply agreed sanctions and restrictive measures.

Concerning EU foreign, security and defence policy, Montenegro has a **good level of preparation**. **Good progress** was made as the country continued its track-record of full alignment with the EU's common foreign and security policy (CFSP), including with the EU restrictive measures following Russia's war of aggression against Ukraine and has provided assistance to Ukraine. As a member of the Human Rights Council, Montenegro has been actively engaged in promoting and defending international law, the UN Charter and the rules-based international order. In line with the Declaration of the EU – Western Balkans Summit of December 2022, Montenegro needs to make further efforts on closing space for foreign interference and information manipulation, including disinformation. Montenegro continued to participate in EU crisis management missions and operations under the common security and defence policy (CSDP).

In the coming year, Montenegro should, in particular:

- maintain its full alignment with the EU foreign, security and defence policy.
- improve implementation and enforcement of restrictive measures, including preventing attempts to use its territory for their circumvention,
- make further efforts to close space for foreign interference and information manipulation, including disinformation, and take actions towards building resilience against all forms of hybrid threats.

The **political dialogue** between the EU and Montenegro on foreign and security policy issues continued, including through Montenegro's active engagement in the EU-Western Balkans informal CFSP Dialogue at political directors' level. In March 2023, Montenegro participated at ministerial level at the first Schuman Security and Defence Forum and in May 2023 in the working lunch with members of the Foreign Affairs Council. The institutional framework enabling Montenegro's participation in the EU CFSP and CSDP is in place. Ministry of Foreign Affairs has appropriate structures to participate in the **CFSP** while the Ministry of Defence deals more specifically with the common security and defence policy (CSDP).

In the reporting period, Montenegro maintained its 100% **alignment with the EU common foreign and security policy**, including all EU restrictive measures targeting Russia and Belarus. This is a strong signal of Montenegro's strategic commitment to the EU path. In March 2023, Albania, North Macedonia, Kosovo and Montenegro launched the informal 'Western Balkan QUAD – 100% alignment with EU CFSP' a platform aimed at facilitating their full alignment with the EU's CFSP. Montenegro provided assistance to Ukraine and to Ukrainians staying in Montenegro. Montenegro also aligned with the EU position in UNGA when voting on resolutions regarding Russia's war of aggression against Ukraine and its humanitarian impact and on initiatives in the UN Human Rights Council with regard to the human rights situation in China or Iran.

On **sanctions implementation**, the government adopted four decisions on the practical implementation of restrictive measures against Russia and established a co-ordination body to monitor the implementation of international measures following Russia's aggression against

Ukraine. However, implementation and enforcement remained mixed, in part due to limited administrative capacity and the need to update Montenegro's legal framework. Montenegro needs to continue to strengthen its capacity to implement and enforce the sanctions in place, including by adopting the draft Law on international restrictive measures to strengthen the national system for the enforcement.

Montenegro continued **co-operation with international organisations** (UN, OSCE and Council of Europe) and remained an active member of NATO. The country maintains a bilateral immunity agreement with the United States, granting US citizen's exemptions from the jurisdiction of the International Criminal Court. In doing so, the country does not comply with the EU common positions on the integrity of the Rome Statute or related EU guiding principles on bilateral immunity agreements. Alignment with the relevant EU position is therefore needed.

Concerning **conflict prevention**, during the reporting period, the Ministry of Foreign Affairs fulfilled all obligations in accordance with the OSCE Conflict Prevention Centre Implementation Calendar in the area of arms control. In the second half of 2022, Montenegro held the chair of the Sub-regional Consultative Commission of the Agreement on Sub-Regional Arms Control, Annex 1-B, Article IV of the General Framework Agreement for Peace in Bosnia and Herzegovina. Montenegro continued supporting EU measures and documents on **conflict prevention**.

Regarding **non-proliferation**, Montenegro remained actively engaged in the implementation of the Western Balkans **Small Arms and Light Weapons** (SALW) Roadmap and implemented its 2019-2025 strategy and action plan for combating illegal possession, misuse and trafficking of SALW. Montenegro is a state party to 29 international agreements in the field of CBRN and proliferation threats and risks. It is member to the Arms Trade Treaty, and is in the process of joining the Wassenaar Arrangement (WA). In relation to the accession to the Australian Group (AG), a formal application that will contain detailed information on the legislative framework and export control policy is underway, as well as implementation measures relevant to the objectives of the AG. The Ministry of Foreign Affairs co-ordinated drafting a new strategic document for the period 2023-2028, for prevention, detection, suppression and protection against Chemical, Biological, Radiological and Nuclear (CBRN) threats and risks, prevention and suppression of the proliferation of weapons of mass destruction and the means for their delivery and preventing them from falling into the hands of non-state actors.

In the area of **security and defence**, the implementation of the defence strategy and related action plan adopted in 2019 continued. In March 2023, the government adopted the final report on the Implementation of the Action Plan for the implementation of the Defence Strategy (2019-2022). In terms of **security measures**, Montenegro has continued to implement its agreement on security of information with the EU on procedures regarding exchange of classified information]

Montenegro continued contributing to **EU crisis management missions and operations** under the common security and defence policy, namely to EU NAVFOR ATALANTA.

Montenegro takes part in the European Peace Facility Balkan Medical Task Force assistance measure.

Regarding **hybrid threats**, adoption of the strategy on countering hybrid threats and related action plan is pending. Active response of the government to enhancing cyber resilience against malicious behaviour in cyberspace continued following the August 2022 cyber-attack.

ANNEX I – RELATIONS BETWEEN THE EU AND MONTENEGRO

Within the framework of the **accession negotiations**, by October 2021, all 33 screened chapters, including chapters 23 and 24 on the rule of law, had been opened, three of which, i.e. science and research, education and culture, and external relations, have been provisionally closed.

Montenegro is participating in the **Stabilisation and Association Process**. Overall, Montenegro continued to broadly implement its obligations under the **Stabilisation and Association Agreement (SAA)**. Regular political and economic dialogue between the EU and Montenegro has continued through the SAA structures. Regular subcommittee meetings were held throughout the period. The Stabilisation and Association Committee met in January 2023 and the SA Council in July 2022. The Stabilisation and Association Parliamentary Committee met in December 2022.

Montenegro participates in the ministerial dialogue between the economic and finance ministers of the EU and the candidate countries, which aims at helping the latter to gradually meet the economic accession criteria and be better prepared in terms of economic reforms, competitiveness and job creation. The most recent meeting was held on 16 May 2023.

Montenegro has maintained its full **alignment with the EU common foreign and security policy** and has continued contributing to **EU crisis management missions and operations** under the common security and defence policy.

Visa liberalisation for citizens of Montenegro travelling to the Schengen area has been in force since December 2009. As part of the visa liberalisation monitoring mechanism, the Commission has been regularly assessing the progress made by the country in implementing reforms introduced under the visa roadmap. The Commission's sixth report under the Visa Suspension Mechanism adopted in October 2023 concluded that Montenegro continues to take action to address the recommendations from the previous year's report. A **readmission agreement** between the European Union and Montenegro has been in force since 2008.

The **Instrument for Pre-accession Assistance 2021-2027 (IPA III)**⁵ continues financial support to the region and finances the Economic and Investment Plan for the Western Balkans. The **2022 annual programme** was adopted in December 2022 with an envelope of EUR 36.72 million, and three actions focusing on supporting Montenegro in its improvement of border management, reforming its public administration, and supporting further alignment with the *EU acquis*.

At the EU-WB Summit in Tirana in December 2022, the Commission put forward an **Energy Support Package** of EUR 1 billion for the Western Balkans to address immediate, short-term, and medium-term needs in the region in the context of the energy crisis and of Russian war of aggression against Ukraine. Following this announcement, a EUR 30 million budget support programme for Montenegro was adopted at the end of 2022 to cushion the energy price increase to SMEs and vulnerable households and to accelerate energy diversification.

The bilateral annual programmes are complemented by a package of multi-country and regional programmes, supporting the environmental sector, dealing with migration, social housing, as well as TAIEX and competitiveness programmes together with IFIs and IOs. Montenegro is also benefitting from the rural development programme **IPARD III** (a

⁵ Official Journal L 330, 20.9.2021

continuation of the IPARD II support), providing a significant contribution to the implementation of the Economic and Investment Plan for the Western Balkans and the Green Agenda. Montenegro continues to participate actively also in cross-border cooperation programmes with neighbouring countries and EU Member States (Adriatic and Danube – macro regional strategies), as well as transnational cooperation programmes and Union Programmes.

The new activities are built on and add to the closed and the few on-going programmes under **IPA II (2014-2020)**, which are providing significant support through EU integration facility, Union Programmes, the Civil Society Facility, as well as IPARD, aiming at the social and economic development of the country and improving the reform process of the Rule of Law sector, Fundamental Rights, Public Administration Reform, and other critical sectors.

The EU provides support via IPA and the Foreign Policy Instrument to strengthen Western Balkans partners' resilience to face hybrid threats including cyber and foreign information manipulation and interference.

STATISTICAL DATA (as of 31/08/2023)
Montenegro

Basic data	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		619 s	622 s	622 s	622 s	622 s	621 s
Total area of the country (km ²)		13 812 w	13 812 w	13 812 w	:	:	:

National accounts	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million euro)		3 125	4 299	4 663	4 951	4 186	4 955
GDP (euro per capita)		5 050	6 910	7 490	7 960	6 740	8 000
GDP per capita (in purchasing power standards (PPS))		10 319	13 518	14 588	15 698	13 436	15 538
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		41.4	46.1	48.2	50.1	44.7	47.8
Real GDP growth rate: change on previous year of GDP volume (%)		2.7	4.7	5.1	4.1	- 15.3	13.0
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		9.2	8.4	8.2	7.9	9.1	8.0
Industry (%)		14.6	11.3	12.5	11.9	13.5	12.5
Construction (%)		5.9	6.9	7.0	7.9	7.3	5.8
Services (%)		70.2 s	73.5 s	72.4 s	72.2 s	70.0 s	73.8 s
Final consumption expenditure, as a share of GDP (%)		103.9	93.2	91.9	89.2	103.8	92.7
Gross fixed capital formation, as a share of GDP (%)		21.6	26.9	29.2	27.3	27.9	22.1
Changes in inventories, as a share of GDP (%)		0.1	3.3	2.7	4.7	3.3	4.5
Exports of goods and services, relative to GDP (%)		37.0	41.1	42.9	43.8	26.0	42.8
Imports of goods and services, relative to GDP (%)		62.7	64.5	66.7	65.0	61.0	62.2
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)		112.8	93.0	113.7	106.6	105.8	110.3
Number of active enterprises (number)		:	:	:	:	:	:
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	7.1 w	11.2 w	11.2 w	8.5 w	11.4 w
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	5.4 w	4.8 w	3.3 w	4.7 w	4.9 w

People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		:	:	:	:	:	:
Value added by SMEs (in the non-financial business economy) (EUR million)		:	:	:	:	:	:
Total value added (in the non-financial business economy) (EUR million)	1)	1 870 w	1 780 w	2 021 w	2 205 w	1 819 w	2 164 w

Inflation rate and house prices	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)		:	2.7 d	2.6 d	0.5 d	- 0.5 d	2.5 d
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		:	- 692.0	- 793.0	- 707.0	- 1 091.0	- 457.0
Balance of payments current account: trade balance (million euro)		:	- 1 860.0	- 2 050.0	- 2 065.0	- 1 643.0	- 1 914.0
Balance of payments current account: net services (million euro)		:	852.0	935.0	1 019.0	176.0	956.0
Balance of payments current account: net balance for primary income (million euro)		:	89.0	55.0	56.0	66.0	103.0
Balance of payments current account: net balance for secondary income (million euro)		:	229.0	265.0	284.0	308.0	401.0
Net balance for primary and secondary income: of which government transfers (million euro)		:	22.0	34.0	49.0	51.0	66.0
**3 year backward moving average of the current account balance relative to GDP (%)		:	- 14.4	- 16.4	- 15.8	- 19.1	- 16.5
**Five year change in share of world exports of goods and services (%)		:	:	19.0	26.9	- 31.4	5.2
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		552.1 w	484.0 s	323.0 s	345.0 s	470.5 w	581.6 w
Foreign direct investment (FDI) abroad (million euro)		22.1 w	10.0	92.0	67.0	- 4.5 w	9.3 w
of which FDI of the reporting economy in the EU-27 countries (million euro)		:	- 4.6 w	78.0	1.0	- 2.0 w	- 7.8 w
Foreign direct investment (FDI) in the reporting economy (million euro)		574.2 w	494.0	415.0	412.0	466.0 w	590.9 w
of which FDI of the EU-27 countries in the reporting economy (million euro)		:	161.4 w	19.0	41.0	90.9 w	172.4 w
**Net international investment position, relative to GDP (%)		:	- 170.1 w	- 168.5 w	- 166.3 w	- 205.9 w	- 168.4 w
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		5.0 sw	4.7 s	4.9 s	4.8 s	6.3 s	6.8 s

Public finance	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)		- 3.8 w	- 5.7 w	- 4.6 w	- 2.0 w	- 10.7 ew	:
General government gross debt relative to GDP (%)	2)	40.7 w	64.2 w	70.1 ew	76.5 w	103.1 w	:
Total government revenues, as a percentage of GDP (%)		42.1 w	41.5 w	42.2 w	43.4 w	43.7 ew	:
Total government expenditure, as a percentage of GDP (%)		45.8 w	46.8 w	46.2 w	45.4 w	54.4 ew	:

Financial indicators	Note	2010	2017	2018	2019	2020	2021
Gross external debt of the whole economy, relative to GDP (%)		142.6 sw	160.6 s	164.7 s	167.4 s	221.6 s	191.5 s
Gross external debt of the whole economy, relative to total exports (%)		389.0 w	392.2 w	381.7 w	381.8 w	852.4 w	447.0 w
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		:	:	:	:	:	:
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		:	:	:	:	:	:
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:

Total credit by monetary financial institutions to residents (consolidated) (million euro)	3)	2 166.6 w	2 294.1 w	2 528.0 w	2 727.3 w	2 841.0 w	2 884.2 w
**Annual change in financial sector liabilities (%)		:	:	:	:	:	:
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	:	:	:	:	:
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	4)	9.63 w	6.81 w	6.36 w	6.01 w	5.84 w	5.66 w
Deposit interest rate (one year), per annum (%)	4)	3.26 w	0.69 w	0.56 w	0.41 w	0.40 w	0.35 w
Euro exchange rates: average of period (1 euro = ... national currency)		1 w	1 w	1 w	1 w	1 w	1 w
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)		416.4 w	847.1 w	1 049.8 w	1 366.7 w	1 738.5 w	1 748.8 w

External trade in goods	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		1 657	2 304	2 554	2 601	2 105	2 504
Value of exports: all goods, all partners (million euro)		330	372	400	416	366	437
Trade balance: all goods, all partners (million euro)		- 1 327	- 1 932	- 2 154	- 2 185	- 1 739	- 2 067
Terms of trade (export price index / import price index * 100) (number)		99.5 sw	103.3 sw	100.7 sw	99.1 sw	102.7 sw	108.4 sw
Share of exports to EU-27 countries in value of total exports (%)		55.9 s	33.3 s	43.1 s	37.0 s	37.7 s	31.1 s
Share of imports from EU-27 countries in value of total imports (%)		41.8 s	46.5 s	47.1 s	47.0 s	44.2 s	45.7 s

Demography	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		2.9 b	1.5	1.2	1.0	- 0.3	- 3.4
Infant mortality rate deaths of children under one year of age (per thousand live births)		6.7	1.3	1.7	2.4	2.8	1.4
Life expectancy at birth: male (years)		73.6	73.9	74.5	74.0	73.2	70.8
Life expectancy at birth: female (years)		78.5	79.2	79.3	79.5	78.8	77.0

Labour market	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		65.5 w	69.3	70.5	71.8	67.2	64.7 w
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		52.9 w	58.2	59.8	60.8	55.2	54.2 w
Male employment rate for persons aged 20–64 (%)		60.7 w	65.2	66.7	67.5	61.7	59.8 w
Female employment rate for persons aged 20–64 (%)		45.4 w	51.4	52.9	54.2	48.8	48.7 w
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		36.2 w	43.7	46.6	50.1	44.2	41.1 w
Employment by main sectors							
Agriculture, forestry and fisheries (%)		:	7.9 s	8.0 s	7.1 s	7.5 s	6.4 w
Industry (%)		:	9.5 s	9.9 s	9.5 s	10.1 s	10.2 w

Construction (%)		:	7.6 s	9.0 s	9.9 s	8.3 s	6.7 w
Services (%)		:	74.1 s	72.5 s	73.1 s	73.5 s	76.7 w
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	5)	34.9 w	32.6 w	31.7 w	29.3 w	30.5 w	32.7 w
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	6) 7)	48.6 w	45.7 w	63.9 bw	66.5 w	65.6 w	63.7 w
Unemployment rate: proportion of the labour force that is unemployed (%)		19.7 w	16.1	15.2	15.2	17.9	16.6 w
Male unemployment rate (%)		18.9 w	15.4	15.3	14.7	17.5	17.1 w
Female unemployment rate (%)		20.7 w	17.0	15.1	15.7	18.4	15.9 w
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		45.5 w	31.7	29.4	25.2	36.0	37.1 w
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		15.5 w	12.5	11.4	12.0	13.4	11.0 w
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)		24.9 w	21.7	21.0	26.9	35.2	31.0 w
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)		9.9 w	10.7	10.0	11.0	12.0	11.5 w

Social cohesion	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)		463 w	510 w	511 w	515 w	524 w	532 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		106 w	100 w	98 w	98 w	100 w	99 w
GINI coefficient		:	37	35	34	33	33
Poverty gap		:	34.0	35.3	33.1	28.2	29.5
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		6.6 w	5.4	4.6	5.0	3.6	6.7 w

Standard of living	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		266.0 sw	310.0	332.0	350.0	338.0	358.0
Number of mobile phone subscriptions relative to population size (number per thousand population)		2 260.3 w	1 636.7 w	1 822.8 w	1 849.9 w	1 736.8 w	1 804.4 w
Mobile broadband penetration (per 100 inhabitants)		5.5 w	10.5 w	8.8 w	8.0 w	7.7 w	7.7 w
Fixed broadband penetration (per 100 inhabitants)		12 w	22 w	25 w	29 w	30 w	30 w

Infrastructure	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km ²)		18.1 sw	18.0 s	18.0 s	18.0 s	18.0 s	18.0 s
Length of motorways (kilometres)		0 zw	z	z	z	z	z

Innovation and research	Note	2010	2017	2018	2019	2020	2021
Public expenditure on education relative to GDP (%)		:	:	:	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)		:	0.35	0.50	0.36 sw	:	:

Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	:	:
Percentage of households who have internet access at home (%)		:	70.6	72.2	74.3	80.3	80.8

Environment	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)		73.6 w	62.9 w	67.1 w	64.7 w	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		338.0	263.3	259.5	258.2	280.3	265.0
Electricity generated from renewable sources relative to gross electricity consumption (%)		45.7	50.1	52.4	53.6	61.5	60.5
Road share of inland freight transport (based on tonne-km) (%)	8)	52.5 w	39.0 w	55.7 w	45.4 w	41.8 w	65.1 w

Energy	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		826	624	728	736	726	749
Primary production of crude oil (thousand TOE)		0	0	0	0	0	0
Primary production of solid fuels (thousand TOE)		426	335	362	396	400	371
Primary production of gas (thousand TOE)		0	0	0	0	0	0
Net imports of all energy products (thousand TOE)		298 s	420 s	334 s	365 s	280 s	340 s
Gross inland energy consumption (thousand TOE)		1 129	1 037	1 074	1 112	1 023	1 093
Gross electricity generation (GWh)		4 022	2 483	3 811	3 433	3 381	3 777

Agriculture	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)		221.3	256.4 p	256.8 p	257.5 p	258.0 p	255.6 p
Livestock numbers: live bovine animals (thousand heads, end of period)		:	87.0 p	83.3 p	81.4 p	77.9 p	71.2 p
Livestock numbers: live swine (thousand heads, end of period)		:	25.0 p	23.6 p	23.0 p	25.8 p	24.3 p
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	218.0 ps	216.0 ps	210.8 ps	204.4 ps	195.0 ps
Raw milk available on farms (thousand tonnes)		:	181.4 p	181.5 p	178.0 p	:	:
Harvested crop production: cereals (including rice) (thousand tonnes)		4.0	7.9 p	8.0 p	7.6 p	7.3 p	7.1 p
Harvested crop production: sugar beet (thousand tonnes)		0.0	0.0	0.0	0.0	0.0	0.0
Harvested crop production: vegetables (thousand tonnes)		31.1	41.2 p	42.3 p	40.1 p	39.4 p	40.9 p

Source: Eurostat and/or the statistical authorities in Montenegro

b = break in series
 d = definition differs
 e = estimated value
 p = provisional
 s = Eurostat estimate
 w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU

statistical methodology

z = not applicable and therefore equal to 0

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) Data compiled according to NACE Rev. 1.1.
- 2) Preliminary data. The final data will be available by the end of March 2021
- 3) Loans include total banks' loans granted to non MFI residents and other claims (factoring and forfeiting, claims on outstanding bills of acceptance, guarantees and bills of exchange).
- 4) Weighted average effective interest rate, outstanding amounts, annual.
- 5) Data refer to number of employees in the public sector as a share of the total number of persons employed.
- 6) Data refer to number of employees in the private sector as a share of the total number of persons employed. Comprises data of private companies or enterprises, entrepreneurs, private households and NGO.
- 7) Break in series as previously only employees were answering this question; Since 2018 all employed persons are giving answer to this question.
- 8) Total freight traffic (national territory and international transport).



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Accompanying the document

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European Economic and Social Committee and the Committee of the Regions**

2023 Communication on EU Enlargement policy

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1. INTRODUCTION

1.1. CONTEXT

The first intergovernmental conference on accession negotiations with North Macedonia took place in July 2022. At the same time, the first step in the accession negotiations process was taken with the launch of the analytical examination of the EU *acquis*, the ‘screening’. This has progressed smoothly. North Macedonia continued to implement the Stabilisation and Association Agreement and the joint bodies under the agreement met at regular intervals.

The EU accession negotiation process with North Macedonia is conducted in line with the revised enlargement methodology, and with the requirements set out in the Negotiating Framework, which have an even stronger focus on the fundamentals (cluster 1) of the accession process.

The authorities have continued to demonstrate and to declare publicly their commitment to advancing on their EU path. Now that the accession negotiations process has begun, the pace of EU-related reforms needs to pick up.

North Macedonia has also fully aligned with the EU positions on Russia’s war of aggression against Ukraine, sending a strong signal of its strategic choice of EU accession and showing itself once more to be a reliable partner. In 2023, North Macedonia has played an active role in a complex geopolitical context during its term as chair of the Organisation for Security and Cooperation in Europe (OSCE). The impact of Russia’s war of aggression against Ukraine, including high energy, commodity and food prices and disruptions in supply chains, has weighed heavily on the economy and seriously affected vulnerable households and small and medium-sized enterprises.

1.2. SUMMARY OF THE REPORT¹

The reporting period was marked by the start of the EU accession negotiations process, including the screening process. The political situation remained polarised, which had an impact on the proper functioning of democratic institutions.

On the **political criteria**, North Macedonia continued its efforts to strengthen democracy, while it faced significant challenges in the area of the rule of law. Overall, the legal framework remains conducive to the holding of democratic elections in North Macedonia. However, no progress was made to address and implement the outstanding recommendations by the OSCE's Office for Democratic Institutions and Human Rights and the Venice Commission. As mentioned repeatedly in previous reports, electoral legislation should be comprehensively reviewed to address inconsistencies in a timely, inclusive and transparent manner.

Parliament’s work was marred by political polarisation, which deepened further, delaying the adoption of many reform laws and important appointments. The EU accession negotiation process requires broad consensus of major political parties. All parties need to start engaging in a constructive and inclusive political debate, to strengthen the role of Parliament.

¹ This report covers the period from June 2022 to June 2023. It is based on input from a variety of sources, including contributions from the government of North Macedonia, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. It also includes the results of comparative assessments and indices produced by other stakeholders, in particular in rule of law.

The report uses the following assessment scale to describe the state of play: early stage, some level of preparation, moderately prepared, good level of preparation and well advanced. To describe progress made during the reporting period, it uses the following scale: backsliding, no progress, limited progress, some progress, good progress and very good progress. Where appropriate, interim steps have also been used.

Parliament and government committed to launch and achieve as a matter of priority the relevant constitutional changes, with a view to including in the Constitution citizens who live within the borders of the state and who are part of other peoples, such as Bulgarians. Excessive and sometimes inappropriate use was made of fast-track procedures and of the ‘EU flag’ procedure, in some cases due to the lack of consultations and poor planning of the legislative calendar. The ‘EU flag’ should be used when directly linked to the adoption of laws whose main goal is aligning with the EU *acquis*, and not to short-cut public debate on important issues. Parliamentary oversight of the executive was regularly exercised through parliamentary questions to ministers. Parties should spare no efforts in meeting long-overdue commitments for internal reform dating from the third round of the ‘Jean Monnet Dialogue’ in early 2020. Work continued on establishing criminal responsibility for those who orchestrated or committed violence in the attack on Parliament on 27 April 2017. Prompt implementation of recommendations by the Group of States against Corruption is required to increase the transparency of funding for political parties. Parliament should ensure the timely review of the statutory reports sent to it by state agencies and bodies.

Overall, **civil society** organisations (CSOs) in North Macedonia continue to operate in an enabling environment. However, the government should increase its efforts to mainstream civil society engagement in priority areas and consultation activities. CSOs should play an important role in the reform process and be involved in decision-making processes. Existing legal and financial frameworks still need to be amended and implemented in practice, notably to provide consistent mechanisms for awarding public funding to CSOs. There is a need for the Council for Cooperation between the Government and Civil Society to resume its activities.

The country needs to strengthen its capacity for parliamentary oversight of the **intelligence services**.

North Macedonia remains moderately prepared in terms of **public administration reform**. Limited progress was made in the reporting period with the adoption of the new public administration reform strategy and the accompanying action plan in July 2023. Despite having started the process five years ago, the country still has not adopted the revised legislative framework for human resources management, which includes the revised Law on administrative servants, the Law on public sector employees and new legal provisions on top-level management. The new framework should improve human resource management across the administration and help ensure merit-based recruitments, promotions, and dismissals at all levels, including senior management. Legislation has not yet taken on board the State Commission for the Prevention of Corruption’s recommendations on nepotism, cronyism, and political influence in the recruitment of public sector employees and in the appointment of members of supervisory and management boards. Improvements in accountability in the public administration are undermined by the failure to adopt the new Law on state organisation. There are ongoing efforts to improve delivery of services to citizens and businesses.

The **judicial system** of North Macedonia is in between some and moderate level of preparation. There was no progress on the judiciary during the reporting period. The Judicial Council should strive to protect the integrity and independence of judges and institutions and should resist any external influence. The controversial dismissal of the President of the Judicial Council raised concerns about undue political influence. The adoption of a new judicial reform strategy aimed at improving the performance of institutions is behind schedule. Progress on implementation of the human resource strategies for the judiciary and prosecution services was limited. The lack of measures to address the impact of scheduled

retirements affected efficiency. Most promotions for higher courts faced further delays. Work continued on upgrading the automated court case management information system for random distribution of cases in courts. A similar system was introduced in the Public Prosecutor's Office.

The country is in between some and moderate level of preparation in the **prevention and fight against corruption**. No progress was made. Corruption remains prevalent in many areas and is an issue of concern. Delays and reversals in trials of high-level corruption cases increased, resulting in some cases in the expiration of the statute of limitations. The Criminal Code was amended through an expedited parliamentary procedure. The maximum legal penalties for specific corruption-related criminal offences were reduced, having implications on the application of the statute of limitations and affecting, halting or even terminating a large number of high-level corruption cases, including from the former Special Public Prosecutor's Office (SPO). The amendments also hamper the authorities' ability to investigate and prosecute such offences. This is a matter of serious concern.

The State Commission for the Prevention of Corruption was proactive in providing public institutions with policy guidance on preventing corruption. It opened several cases, but its recommendations need to be followed up. Efforts to improve the functioning of the SCPC should continue, especially by allocating additional funding for the recruitment of specialist staff. Additional human and financial resources should also be made available to the Public Prosecution Office, investigative centres and law enforcements units in charge of investigating corruption. The sectors most vulnerable to corruption require targeted risk assessments and dedicated actions.

North Macedonia has some level of preparation in the fight against **organised crime**. Some progress was made during the reporting period. The country continues to have a good level of operational cooperation with EU Members States, non-EU neighbouring countries, Europol and Eurojust. A new Law on money laundering and financing of terrorism entered into force in July 2022. Implementing legislation now needs to be drafted and adopted promptly. More needs to be done to improve the effectiveness of law enforcement in fighting certain forms of crime, such as money laundering and financial crimes. North Macedonia needs to adopt and implement the necessary legislation to regulate the activity of the Asset Recovery Office. The capacity of the National Coordination Centre for the Fight against Organised Crime needs to be improved. Coordination remains crucial for all stakeholders involved in fighting organised crime, including between prosecutors and police.

Some progress was made in the **fight against terrorism and violent extremism** in line with the objectives set out in the joint action plan on counterterrorism for the Western Balkans and the new bilateral implementing arrangement. The national strategies for countering terrorism (2023-2027) and countering violent extremism (2023-2027) were adopted in May 2023, with the related action plans.

North Macedonia is on one of the main transit routes for migration movements. The country continues to play an active role in the management of **mixed migration flows**. Efforts continued to ensure basic living conditions and services for all migrants in the country. There is, however, a need to enhance institutional and administrative capacities for all aspects of migration management. More staff and additional material and technical resources are required to increase capacity to a satisfactory level. Systematic registration of migrants is needed, and protection-sensitive profiling needs to be improved. The country should establish a proper system for managing irregular movement and stop the practice of returning migrants outside a legal framework. A contingency plan to manage large migratory flows needs to be finalised and adopted. The Status Agreement for operational cooperation in border

management with the European Border and Coast Guard Agency (Frontex) entered into force on 1 April 2023, allowing the launch of a joint operation with the deployment of officers from EU Member States to provide support with border control and the management of irregular migration and cross-border crime.

The legal framework on the **protection of fundamental rights** is partially aligned with the EU *acquis* and standards on fundamental rights. The country continues to meet its general obligations on fundamental rights, but the legislation should be implemented in a more systematic manner. Some significant amendments to the Criminal Code were adopted in February 2023, regulating criminal acts of gender-based violence. Parliament should make appointments to independent and regulatory bodies based on merit. The functional independence of human rights bodies must be guaranteed at all times. This means, amongst other things, allocating sufficient funds. Services for victims of gender-based violence still need reinforcement and proper funding to meet the standards laid down by the Istanbul Convention. Persons with disabilities continue to face direct and indirect discrimination, social exclusion and barriers. The Ombudsman's Office and the Commission for the Prevention and Protection against Discrimination signed a memorandum of understanding to formalise their coordination. The situation in prisons is still dire. The recommendations made by the European Committee for the Prevention of Torture on the treatment of detained and convicted persons were not addressed, which is a matter of serious concern. Detention conditions should be improved with the utmost urgency. Special attention should be given to promoting non-discrimination, increasing effectiveness in addressing hate crime and hate speech and strengthening the capacity and independence of institutions in charge of protecting the rights of persons belonging to minorities or communities. The Agency for Community Rights Realisation needs to receive sufficient funding to further promote the protection of minorities and the implementation of the national 'One Society for All and Interculturalism' strategy. The capacity of law enforcement and criminal justice officials to effectively prevent and prosecute all instances of violence, hate crimes and hate speech needs to be enhanced. The external oversight mechanism for the police, including the prison police, is still not fully functional, with the three CSOs representatives still to be selected by the Parliament. The enacted amendments to the Law on civil registry pave the way to resolving cases of statelessness and fulfilling the country's international obligations.

North Macedonia is in between some and moderate level of preparation in the area of **freedom of expression**. Overall, it made limited progress. The general context is favourable to media freedom and allows for critical media reporting. The amended Criminal Code and Law on civil liability for defamation raised the overall level legal protection for journalists. However, a number of attacks, threats and some intimidating behaviour towards journalists were noted. Greater transparency is needed regarding media advertising by state institutions and political parties. Reform of the public service broadcaster is required to strengthen its independence, professional standards and financial sustainability. Since December 2018, Parliament has been delaying the appointment of the public service broadcaster's programming council and media regulator's council. Working conditions for journalists remain challenging.

On the **economic criteria**, North Macedonia has made some progress and is at a good level of preparation in developing a functioning market economy. In 2022, the economy was badly hit by the fallout from Russia's war of aggression against Ukraine, which significantly slowed down its post-COVID-19 recovery. The government supported households and businesses through large-scale energy subsidies, tax reductions and targeted direct income support. Owing to an inflation-driven boost to tax income and under-execution of several

expenditure categories, the general government deficit remained below the revised target. Capital expenditure was raised significantly, but still fell short of the revised plan. The public debt ratio dropped but remains significantly above pre-COVID-19 levels. The central bank tightened its policy stance further in view of still elevated inflationary pressures, which began to subside gradually towards the end of 2022 and beyond. The current account deficit rose substantially as energy import prices surged, but external financing needs were met with the help of market-based and IMF borrowing. The Organic Budget Law (OBL) adopted in September 2022 provides for the introduction of fiscal rules and a fiscal council, strengthening fiscal sustainability. However, progress has been slow in implementing wider-ranging measures to improve the management of public investment, vital for underpinning the government's plans for a sizeable increase in capital expenditure. The banking sector was resilient throughout the crises. The labour market showed some improvement, but structural problems persist, including high youth and long-term unemployment and a large gender gap. The business environment continued to be impeded by the large size of the informal economy, slow progress in streamlining parafiscal charges and an untransparent and inefficient State aid regime.

North Macedonia has made some progress and is moderately prepared to cope with **competitive pressure and market forces** within the EU. Integration with the EU in trade and investment remained at a high level in 2022. The share of high-value products in exports increased further and trade openness surged to a record high. There was further progress in improving vocational educational training, but major skills shortages persist relative to labour market needs, entailing long school-to-work transitions. These, coupled with large gaps in transport and energy infrastructure, low investment and low innovation funding, are restricting potential growth. Digitalisation of the economy is advancing, but the competitiveness of domestic businesses could be improved through a wider offering of public e-Services.

As regards its ability to assume the obligations of membership, North Macedonia is moderately prepared in most of the areas covered by **cluster 2 on the internal market**, namely the free movement of goods, services and capital, intellectual property, competition policy, financial services and consumer and health protection. The country has achieved a good level of preparation on company law, although it is still at an early stage on freedom of movement for workers. North Macedonia made good progress on free movement of capital and some progress on financial services and consumer and health protection. Limited progress was made on the free movement of goods, rights of establishment to provide services. No progress was made on company law, intellectual property law and competition policy and freedom of movement for workers. Overall, more progress is needed in the coming year in the areas covered by this cluster, to feed into North Macedonia's preparations to meet the requirements of the EU's internal market. Work on this cluster is highly relevant for the development of the Common Regional Market.

Overall, North Macedonia is moderately prepared in most of the areas covered by **cluster 3 on competitiveness and inclusive growth**, including digital transformation and media, taxation, social policy and employment, and enterprise and industrial policy. The country is in between a moderate and a good level of preparation in the area of economic and monetary policy. It has a good level of preparation in the areas of science and research and customs union. Some progress was made on taxation, economic and monetary policy, enterprise and industrial policy, science and research policy, social policy and employment. More efforts are needed, however, particularly in areas where limited progress was made, such as digital transformation and media, customs union, and education and culture.

On **cluster 4 on the green agenda and sustainable connectivity**, North Macedonia has a good level of preparation on trans-European networks and some level of preparation on environment and climate change. The country is moderately prepared on transport and energy policy with some progress made on energy, particularly on regional gas interconnectors and on renewables. Substantial efforts are needed in areas where limited progress was achieved, such as transport, trans-European networks and the protection of the environment. In the upcoming period, the country needs to accelerate implementation of the Economic and Investment Plan and of the Green Agenda for the Western Balkans².

North Macedonia is moderately prepared in most areas of **cluster 5 on resources, agriculture and cohesion**. It has a good level of preparation on food safety, veterinary and phytosanitary policy and is at an early stage of preparation in financial and budgetary provisions. Over the reporting period, some progress was made on agriculture and rural development, fisheries and food safety, veterinary and phytosanitary policy. However, further efforts are needed, in particular in areas where limited or no progress was made, such as regional policy and the coordination of structural instruments and financial and budgetary provisions.

Concerning **cluster 6 on external relations**, North Macedonia is moderately prepared in the area of external relations and has reached a good level of preparation on the common foreign and security policy. The country made some progress during the reporting period on common commercial policy. It has made good progress by maintaining full alignment with EU common foreign and security policy. By doing so, North Macedonia has shown itself to be a reliable partner, including at international level.

On **regional cooperation**, the country maintained good relations with other enlargement countries and continued its engagement in regional initiatives. Existing bilateral agreements need to be implemented in good faith by all parties, including the Prespa Agreement between North Macedonia and Greece and the Treaty of Friendship, Good-Neighbourliness and Cooperation with Bulgaria, including its protocols.

1.3. STATE OF PLAY OF THE ACCESSION NEGOTIATIONS

Following the political inter-governmental conference on accession negotiations with North Macedonia that took place on 19 July 2022, the Commission immediately launched the **screening** process, which is progressing smoothly. All sessions on Cluster 1 (Fundamentals) and Cluster 2 (Internal Market), Cluster 3 (Competitiveness and Inclusive Growth) and Cluster 4 (Green Agenda and Sustainable Connectivity) have taken place. Explanatory sessions on Cluster 5 (Resources, Agriculture and Cohesion) and Cluster 6 (External Relations) have been completed and bilateral sessions on these are ongoing. The remaining screening meetings are scheduled until December 2023.

2. CLUSTER 1: THE FUNDAMENTALS OF THE ACCESSION PROCESS

2.1. FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

2.1.1. Democracy

The political situation remained polarised, which had an impact on the proper functioning of democratic institutions.

² COM(2020) 641 final

Elections

Overall, the legal framework remains conducive to the organisation of democratic elections in North Macedonia. However, no progress was made over the reporting period to address and implement the outstanding recommendations by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the Venice Commission. As mentioned repeatedly in previous reports, electoral legislation should be comprehensively reviewed to address inconsistencies in a timely, inclusive and transparent manner.

In August 2022, **local elections** took place for the Tetovo municipal council and mayoral elections in Centar Zhupa and in Mavrovo-Rostushe. These were conducted in an orderly manner.

Concerning the legal framework, there was no progress in addressing or implementing any outstanding OSCE/ODIHR recommendations.

In April 2023, the Ministry of Justice set up a working group on electoral reform tasked with implementing outstanding OSCE/ODIHR recommendations and ideally drafting a new Electoral Code. The main opposition party decided not to take part in the working group officially. The working group has yet to produce any significant outcome. A comprehensive review of legislation on the electoral process is needed to address existing inconsistencies and further align the system with European and international standards. A broad consultative process should underpin this reform. The accuracy of the electoral register should be improved through systematic checks, reviews and data updates.

Ahead of the next elections, the State Election Commission needs to be allocated the necessary resources in good time, so that it can carry out its mandate efficiently and independently.

Parliament

Political polarisation in Parliament deepened further, delaying the adoption of many reform laws and important appointments. The EU accession negotiation process requires broad consensus of major political parties. All parties need to start engaging in a constructive and inclusive political debate, to strengthen the role of Parliament. Excessive and sometimes inappropriate use was made of fast-track procedures and of the 'EU flag' procedure, in some cases due to the lack of consultations and poor planning of the legislative calendar. The 'EU flag' should be used when directly linked to the adoption of laws whose main goal is aligning with the EU *acquis*, and not to short-cut public debate on important issues. Parliamentary oversight of the executive was regularly exercised through parliamentary questions to ministers. Parties should spare no efforts to implement long-overdue commitments to internal reform dating from the third round of the 'Jean Monnet Dialogue' in early 2020. Work continued on establishing criminal responsibility for those who orchestrated or took part in the violent attack on Parliament on 27 April 2017. Prompt implementation of recommendations by the Group of States against Corruption is required to increase the transparency of funding for political parties. Parliament should ensure the timely review of the statutory reports sent to it by state agencies and bodies.

After some Members of Parliament (MPs) were replaced, the number of women MPs increased from 50 to 51 out of 120, reaching the highest percentage ever (42.5%). The number of MPs from non-majority communities decreased (from 42 to 41 out of 120 (34%). The Alliance for Albanians joined the ruling coalition in March 2023, while Alternativa moved to the opposition. *See Governance.*

Political dialogue in Parliament suffered from the lack of cross-party consensus, though the opposition did support some economic, energy and social measures. Parliamentary parties need to collaborate on the EU accession negotiation process and accelerate implementation of EU-related reforms. The National Council for EU Integration does not meet frequently. It held only three sessions including a joint one with the Committee on EU Affairs. Decisive steps are needed to ensure that the Council fulfils its function as the principal vehicle for advancing EU integration in Parliament.

Persisting polarisation between the ruling parties and the opposition prevented Parliament from functioning properly. The main opposition party VMRO-DPMNE³ actively blocked parliamentary work, which was a significant obstacle to progress in Parliament's legislative agenda. Nevertheless, it did participate in some debates on important issues even though it abstained from the vote, for example on ratification of the Frontex Status Agreement. Following government coalition reshuffle, the composition of parliamentary bodies was changed to proportionally reflect the new coalition and to ensure it had a majority in key bodies. No consensus was reached on long-overdue important appointments. These concern two new judges for the Constitutional Court, five deputy ombudspersons, members of the programme council of the public service broadcaster and the Council of the Agency for Audio and Audiovisual Media Services, and a member of the Commission for Protection and Prevention against Discrimination. It is imperative that appointments to these positions are based on merit and not on political grounds.

The **law-making process** would benefit from more efficient planning and coordination between the ruling coalition and the opposition. From January 2022 to 15 June 2023, out of 165 laws adopted, 51 were adopted by regular procedure, 86 under shortened procedure and 28 concerned ratification. The opposition criticised the government for misusing the fast-track 'EU flag' procedure for aligning legislation with the EU *acquis*. The 'EU flag' procedure was used, among other things, to amend the Criminal Code by introducing lower penalties for crimes of corruption, and to amend laws on labour relations, expropriation, urban planning, construction and highways to be built (notably road corridor VIII and Xd), despite the fact that the amendments did not generally concern the alignment of existing legislation with the EU *acquis*. The use of 'EU flag' procedure must be consistent, and clearly linked to laws aiming primarily at aligning national law with the EU *acquis*. Comprehensive consultations should consistently take place, including with the European Commission. The number of laws adopted by shortened procedure increased from 38 % to 58% at the expense of meaningful debate and inclusive legislative process. The use of fast-track procedures should be limited. They should not be used to short-cut public consultation or resolve procedural difficulties in the legislature, or to compensate for poor planning at government level. *See 2.1.2. Public administration reform.*

Parliamentary **oversight** of the executive continued with regular sessions for parliamentary questions. The executive provided answers to 167 parliamentary written questions received in 2022 and the first quarter of 2023. Two interpellations were not considered during the reporting period – on the work of the Chairpersons of the Committee on Political System and Relations among Communities, and the Committee on Elections and Appointments. Discussions in plenary and relevant committees on the 2021 annual reports from regulatory, monitoring and supervisory bodies were completed only early 2023.

Implementation of the commitments made during the third round of the 'Jean Monnet Dialogue' in early 2020 remains outstanding. These include amending **rules of procedure**,

³ Internal Macedonian Revolutionary Organisation – Democratic Party for Macedonian National Unity.

for example on the constitutive session, greater governmental oversight, public hearings, the parliamentary calendar and procedures for ‘EU-flagged’ laws. The working group on the ‘Jean Monnet Dialogue’ convened in November and December 2022 and in June and September 2023, and agreed on several aspects of the review of legislative procedures. The rules of procedure should be adopted without further delay to improve the functioning of Parliament.

As regards the **protection of human rights** and fundamental freedoms, the permanent oversight committee remained inactive. The Women Members of Parliament Club organised the first ever plenary session on gender issues to mark its 20th anniversary. The inter-party parliamentary groups on youth; on lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons; on persons with disabilities; on Roma⁴; and on environment successfully completed numerous activities, in close cooperation with relevant civil society organisations. Parliament and government committed to launch and achieve as a matter of priority relevant constitutional changes, with a view to including in the Constitution citizens who live within the borders of the state.

A working group tasked with preparing **constitutional amendments** was established in April 2023. It was composed of 23 representatives from different political parties, including four MPs and experts. Opposition parties, including VMRO-DPMNE and Levica, did not nominate representatives. The working group unanimously approved and submitted a draft initiative proposing amendments to the government in May 2023. On 18 July, the government adopted the initiative for constitutional changes, which was submitted to Parliament. The draft makes provision for the inclusion of six further communities in the preamble and in two articles of the Constitution, namely Bulgarian people, Croatian people, Montenegrin people, Slovenian people, Jewish people, and Egyptian people. On 18 August, a plenary session on the adoption of the initiative to amend the Constitution was held but was put on hold as the required two-third majority votes could not be ensured.

In May, the Supreme Court rejected a request for a retrial of those convicted for the storming of Parliament on 27 April 2017. It dismissed, as unfounded, the request for an extraordinary re-examination of the verdicts of both the Criminal Court and the Court of Appeals.

Action is needed to ensure the transparency of **funding for political parties**. Action should include addressing the recommendations made by the Group of States against Corruption (GRECO). (*See Chapter 23 – Judiciary and fundamental rights.*) Political parties should improve their internal democratic processes, including the transparency of elections to party bodies.

Governance

Since the first political intergovernmental conference opening EU accession negotiations with North Macedonia in July 2022, the institutions have mobilised significant resources to engage actively in the screening process, which is proceeding smoothly. The government also increased its efforts to communicate the practical benefits of EU accession for the citizens. The government needs to intensify its work to advance the EU reform agenda. Permanent and decisive steps are required to accelerate implementation of EU reforms and move forward in the EU accession negotiation process. Cross-party collaboration remains vital in this regard. The authorities should refrain from adopting *ad hoc* measures which are not in line with the

⁴ In line with the terminology of European institutions the umbrella term ‘Roma’ is used here to refer to a number of different groups, without denying the specificities of these groups.

EU *acquis* and European standards. Inter-ethnic relations remained stable, and the Ohrid Framework Agreement continued to be implemented.

In March 2023, 65 MPs out of 120 supported the formation of the new government coalition. The ruling coalition is now composed of SDSM⁵, DUI⁶ and the Alliance for Albanians and is supported by several smaller political parties. In the government, 25% of ministers, 31% of deputy ministers, and 29% of state secretaries are women. Women held 15% of the executive positions in different government bodies and agencies.

After the reshuffle, the key priorities of the government programme for 2022-2024 remained unchanged. These include sustainable economic growth, social inclusion and human capital development, rule of law and good governance, promotion of democracy and freedom as well as NATO and EU integration.

As part of the EU accession negotiation process, relevant national representatives, coordinated by the Chief Negotiator, actively participated in the screening meetings organised by the Commission starting in July 2022. Building on the experience of the screening process, North Macedonia needs to continue strengthening its **EU negotiating structures** and achieve sound coordination among line ministries and institutions, while further developing EU-*acquis*-related expertise across the public administration.

The **inter-ethnic situation** remained calm overall, with isolated cases of tension amid protests in the summer of 2022 against the proposals designed to remove the obstacles to the opening of EU accession negotiations. The Committee on Inter-Community Relations continued to foster the multi-ethnic and multi-cultural dimension of the society, notably by organising intercultural activities among students. The 2001 Ohrid Framework Agreement, which fosters the multi-ethnic character of the society, continued to be implemented.

There was limited progress as regards reform of **local self-government**, mostly related to fiscal decentralisation. However, the fiscal benefits deriving from last year's amendment to the Law on financing of local self-government units have not yet been felt by municipalities. The government should urgently improve the normative and financial framework in line with the 2021-2026 programme for sustainable local development and decentralisation. Municipalities have continued to experience severe financial difficulties as a result of inflation and increased energy costs. The government and the municipalities should consider setting up a permanent cooperation mechanism with the aim of reviving interinstitutional dialogue between different levels of government, particularly in relation to the EU accession negotiations process.

Civil society

Overall, civil society organisations (CSOs) in North Macedonia continue to operate in an enabling environment. However, the government should increase its efforts to mainstream civil society engagement in priority areas and consultation activities. CSOs should play an important role in the reform process and be involved in decision-making processes. Existing legal and financial frameworks still need to be amended and implemented in practice, notably to provide consistent mechanisms for awarding public funding to CSOs. There is a need for the Council for Cooperation between the Government and Civil Society to resume its activities.

⁵ *Social Democratic Union of Macedonia*

⁶ *Democratic Union for Integration*

Civil society is a key component of any democratic system and is recognised as such by the state institutions. CSOs continue to operate in an enabling environment. They play a vital role in promoting and advancing human rights, the rule of law and stability, by being steadfast in their roles as watchdogs and seeking to take part in decision-making processes. CSOs need to be consulted on draft legislation more systematically and meaningfully. The role of civil society in the EU accession negotiation process needs to be strengthened.

The Council for Cooperation between the Government and Civil Society is still the main structural channel for consulting and involving civil society in policy dialogue and decision-making. Budget allocations for the annual programme for cooperation with civil society were not reinstated in the supplement to the 2022 budget. This contradicts the policy aims of the strategy of cooperation with civil society 2022-2024. CSOs have boycotted the work of the Council since March 2022 as a result of the government decision to transfer funds for financing of CSOs from the General Secretariat to the Ministry of Political System and Relations among the Communities. There is a need to rebuild trust and cooperation. The role of the Council and of the relevant unit within the General Secretariat of the government needs to be enhanced.

Implementation of the strategy for cooperation with and development of civil society 2022-2024 is ongoing, although an effective monitoring framework is needed to check on its implementation. Local authorities need to be more proactive and to develop a consistent approach to involving CSOs in policymaking at local level.

Civilian oversight of the security/intelligence sector

The parliamentary committees that oversee the intelligence services held several meetings, but further efforts are needed to improve their efficiency.

The Special Department for investigation and prosecution of crimes committed by persons with police powers and members of the prison police is operational. However, the lack of sufficient staff hampers its efficiency.

The civil control mechanism is composed only of the representative of the Ombudsman's Office. Parliament has not selected the civil associations, which should be part of the mechanism.

The Council for Civilian Supervision, which is regulated by the Law on interception of communication, has not been set up in practice. In July 2023, Parliament adopted Amendments to the Law necessary for operationalising the Council for Civilian Supervision.

2.1.2. Public administration reform

North Macedonia is **moderately prepared** in the reform of its public administration. **Limited progress** was made in the reporting period with the adoption of the new public administration reform strategy and the accompanying action plan in July 2023. Despite having started the process 5 years ago, the country still has not adopted the revised legislative framework for human resources management, which includes the revised law on administrative servants and the law on public sector employees and new legal provisions on top level of management. The new framework should improve human resources management across the administration and help ensure merit-based recruitments, promotions and dismissals at all levels, including senior management. Legislation has not yet taken on board the State Commission for the Prevention of Corruption's recommendations on nepotism, cronyism and political influence in the recruitment of public sector employees and in the appointment of members of supervisory and management boards. Improvements in

accountability in the public administration are undermined by the failure to adopt the new law on state organisation. There are ongoing efforts to improve delivery of services to citizens and businesses.

As last year's recommendations were only partially addressed, they remain valid. In the coming period, the country should, in particular:

- adopt and start implementing the revised law on administrative servants, the revised law on public service employees and the legal provisions on top management service;
- adopt and start implementing the law on state organisation and other related laws in line with the recommendations on the new organisation of state administrative bodies;
- ensure full implementation of the law on general administrative procedures by completing the digitalisation of institutions' registers and data exchange, and simplifying electronic procedures.

Strategic framework for public administration reform

The new 2023-2030 **public administration strategy** and its accompanying action plan were adopted in July 2023. Several actions have been carried over from the previous strategy without any mitigation measures proposed despite past challenges with their implementation. Measures planned for the first year of the 2022-2025 **public financial management reform programme** fell behind schedule due to delays in the adoption of key legislation. The high-level Public Administration Reform Council met once during the reporting period. There is insufficient **political support**, leadership and supervision of reforms. The Ministry of Information Society and Administration does not have sufficient human resources to drive forward the reforms at technical level. National funding for the public administration reform strategy and the public financial management reform needs to be increased as key reform activities are still largely dependent on donor support.

Policy development and coordination

A legal framework and institutional structures for a coherent **policymaking system** are in place. However, further efforts are needed to clarify the responsibilities of policymaking institutions, ensure their proper functioning and streamline reporting lines. Medium-term budgetary planning and fiscal policies remain consistent with the government's strategic priorities. The central coordination and quality control role of the General Secretariat slightly improved, but remains insufficient. No regular update or reports on the implementation of the 2021-2025 national programme for the adoption of the *acquis* have been forthcoming.

Evidence-based policymaking and legislative development have been partially successful. However, certain pieces of adopted legislation, such as the Law on construction of corridors VIII and X-d, to be implemented by Bechtel Enka, conflict with parts of the legal framework and with international commitments. Many institutions have not yet digitalised their registers. The sharing of administrative data needs to be expanded and data need to be simplified in order to better inform policymaking and new legislation. Regulatory impact assessments continued to be carried out only as a formality, rather than as an assessment of the potential impact of new laws. Efforts to improve the use and quality of regulatory impact assessments continued, in particular for budgetary impact assessment. However, the Ministry of Information Society and Administration has insufficient resources to ensure effective and consistent quality control.

The national electronic consultation system is an inclusive one, enabling all stakeholders to participate in **public consultations**. However, it is not used to its full potential, in particular

by citizens and businesses. Quality control, feedback and follow-up to the public consultation process need to be improved. The share of laws adopted under shortened procedures went up to 58% 2022. These laws did not undergo a proper public consultation process and were not regularly accompanied by impact assessments. The quality of legislative drafting also needs to improve. Frequent legislative amendments create legal uncertainty and impede proper implementation. Abuse of the use of the ‘EU flag’ procedure continued. The ‘EU flag’ should only be used when directly linked to the adoption of laws whose main goal is aligning with the EU *acquis* (see 2.1.1 Democracy).

Public scrutiny of government work is supported by regular government press releases. However, the publication of the agendas and minutes of government sessions was occasionally delayed. Documents adopted at government sessions are not published consistently. Moreover, the government has failed to publish annual reports on its work for the years 2020, 2021 and 2022.

Public financial management

In June 2022, the government adopted a new **public financial management reform programme** for 2022-2025. The programme is made up of eight pillars. In April 2023, the government published the first annual monitoring report for 2022 and draft action plan for 2023. This report revealed poor implementation and results, suggesting that planning needs to be more realistic.

In September 2022, the Organic Budget Law (OBL) was adopted by the Parliament. The law provides a legal foundation for several key public financial management reforms, including strengthening medium-term budget preparation, reviewing budget classifications and putting in place an Integrated Financial Management Information System. The OBL also aims to make the fiscal strategy more comprehensive and to develop a broader system to monitor fiscal risks, including for state-owned enterprises and municipalities. The public financial management reform agenda has gained momentum after the adoption of the OBL but progress is still slow in several key reform areas.

The Ministry of Finance continued to improve the **transparency** of public finance management by publishing data on the revenue and expenditure of public institutions, local governments and state-owned companies every quarter. The human resources capacity of the Ministry of Finance remains limited.

The Ministry of Finance must invest further in increasing public participation at every phase of budget preparation, execution and reporting. Budgetary transparency and **public expenditure effectiveness** need to increase further through the efficient implementation of the OBL.

Public service and human resources management

No progress was made on the adoption of the long-awaited revised legislation on administrative servants and on public sector employees, or on the new legislation on top levels of management, aimed at ensuring **merit-based recruitment** and fair **promotions** and **dismissals**. The regular amendments to the laws on administrative servants and on public sector employees since their adoption in 2014 have led to an inconsistent application of recruitment and promotion procedures across the public sector. Contradictory rules in the law on internal affairs and other sectoral laws allow employees in these sectors to be excluded from the scope of the law on administrative servants. Moreover, the administration still uses procedures to convert temporary or service employment contracts into permanent ones.

The supreme audit institution found irregularities and the misuse of the IT system for testing candidates for positions in the public administration. The performance appraisal system, although established on paper, is still not systematically used. In addition, insufficient transparency on the grounds for dismissal of civil servants continues, and data on dismissals of non-managerial staff is lacking. Proper follow-up to the recommendations of the State Commission for Prevention of Corruption on improving public sector recruitment procedures should be ensured. The national authorities need to develop a retention policy for the public administration in order to avoid further losses of valuable expertise and a decline in administrative capacity. A large number of vacancies in senior ranks were not filled via competitive procedures (18 vacancies) but by appointing acting managers (40 appointments).

The Ministry of Information Society and Administration is responsible for coordinating and monitoring **human resources management** across the public administration. The number of institutions using the human resources management information system has increased. Reports from individual state audit institutions indicate that some public service employees still receive a salary despite not having a formal assignment and without having to show up for work. Initiatives have been launched to revise the **remuneration system** to ensure more consistent levels of pay and to promote mobility. Some institutions have developed legal solutions allowing a unilateral increase of salaries for some staff categories. The practice of paying salary supplements continued under the 2022 and 2023 budget execution laws. Nevertheless, the turnover rates of staff working on the management of EU funds puts in question the effectiveness of these measures.

On 31 December 2022, women represented 56.29% of all public service employees according to the register of public sector employees, not including staff of institutions such as the army and law enforcement agencies. Concerns remain over the percentages applied in the formula of 'BalancER' - a human resources tool that determines the proportion of public employees from each ethnic group. The revised formula includes the non-resident population and does not take into account the percentage of citizens that have not declared their ethnicity in the census. The transfer of employees from the Ministry of Political System and Relations between Communities to various institutions has not yet been completed. Furthermore, the ministry conducted a new recruitment procedure aiming to deploy the new recruits to various institutions.

On **professional development**, there is still no centralised database of all training provided by the various institutions and projects. **Integrity** guidelines were developed at both central and local level. Whistle-blower legislation is in place, but the protection of whistle-blowers needs to be improved. According to the annual report of the State Commission for Prevention of Corruption, the institutions reported 24 instances involving whistle-blowers in 2022 and sent 10 reports directly to the State Commission.

Accountability of the administration

The reorganisation of central government institutions, which aims to streamline the institutional framework, eliminate overlapping powers, improve the administration's efficiency and improve **lines of accountability**, was delayed due to the new law on state organisation not yet being adopted. This also held back the reorganisation of the three pilot ministerial systems. Delegating decision-making authority to middle management remains limited both at central and local level. Continued efforts are needed to efficiently mainstream managerial accountability across the entire public administration (*see chapter 32 - Financial control*).

Legislation on **scrutiny by independent oversight bodies**, in particular the State Audit Office and the Ombudsperson, is in place. There needs to be a more systematic follow-up to their findings and recommendations, both by the government in addressing shortcomings and preventing further irregularities (*see e.g. chapter 20 - Enterprise and Industrial Policy, chapter 25 - Science and Research and chapter 15 - Energy*), and by law enforcement agencies in prosecuting offences. **Citizens' right to access public information** is embedded in legislation. The proactive disclosure of information and datasets on official websites needs to be further encouraged, in particular at local level. The Agency for Protection of Free Access to Public Information processes lodged appeals promptly and proactively monitors information holders despite limited funding.

The legal framework for **citizens' rights to good administration** is in place, both as regards administrative justice and judicial review. In practice, however, administrative disputes continue to face unreasonable delays. Appeal procedures are complex and lengthy, consisting of several appeal layers. There are repetitions of procedures, as most decisions are based on procedural considerations and not on merit. Delays continue to occur in enforcing Administrative Court rulings by the respective institutions. The legislation lays down **citizens' rights to seek compensation** and the liability of public authorities in cases of wrongdoing.

Service delivery to citizens and businesses

On **user-oriented service delivery**, legislation and IT infrastructure allow most administrative services to be offered both online and offline – through the national e-portal for services, including facilities for people with special needs. The update of the portal with 135 new services should be completed. Currently, the number of digital services available to citizens is symbolic and mainly consists of services that are rarely requested with the most common services, such as issuing of personal documents, not yet available online. Even offline, these basic services have deteriorated with additional administrative requirements from citizens. The quality of data in the population register needs to improve as it is the country's principal register. The legislation on an interoperability framework is not updated in line with the latest EU standards, while the tool itself is not used to its full potential by the relevant institutions, which is an obstacle for progress on provision of digital services. North Macedonia should ensure alignment with both the European Interoperability Framework (latest revision in 2017) and the Interoperable Europe Act (2022).

No progress was made on **simplifying administrative procedures**. The law on general administrative procedures is still not systematically implemented across the administration.

2.2. RULE OF LAW AND FUNDAMENTAL RIGHTS

2.2.1. Chapter 23: Judiciary and fundamental rights

The EU's founding values include the rule of law and respect for human rights. An effective (independent, high-quality and efficient) judicial system and an effective fight against corruption are of paramount importance, as is the respect for fundamental rights in law and in practice.

North Macedonia has in between some and moderate level of preparation to apply the EU <i>acquis</i> and European standards in this area. Overall, there was no progress on strengthening judicial independence and improving the legal framework for fundamental rights protection.

Functioning of the judiciary

The judicial system of North Macedonia is in between **some and moderate level of preparation**. There was **no progress** in the field of the judiciary during the reporting period. The Judicial Council should strive to protect the integrity and independence of judges and institutions and should resist any external influence. The controversial dismissal of the President of the Judicial Council raised concerns about undue political influence. The adoption of a new judicial reform strategy is behind schedule. It should aim to improve the performance of institutions. Progress on implementation of the human resources strategies for the judiciary and prosecution services was limited. The lack of measures to address the impact of scheduled retirements affected efficiency. Most promotions for higher courts faced further delays. Work continued on upgrading the automated court case management information system (ACCMIS) for random distribution of cases in courts. A similar system was introduced in the Public Prosecutor's Office.

The Commission's recommendations from last year have not been implemented and remain valid. In the coming year, the country should in particular:

- complete the implementation of the judicial reform strategy and the updated action plan, with a specific focus on adopting a new Law on civil procedure, in line with European standards and prepare the new strategy on judicial reform (2023-2027) without delay;
- revise the legislative framework and overall functioning of the Judicial Council to enhance its transparency and independence and step up the implementation of the human resources strategies for the judiciary and the prosecution;
- ensure that ACCMIS is fully functional and compatible with level of complexity of court cases and the method for assessing judges and presidents of courts.

Strategic documents

According to the 2022 assessment report on implementation of the **judicial reform strategy** (2017-2022), out of 227 activities, 140 have been fully implemented, 18 are ongoing, 14 are delayed, 43 require continuous implementation, 6 concern legislative measures that are pending in Parliament, and 6 were abandoned due to a change in the approach. The process to adopt the new judicial reform strategy for 2023-2027, which started in September 2022, is delayed. Implementation of the Law on the Public Prosecutor's Office continued. Limited progress was made in implementing the strategies for human resources management in the courts and in the Public Prosecutor's Offices.

Management bodies

There are serious concerns about undue external influence over the work of the Judicial Council and judiciary. In November 2022, the President of the **Judicial Council** resigned to protest against alleged attempts to exert undue influence from within the judiciary and the business community. The new President, who took office in December 2022, was demoted in April 2023 through a controversial procedure, raising questions about respect for laws and procedures. Civil society organisations and legal scholars condemned this unprecedented step and called on all members of the Council to resign. The demoted President continued to serve as a member of the Council. In May, she filed a lawsuit with the Administrative Court challenging the legality of her demotion, and a criminal report with the Skopje Basic Public Prosecutor's Office against some of her Judicial Council peers for misuse of official duty and authorisation. Two members of the Judicial Council, judges elected by their peers, resigned in June 2023. One explained that she was resigning over the unlawful and non-transparent

demotion of the former President, and disagreement with some of the Council's stances. The other announced that he would contribute better if serving as a judge. In July, judges elected two new members, one of whom, a judge of the Supreme Court, resigned shortly afterwards citing personal reasons. Attempts by the new President to limit the presence of camera crews to Council sessions ceased after interventions of several CSOs and the Judicial Media Council. According to the Corruption Risk Assessment of the Judiciary, published in June 2023, 72% of the judges interviewed either fully disagree (27%) or partially disagree (45%) that the Judicial Council effectively safeguards judicial independence. Only 26% agree.

In March 2023, the Constitutional Court annulled two articles of the Law on the Judicial Council, thus allowing all Council members, and not only those elected by Parliament, to be elected as president or deputy. The new President and his Deputy, elected in May and June 2023, are both judges. In October 2022, the Judicial Council adopted a code of ethics for its members. In December, the Council amended its rules of procedure to better regulate procedures for determining the responsibility of a judge or a president of court. Transparency in the Council decision-making process should increase.

In February and April 2023, prosecutors elected two new members to the **Council of Public Prosecutors (CPP)**. Parliament, with a delay, elected two members of the CPP. In November 2022, over 160 public prosecutors throughout the country, directly elected the new Head of the Public Prosecutor's Office for Prosecuting Organised Crime and Corruption (OCCPPO), applying for the first time the 2020 Law on the Public Prosecutor's Office and amendments to the Law on the CPP. The election did not help to build public trust in the transparency of the process, given that no qualifying criteria were set at the outset and serious concerns about possible external influence in the process were raised. The CPP improved its transparency by making sessions available on social media platforms but stills needs to provide reasoning for its decisions. The media have regular access to the Council but limited physical space in Council sessions is a constraint. The budget allocation for the Council increased but it remains understaffed and lacks IT resources to perform its tasks effectively.

Independence and impartiality

Judicial independence is enshrined in the Constitution. Both the Judicial Council and the CPP need to act decisively to promote and safeguard the independence, integrity and professionalism of judges and prosecutors. Further efforts are needed to increase transparency and prevent any attempt to exert undue influence or intimidation. The implementation of the Declaration on Open Judiciary, signed in March 2022 by 12 different judicial institutions, CSOs and professional associations, led by the Supreme Court, continued and helped to improve transparency in the judiciary. The Judicial Media Council adopted a two-year work plan focusing on preparation of its communication strategy and conducted training on communication skills for 40 judges and courts' spokespersons. Political actors should refrain from publicly commenting on judicial proceedings. The Commission for the supervision of the functionality of the **automated court case management information system** carried out 9 out of 19 supervisions planned for 2022. A system for electronic distribution of cases in the Public Prosecutor's Office became operational in January 2023. Reliable statistical data are needed on the performance of the judiciary and the prosecution service, in line with the recommendations and methodology of the European Commission for the Efficiency of Justice (CEPEJ) (a Council of Europe body).

Accountability

The Association of Judges' Advisory Body for Judicial Ethics received no new requests for opinions.

In 2022, the Judicial Council received 72 requests to determine the responsibility of 144 judges or presidents of court. It dismissed 5 judges. The Judicial Council issued a written reprimand to 2 judges and fined a court president and a judge. The CPP dismissed 1 prosecutor and, at their own request, ended the tenure of 2 prosecutors against whom it had initiated disciplinary proceedings. 4 judges were dismissed for reasons relating to unprofessional performance, and 1 for a severe disciplinary offence. According to opinion polls, public trust in the judiciary dropped to the lowest level ever (around 8%).

In 2022, the State Commission for the Prevention of Corruption issued 11 misdemeanour payment orders against 6 judges, 3 court presidents and 2 prosecutors for failing to submit asset declarations or reports on the change of their property status and interests.

Professionalism and competence

The Judicial Council elected four court presidents, two Supreme Court judges, two Court of Appeal judges in Gostivar, 27 basic court judges and one court president. The Council assigned 17 judges to serve in different courts for a one-year period. Elections to the higher courts were further delayed by some attempts to interfere in the process of appointing judges and by the lack of an accredited company to perform psychological and integrity tests for candidate judges.

The CPP appointed two prosecutors in the State Public Prosecutor's Office (PPO), four in the higher PPOs, two heads of basic PPOs and two new prosecutors to the Public Prosecutor's Office for Prosecuting Organised Crime and Corruption (OCCPPO). In 2022, a total of 5 574 professionals participated in 227 in-service training sessions organised by the Academy for Judges and Prosecutors.

Quality of justice

The new Law on the **Academy for Judges and Prosecutors**, adopted in June 2023 maintained the Academy as the sole entry point to the judiciary and prosecution service, and heeded the European Commission's recommendation not to shorten initial training. In anticipation of the adoption of the Law, the Academy informed the candidates for the ninth intake that the entry qualification exam scheduled for 29 May to 4 June would be postponed, as the new Law sets a different order for entry tests.

The 57 graduates from the seventh intake were recruited in basic courts and PPOs. The Judicial Council published a vacancy in June 2023. The CPP elected 18 prosecutors and published a new vacancy. The Academy continued its active cooperation with the European Judicial Training Network and the Academy for European Law. The total budget for training initiatives in 2022 amounted to EUR 1.74 million, a 46.3% increase compared to the previous year. One interpreter was recruited.

The Supreme Court and the four Courts of Appeal contributed to the **consistency of judgments** and harmonised court practices. They focused on reviewing high-profile cases and cases of public interest. The Supreme Court, upon an initiative of its President, adopted a principled stance that all courts should publish their decisions, whether final or not, on their websites. The Court also adopted a principled stance on the direct application of the Constitution and the European Convention on Human Rights in appeals procedures against decisions of the Judicial Council on the dismissal of judges or court presidents. The Supreme Court adopted and published 17 additional principled legal opinions, stances and conclusions.

At the end of 2022, there were 409 judges, (22.3 per 100 000 inhabitants) 61.3% of whom were female and 157 prosecutors (8.5 per 100 000 inhabitants), 55% of whom were female. According to CEPEJ, the European averages are 22.2 judges and 18.8 prosecutors per

100 000 inhabitants. The 2022 budgetary allocation for the judicial system was about EUR 83.5 million. Scheduled retirements were one of the factors driving numbers down: 64 judges and 16 prosecutors retired (48 retired judges and 11 prosecutors in 2022). It remains crucial to speed up implementation of the human resources strategies for the courts and public prosecutors' offices and to plan ahead for staffing needs. The Council for Digitalisation in the Judiciary continued to implement the IT strategy. To recruit additional IT staff, the judiciary will have to offer working conditions comparable with those in the private sector.

There are 46 licensed mediators. In 2022, a mediation agreement was reached in 397 out of 918 cases, and 121 are ongoing. The relevant chambers, the Academy for Judges and Prosecutors and the Association of Judges, should continue to promote of mediation and other **alternative dispute resolution** methods. The body tasked with assessing and ensuring the quality of mediation is the National Council for Mediation, which is not yet functional.

Efficiency

Efficiency of the judiciary was affected by the Judicial Council's lateness in electing new judges, and by limited progress in the implementing a human resources strategy in the courts, which would include setting up a new network of courts.

The average **clearance rate** for the basic courts dropped from 100.8% to 97.8%. The number of unfinished cases under the old procedural laws increased. No efforts were made to address the Venice Commission recommendations to re-examine the provisions of the Law on the use of languages related to bilingualism in judicial proceedings. The Constitutional Court's decision to annul two articles of the Law on salaries and emoluments of elected and appointed persons resulted in an increase of salaries for judges and prosecutors. A systemic solution has yet to be found to the issue of salaries in the judiciary, considered inadequate. No steps were taken to reduce the overall cost and duration of the enforcement process (the bailiff's services).

Fight against corruption

The country is in between **some and moderate level of preparation** in the prevention and fight against corruption. **No progress** was made. Corruption remains prevalent in many areas and is an issue of concern. Delays and reversals in trials of high-level corruption cases increased, resulting some cases in the expiration of the statute of limitations. The Criminal Code was amended through an expedited parliamentary procedure. The maximum legal penalties for specific corruption-related criminal offences were reduced, having implications on the application of the statute of limitations and affecting, halting or even terminating, a large number of high-level corruption cases, including from the former Special Public Prosecutor's Office (SPO). The amendments also hamper the authorities' ability to investigate and prosecute such offences. This is a matter of serious concern.

The State Commission for the Prevention of Corruption was proactive in providing public institutions with policy guidance on preventing corruption. It opened several cases, but its recommendations need to be effectively followed up on. Efforts to improve the functioning of the State Commission for the Prevention of Corruption should continue, especially by allocating additional funding for the recruitment of specialist staff. Additional human resources and financial means should also be made available to the PPO, investigative centres and law enforcements units in charge of investigating corruption. The sectors most vulnerable to corruption require targeted risk assessments and dedicated actions.

Last year's recommendations have not been fully addressed and remain valid. In the coming year, the country should in particular:

- enhance implementation of the national strategy for the prevention of corruption and conflict of interests and properly implement GRECO's recommendations;
- allocate sufficient human and financial resources, including financial experts, to the Office of the Basic Public Prosecutor for Organised Crime and Corruption to ensure effective accountability in high-level corruption cases;
- improve its track record in high-level corruption cases – with timely, professional and transparent proactive investigations, prosecutions, final convictions and recovery, including confiscation of criminal assets, value-based confiscation, extended confiscation and third-party confiscation.

Track record

North Macedonia continues to investigate, prosecute and try corruption cases, including high-level corruption cases. There are concerns about patterns emerging from, but not limited to, several cases previously dealt with by **the former Special Prosecutor's Office** after first-instance verdicts have been delivered. These include an increasing number of delays and reversals, resulting in the expiration of the statute of limitations in some cases. The most frequent reasons for postponement include the absence of defendants or defence counsel, prosecutors, mainly due to health issues, and members of trial panels, when these are appointed to another court. Judges must proactively and efficiently manage their cases to ensure timely justice. Judicial accountability should be ensured in this respect.

The cases of the former Special Prosecutor's Office continued to be tried mostly by the Public Prosecutor's Office for Prosecuting Organised Crime and Corruption (OCCPPO). So far, there have been **final convictions** in 12 high-level corruption cases. **First-instance verdicts** were issued in 37 high-level corruption cases. In the 27 former SPO cases to be tried by the OCCPPO, there have been final convictions in six cases while trials are ongoing for most of the remaining ones. In 2022, the OCCPPO opened 39 cases of alleged corruption against 148 individuals and 6 legal entities. The September 2023 amendments to the Criminal Code are cause of serious concern because of their impact on former SPO cases, since a large part of the cases pertained to the offences whose provisions were altered. The reduced statutes of limitations affect, halt or even lead to the termination, of a large number of cases. Since the amendments took effect mid-September, some former SPO case have already been terminated, or had hearings postponed because the charges were no longer valid, or the statute of limitations had expired.

In 2022, 12 investigations were opened, charges were filed in four cases against 20 individuals. One is a high-profile case against a former Secretary General of the Government, for abuse of an official position.

In 2022, 16 first-instance judgments were handed down against 62 individuals. and 8 second-instance judgments were issued against 40 individuals.

In 2022, 35 criminal sentences were passed (compared with 23 in 2021). In these cases, six individuals (14 in 2021) were sentenced to prison, while 29 (nine in 2021) received suspended sentences.

The **State Commission for the Prevention of Corruption** continued to fulfil its role and opened several new cases. In 2022, the SCPC processed a total of 145 cases (106 in 2021) of alleged **conflict of interest**, of which 27 (17 in 2021) were initiated by the SCPC itself and

118 (89 in 2021) at the request of other parties. In 2022, 161 cases were closed (152 in 2021), of which 18 dated from 2019, 20 from 2020 and 53 from 2021. In 2022, a conflict of interest was established in six cases (two in 2021). Initiatives were submitted to the competent authority calling on it to determine responsibility, resulting in two disciplinary procedures. The SCPC issued opinions on 87 out of the 88 requests it received. In 2022, the SCPC found grounds for suspecting breaches of the Law on the prevention of corruption and conflict of interest, resulting in 37 misdemeanour payment orders (32 in 2021).

The SCPC also submitted three requests to the SCPC Misdemeanour Commission to initiate misdemeanour proceedings against public officials. As regards irregularities in **asset declarations**, in 2022, the SCPC issued 372 misdemeanour payment orders (86 in 2021), of which 367 related to fines for offences committed under Article 82 of the Civil Code, and 5 to failure to report an increase in property. In January 2023, the SCPC adopted an annual plan to monitor property ownership and other interests, involving 21 officials: 5 prosecutors, 5 judges, 6 MPs and 5 public office holders in the government.

In 2022, 583 cases of **corruption** were initiated (599 in 2021), 20 at the initiative of the SCPC (16 in 2021), and 563 based on reports submitted by third parties (583 in 2021). Of the cases initiated, 560 were addressed (404 in 2021). Of the cases submitted on the basis of reports, the SCPC found grounds for suspected breaches of the Criminal Code in 12 (11 in 2021) and submitted initiatives to the public prosecutor in all 12 cases. The SCPC launched initiatives asking the competent authorities to ascertain which officials were responsible for what breaches in 6 cases (5 in 2021). In addition, 12 recommendations and 2 indications were submitted to state institutions and authorities calling on them to take specific measures in response to the circumstances ascertained.

GRECO's Fourth Round Evaluation Report on the prevention of corruption in respect of Members of Parliament, judges and prosecutors contained 19 recommendations for North Macedonia. In its report on implementing these recommendations, GRECO concluded that nine of the 19 recommendations had been implemented (or dealt with) satisfactorily, 9 had been partly implemented and 1 had not been implemented. In March 2023, North Macedonia submitted a situational report to GRECO on the measures taken to implement the remaining recommendations.

The Parliamentary Committee on Issues of Rules of Procedure and Immunity adopted a training curriculum for a code of ethics workshop for Members of Parliament, as recommended by GRECO.

In June 2023, GRECO adopted the second compliance report on preventing corruption and promoting integrity (as part of the Fifth Evaluation Round), which concluded that 13 of the 23 recommendations had been implemented satisfactorily, 9 partially implemented and 1 not implemented.

Institutional framework

Preventive measures

The Law on the prevention of corruption and conflict of interest needs to be fully implemented. The SCPC continued to fulfil its role in providing policy advice to public institutions proactively.

The SCPC needs to further strengthen its capacity to instigate initiatives before the competent authorities at its own initiative, identifying possible wrongdoings not yet reported in the media. Too often, the conclusions of the SCPC reports are not followed up by the institutions concerned. The SCPC's ability to verify declarations of interest and asset

declarations is limited because the data is not systematically cross-checked with the data recorded in the cadastre (property register) or held by other relevant institutions. Cross-checks are only carried out on the asset declarations of around 20 officials a year, selected according to specific criteria.

By the end of 2022, the number of SCPC staff had increased from 34 in 2021 to 48 (compared with the 64 planned). The 2023 SCPC budget also increased by approximately 15% compared to the 2022 budget, mainly thanks to support from donors. Further action is needed to strengthen and support the SCPC, and to make sure it is adequately resourced. The SCPC would benefit from specialist staff with investigative experience, for more effective verification of asset declarations. Furthermore, the SCPC should be strengthened to allow for an exchange of information with neighbouring countries. New IT software solutions are in place to increase information-sharing with all public institutions for the prevention of corruption and to increase integrity in the public sector, provide protection for whistle-blowers and monitor implementation of the national strategy for the prevention of corruption. Software enabling communication between the IT systems of the cadastre, the Revenue Service, the Ministry of the Interior and the central register must be operational on time and must enable more effective checks of asset declarations. Efforts continue to improve the transparency and integrity of public institutions. The SCPC adopted an integrity policy with guidelines for state bodies and public sector institutions, and guidelines for local self-government. As of the end of 2022, a total of 85 institutions had signed an integrity policy and appointed contact persons on these issues (18 state bodies and public sector institutions and 67 local authorities).

Training on integrity was organised for ministries, state bodies and local authorities. A training centre was set up within the SCPC. The SCPC is also working on software solutions for trainings, and public awareness-raising campaigns were organised on integrity, on whistle-blower protection, and more generally on the fight against corruption.

In 2022, the Ministry of the Interior adopted its regular internal anti-corruption programme with an action plan and provided training on related topics for staff members.

Law enforcement

The main law enforcement institutions dealing with corruption are the Public Prosecutor's Office for Prosecuting Organised Crime and Corruption (OCCPPO) within the Public Prosecutor's Office and the Department for Serious and Organised Crime within the Ministry of the Interior. The OCCPPO inherited most of the former Special Prosecutor's Office high-profile cases. The OCCPPO has not yet moved to its new premises. Budget and staffing levels are still insufficient to effectively tackle cases of corruption and organised crime. Currently, the OCCPPO is working with 14 prosecutors. This is still not enough given the OCCPPO's wide range of responsibilities. There are 4 investigators, 9 associates and 16 support staff assisting the prosecutors but no financial experts or analysts. The Office still lacks strategic planning in handling investigations and cases, which affects its overall efficiency. The Office could be more efficient, if more specialisations were introduced and if resources were focused on the most complicated cases.

At the end of 2022, the OCCPPO signed cooperation agreements with the Central Registry and the Real Estate Cadastre Agency allowing it direct access to their databases. Similar agreements need to be concluded with the Association of Banks, the Ministry of the Interior and the Employment Agency. The OCCPPO should increase cooperation, information-sharing and follow-up to SCPC's initiatives and recommendations.

The State Audit Office, investigative centre/judicial police in the PPO and the police all lack sufficient resources to pursue high-profile cases. Limited and partially inadequate technical equipment and facilities remain a central problem. The quality and efficiency of investigations need to improve. Moreover, in many cases there is a need for investigations to be accompanied by parallel financial investigations into persons and companies suspected of involvement in wrongdoing. Limited use is made of freezing and confiscation mechanisms. To increase the number of financial investigations, the prosecution service should be allocated appropriate financial and human resources, the relevant institutions should coordinate with each other more and have better access to integrated databases.

The State Audit Office carries out *ex post* checks and publishes annual reports on its website. In November 2022, the State Audit Office sent the Public Prosecutor's Office two requests for them to take action in response to alleged irregularities which came to light during the audit of two participants in the election campaign. No requests for public prosecutorial action were submitted following the audit performed on political parties' financial statements and accounts. The State Audit Office produces quality audit reports, in which it identifies key findings and gives appropriate recommendations, which the authorities should follow up on systematically.

Legal framework

The country is party to all international anti-corruption conventions, including the United Nations Convention against Corruption.

The Law on the **financing of political parties** stipulates how funding can be provided to political parties and managed correctly. The Electoral Code sets out the rules on the financing of electoral campaigns. The Law on **free access to public information** allows applicants to obtain information on the public financing of political parties. The Law on **lobbying** entered into force in June 2022. The Law extends the role of the SCPC adding the responsibility to keep a register of lobbyists and lobbying organisations. No organisations have been registered to date. The Law on the protection of **whistle-blowers** still needs to be further aligned with the EU *acquis*.

In September 2023, Parliament adopted amendments to the Criminal Code through an expedited procedure, which prevented the comprehensive consultations with domestic stakeholders and the European Commission prior to their adoption. Whilst some changes on strengthening confiscation measures can be considered as limited improvements, these should be paired with strong legal and procedural safeguards, as well as functioning tracing, freezing, and management measures for an effective national asset recovery system. Other amendments, in relation to specific corruption-related criminal offences, are of concern since they reduce the maximum legal penalties, have implications on the statute of limitations, and delete a specific category of offences, notably abuse of office in public procurement. In addition, the amendments raise serious concerns as they also affect the applicable criminal procedures, limiting the scope of investigations, and thus hampering the authorities' ability to effectively prosecute high level corruption cases.

Strategic framework

Implementation of the national strategy for the prevention of corruption and conflict of interest (2021-2025) and the related action plan continues to proceed very slow, indicating an overall lack of commitment and sense of ownership from the institutions concerned. Only 10% of the activities planned for 2022 were implemented in full, 35% are ongoing, 55% have not been implemented. This is a significant decrease from the previous year when 20% of the

activities planned for 2021 were implemented in full, 27% were ongoing and 59% were not implemented. Parliament has yet to discuss the report on implementation of the strategy in 2021 and the SCPC report on the 2021 local elections.

Fundamental rights

The legal framework on the protection of fundamental rights is partially aligned with the EU *acquis* and European standards on fundamental rights. The country continues to meet its general obligations on fundamental rights, but legislation should be implemented in a systematic manner. Some significant amendments were made to the Criminal Code regulating criminal acts of gender-based violence. Parliament should make appointments to independent and regulatory bodies based on merit. The functional independence of human rights bodies must be guaranteed at all times. This means, amongst other things, allocating sufficient funds. Services for victims of gender-based violence still need improvement – and proper budgeting – to meet the standards laid down by the Istanbul Convention. Persons with disabilities continue to face direct and indirect discrimination, social exclusion and barriers. The Ombudsman's Office and the Commission for the Prevention and Protection against Discrimination signed a memorandum of understanding to formalise their coordination. The situation in prisons is still dire. The recommendations made by the European Committee for the Prevention of Torture on the treatment of detained and convicted persons were not addressed, which is a matter of serious concern. Detention conditions should be improved with the utmost urgency. Special attention should be given to promoting non-discrimination, increasing effectiveness in addressing hate crime and hate speech, strengthening the capacity and independence of institutions in charge of the protection of rights of persons belonging to minorities or communities. The Agency for Community Rights Realisation needs to receive sufficient funding to further promote the protection of minorities and the implementation of the national strategy 'One Society for All and Interculturalism'. The external oversight mechanism for the police, including the prison police, is still not fully functional, with the three CSOs representatives still to be selected by the Parliament. The enacted amendments to the Law on civil registry pave the way to resolving cases of statelessness and fulfilling the country's international obligations.

Last year's recommendations were addressed only partially and remain valid. In the coming year, the country should in particular:

- address the dire conditions in prisons and step up efforts to promote alternatives to incarceration and implement relevant recommendations on detention conditions, made by national and international institutions;
- allocate the necessary resources to the Commission for the Prevention and Protection against Discrimination enabling it to fulfil its mandate;
- ensure proper implementation of the Law on civil registry in order to end statelessness.

North Macedonia has ratified most **international human rights instruments**. On 20 March 2023, Parliament ratified Protocol No 16 to the European Convention for the Protection of Human Rights and Fundamental Freedoms allowing the highest courts to request the European Court of Human Rights (ECtHR) to give advisory opinions on questions of principle relating to the interpretation or application of the rights and freedoms established by the Convention.

In June 2023, there were 368 applications pending before the **ECtHR**, which delivered judgments on 8 applications and found breaches of the European Convention on Human Rights in 6 out of 7 cases (compared with 3 in 2022). Most of these related to the right to a

fair trial, the right to liberty and security and the protection of property. In the reporting period, there were 354 new applications allocated to a decision body. Currently, there are 8 cases under enhanced supervision by the Committee of Ministers.

In order for North Macedonia to fully benefit from its observer status in the European Union Agency for Fundamental Rights (FRA), it needs to develop a comprehensive monitoring and data collection system in order to assess the level of implementation of human rights legislation, policies, and strategies. The Ombudsman's Office remains the central body for the **promotion and enforcement of human rights**. Following a protracted delay in the appointment, by Parliament, of five Deputy Ombudspersons, the Ombudsman withdrew the names proposed and a new vacancy was published in May 2023. The Office strengthened its cooperation with CSOs, including those dealing with the protection of rights of the child. Its budget increased by 0.9% compared to 2022. There were no new recruitments. In 2022, the Office dealt with 3 482 complaints of which 3 209 had been received in 2022 and 273 had been rolled over from the previous year. Based on these, the Office initiated 2 173 procedures. Violations were confirmed in 683 cases (31.43% of all cases). Amongst the Office's other activities, it referred 120 cases to higher instances (17.57% of the total) and was still waiting for a response in 57 cases (8.35% of the total).

Regarding the **prevention of torture and ill treatment**, North Macedonia still needs to implement the recommendations published by the European Committee for the Prevention of Torture (CPT) in 2021 and those from previous reports.

The external oversight mechanism for the police, including the prison police, is still not fully functional, with the three CSO representatives provided by statute still to be selected by Parliament. In 2022, the Ombudsman's civil control mechanism acted on 11 complaints, up from 8 complaints in 2021. It submitted 3 requests to the PPO to initiate a procedure for determining criminal responsibility, compared to 1 similar request sent in 2021. In one case, brought before the Skopje Basic Criminal Court, a police officer was found guilty of harassment when on duty. In 2022, the relevant section in the PPO opened 163 new cases (criminal charges) against 299 individuals with police powers or members of the prison police suspected of having committed criminal offences. All reported cases must be investigated without delay and safeguards against ill treatment by the police must be implemented systematically. There needs to be more awareness raising about the external oversight mechanism for the police, and better training opportunities to promote a good understanding of the system.

In 2022, the Department for Internal Control, Criminal Investigations and Professional Standards at the Ministry of the Interior handled 52 complaints on the use of excessive physical force by police officers (63 complaints in 2021), of which 28 were found to be ungrounded and 20 lacked evidence. Four criminal charges were filed with the PPO against 6 police officers for ill treatment when on duty. In 2022, the prisons submitted 129 reports on the use of coercion against sentenced persons to the Directorate for the Execution of Sanctions.

North Macedonia should urgently tackle the persistent issue of inadequate detention conditions in prisons, police stations, social care and psychiatric facilities, in line with the recommendations in the last CPT report. ECtHR case law shows that poor detention conditions can be considered grounds for a violation of Article 3 on prohibition of torture. In 2022, the National Preventive Mechanism made 18 visits to police stations, prisons, educational correctional institutions, psychiatric hospitals and places where foreigners and asylum-seekers are accommodated or detained. Issues raised in the previous years remain pending, especially the lack of appropriate working conditions for police officers and the lack

of adequate healthcare in prisons. In addition, the National Preventive Mechanism reported a worrying deterioration in security conditions in the Idrizovo closed ward.

Although infrastructure was renovated and improved in a number of prison facilities, conditions in parts of Idrizovo prison and other detention facilities of the **prison system** remain inhumane. Reported overcrowding raises additional concerns for prison population (2 476 persons sentenced and detained according to data from April 2023). Renovating the most derelict building in line with the CPT recommendations is a priority.

The appointment of a new acting Head of the Directorate for the Execution of Sanctions and an acting Director of Idrizovo prison was a positive step, taking account of their relevant professional backgrounds. However, the requirements of the 2019 Law on executions of sanctions for the selection of prison management were not consistently applied.

Regular inspections of prisons should continue. Corruption in prisons continues to be a recurrent issue. In 2022, a plan for the prevention of corruption in the national prison system 2022-26 was adopted, together with the 2023 annual plan. Despite a positive effort to incentivise medical staff working in prisons with a hardship allowance, the lack of adequate healthcare or measures to treat drug addiction in prisons remains an issue of serious concern.

In order to be fully implemented, the 2021-2025 strategy for developing the prison system requires funds, additional staff and political commitment.

The probation system continues to develop, and the number of cases is increasing. In 2022, the total number of cases handled by the 11 probation offices increased to 475 (451 in 2021). Cooperation should continue between the public and private sector and civil society, and between agencies. Coordination has improved between probation officers, judges, public prosecutors, prison staff and other institutions before a convict is released and this should continue. The concentration of most of the probation cases in the Skopje Basic Criminal Court of, highlights the need for training and awareness raising on the benefits of probation in other courts in the country. No progress was made in adopting amendments to the legal framework regarding alternative sentences and alternative procedures to increase their use. No meaningful progress was made in addressing the overall lack of purposeful educational, recreational and vocational activities for sentenced and remand prisoners. Educational and resocialisation services, and treatment programmes should be run in all penitentiary facilities and educational correctional facilities.

Regarding the **protection of personal data**, full alignment with the General Data Protection Regulation is needed. Areas requiring alignment are: the transfer of personal data; the independence of the Personal Data Protection Agency (PDPA); obsolete parts of old national laws that need to be repealed. The PDPA submitted amendments to the Law on personal data protection (LPDP). The country needs to adopt national legislation in line with the EU Law Enforcement Directive.

Many sector laws that contain provisions on the processing of personal data have yet to be harmonised with the LPDP. Additionally, the PDPA is not always consulted on sectoral laws or implementing legislation and its advice is not always taken on board.

In general, data controllers do not implement the LPDP. In 2022, the Agency received 19 notifications on breaches of personal data rules, compared with 1 notification in 2021.

The Agency's capacity does not match its tasks and powers. The Agency presently works with only 21 staff among which there are only 5 supervisors and 1 IT specialist. The Agency is not fully autonomous financially. State funds allocated to the Agency are just sufficient to cover basic functions without any room for investment in staff professional development or

replacement of outdated vehicles and IT equipment.

In 2022, the Agency carried out 170 supervisions (compared to 304 in 2021), received 300 complaints (540 in 2021), and issued reprimands in 10 cases (17 in 2021). The Agency issued 15 opinions on draft laws and implementing legislation. The Agency delivered 13 training sessions and held 19 coordination meetings with personal data protection officers, in line with good practice. Recent changes in the Law on financial companies led to an increase in the number of complaints. Due to an inconsistency in the Law, there have been complaints by citizens about the misuse of personal data when obtaining ‘fast loans’. The Agency started to issue misdemeanour charges against some of the relevant companies. The Agency’s annual report in Parliament revealed that genuine consideration and follow-up of recommendations was lacking.

Thematic supervision on the interception of communications involved the relevant institutions. Improvements are needed in the field of data protection in the electoral sector.

In the absence of accurate data on the number of cybercrime attacks involving personal data violations and the number of indictments and final judgments regarding these cases, there is a public perception that institutions have weak capacity or commitment to prosecute these cases. There is a strong need for further awareness raising and to foster a culture of personal data protection in all sectors.

Freedom of thought, conscience and religion is guaranteed by the Constitution and is implemented in practice. The law prohibits discrimination on grounds of religion. The Commission for Relations with Religious Communities and Groups is the main government body responsible for cooperation between the government and registered religious communities and is encouraged to continue to foster inter-religious dialogue and cooperation between the religious communities. The government is delaying accreditation of religious secondary schools in the country, which prevents students with diplomas from these schools from accessing higher education.

Freedom of expression

North Macedonia is in between **some and moderate level of preparation** on freedom of expression. Overall, it made **limited progress**. The general context is favourable to media freedom and allows for critical media reporting. The amended Criminal Code and Law on civil liability for defamation raised the overall level legal protection for journalists. However, a number of attacks, threats and some intimidating behaviour towards journalists were noted. Greater transparency is needed regarding media advertising by state institutions and political parties. Reform of the public service broadcaster is required to strengthen its independence, professional standards and financial sustainability. Since December 2018, Parliament has been delaying the appointment of the public service broadcaster’s programming council and media regulator’s council. Working conditions for journalists remain challenging.

The Commission’s recommendations from last year remain valid. In the coming year, North Macedonia should:

- revise the legal framework governing the media to bring it into line with the EU *acquis* and European standards, in particular on competition and state aid rules, intellectual property rights, part of the EU Single Market;

- step up implementation of the strategy to reform the public broadcaster and finalise appointments for the public service broadcaster's programme council and the media regulator's council;
- continue to promptly address all threats and acts of violence against journalists and ensure perpetrators are brought to justice.

The overall environment enables freedom of expression and critical reporting. The legal framework was strengthened: the amended Criminal Code and the Law on civil liability for defamation, adopted in November 2022, have increased legal protection for journalists. Systemic challenges remain to be addressed: deep media polarisation, physical and verbal violence against journalists, working conditions for media workers, especially their labour and social rights. The laws encompassing the functioning of the media need to be implemented. Digital technologies and disruptions on the media market point to the need for a general strategy on reform of media in cooperation with all stakeholders.

Intimidation of journalists

In 2022, the Ministry of the Interior recorded 17 cases of attacks against journalists and opened investigations. The Association of Journalists recorded 14 incidents involving journalists, of which 4 involved physical attacks or illegal detention, and 11 involved verbal attacks, threats and other forms of intimidation. The Agency for Audio and Audiovisual Media Services and the media associations regularly condemned such incidents. In February 2023, Parliament adopted amendments to the Criminal Code increasing protection for journalists while performing their professional duties. The Public Prosecution Office in Skopje appointed of a prosecutor to monitor the proceedings in response to attacks on journalists. This is a positive development. The public prosecutor appointed has the authority to monitor proceedings in which journalists appear as injured parties, witnesses or reported persons while performing their work. The Ministry of the Interior appointed a contact person at the Department of Cybercrime and Digital Forensics making it easier for journalists to report incidents involving cyberbullying and other online threats to their safety. The authorities need to ensure impartial, speedy and effective investigations in bringing perpetrators to justice. Politicians and public officials on different occasions used unacceptable language against journalists. Online harassment and verbal attacks continued, especially on social media, with an increase in cases against female journalists. Old cases of physical attacks against journalists remain unresolved.

Legislative environment

The Law on audio and audiovisual media services is broadly in line with the EU *acquis*, following the legislative changes of July 2023. Furthermore, the legal framework encompassing the functioning of the media needs to further improve, in line with EU *acquis* and international standards. The OSCE ODIHR recommendations on the electoral legal framework have still to be addressed. The concerns raised by media associations about state-funded political advertising in the media need to be addressed in line with the EU *acquis* and European best practices.

In November 2022, a group of parliamentarians proposed amendments to the Law on audio and audio-visual media services that impose, on the government and local authorities, duties to organise and fund public interest campaigns. However, the media regulator and some associations of journalists criticised the proposals, stressing that they could undermine the independence of the media and disrupt the media market. More sustainable solutions are needed to support media viability.

In 2022, the government continued to reduce funding for the broadcasting sector. Parliament, once more, failed to appoint new members to the Public Service Broadcaster's Programme Council and Media Regulator's Council. The terms of office of the current members of both councils was extended until Parliament elects new members.

Implementation of legislation/institutions

In 2022, the media regulator continued its supervisory role over various forms of media and over illicit media concentration and ownership. The regulator continued to work with CSOs and media outlets to promote media literacy and human rights topics such as gender equality and respect for the rights of persons with disabilities by broadcasters.

The financial stability and independence of the media regulator need to be strengthened. This is even more important since it received additional responsibilities following the alignment of the national legislation with the EU Audiovisual Media Services Directive.

In 2022, the Council of Media Ethics received 78 complaints about breaches of ethical standards. The most frequent complaint, accounting for 49.37% of cases, was about violations of the legal provision that '*the journalist should publish accurate and verified information*'. Though hate speech is prohibited online and offline, it persists online. In 2022, the association of journalists expressed particular concern about hate speech and insults directed at journalists and media workers by politicians and other public office holders. The number of defamation and insult lawsuits involving journalists was more than double the number for last year: 54 cases in 2022 against 20 in 2021.

Public service broadcaster

Reform of the public service broadcaster was further delayed. Despite the 2021 Law on audio and audiovisual media services, in 2022, the authorities once again used discretionary powers granted by law to cut funding to the broadcasting sector. Budgetary fluctuations create uncertainty in planning. The authorities need to provide sufficient and stable funding for the public broadcaster. No solution was found to settle the public service broadcaster's old debts towards state institutions. Further efforts are needed to ensure the independence and sustainability of the public broadcaster, both financially and legally.

Economic factors

The COVID-19 pandemic, Russia's war of aggression against Ukraine and the global economic and energy crises created additional pressures on the media industry. The authorities supported media outlets through a range of economic measures, including a reduction in the broadcasting licence fee for radio and television for 2023. Media associations continued to raise concerns about media integrity and editorial independence, and indicated the need for an assessment of the impact of ownership concentration on media pluralism and editorial independence. They also pointed to the risk of individuals or a group of media owners having excessive influence on media outlets. Further support is needed for the development of professional and investigative journalism. Media independence should be further safeguarded.

In November 2022, a group of MPs submitted amendments to the Law on audio and audiovisual media services to lift the ban on government advertising on commercial channels. Some media associations oppose this, fearing it could undermine the independence of the media and disrupt the media market. Media associations continued to express concern over legal provisions enabling political parties to use state funding to advertise in the media and over the lack of transparency of party-political advertising generally and on online media

platforms in particular. In 2022, there were five daily newspapers, including two in Albanian. The authorities continued to support the print media with just over EUR 300 000 in funding.

As required by law, the media regulator publishes a register of broadcasting and print media, including information on the number of employees and type of employment. The number of online media outlets is estimated at between 150 and 200.

Internet

Online media are not governed by any specific law. There is a shift in the advertising market towards digital, with growing threats from disinformation, breaches of intellectual rights, and a lack of transparency concerning paid political advertising. Certain online media outlets are subject to influence from political figures. Political parties are not obliged to disclose their spending on social media campaigns. There is inadequate oversight regarding the utilisation of personal data for election campaign purposes.

The public's understanding of the risks of disinformation needs to be improved as do and media literacy skills throughout society. Current counter-disinformation measures are not very effective.

Stronger self-regulation is needed for online media, in particular through promotion of the registry of online media (promedia.mk) and the development of professional standards for online journalism. With regard to access to information, the Agency for the Protection of Free Access to Public Information received 343 complaints, of which 195 were predominantly from CSOs, while 148 complaints were filed by individuals.

Freedom of artistic expression

Freedom of artistic expression is broadly guaranteed.

Professional organisations and working conditions

In 2022, the Independent Trade Union of Journalists and Media Workers registered various breaches of labour rights, notably the high number of short-term or part-time contracts with no health and social insurance, no right to annual leave, unpaid overtime and compulsory night shifts. Dialogue with the government needs to be improved. Advocacy aimed at improving working conditions in the media is hindered by economic challenges in the sector and opposition to the unionising of journalists. Further efforts are needed to protect journalists' professional and labour rights, freedoms and security, in particular by strengthening the legal framework for the work of unions. Many journalists have no choice but to accept precarious contractual arrangements. This, together with difficult socio-economic conditions in the sector, contribute to a culture of self-censorship and create opportunities for media owners to influence editorial policy.

The Agency for Audio and Audio-visual Media Services launched a new specialised website on gender equality and media, aiming to serve as a resource centre for journalists. Analysis showed that there are too few women executives in the private media. Additional measures to promote gender equality in the media industry are needed.

(See also Chapter 10 – Digital transformation and media)

The right to **freedom of assembly and association** is guaranteed by the Constitution and the government ensures that the legislation is thoroughly implemented. The country's legal framework is largely aligned with its international obligations in terms of freedom of

association. Further efforts are needed to implement rulings of the ECtHR relating to the registration of associations.

Following the amendments to the current Law on associations and foundations, introduced in November 2022, the Central Registry rejected the use of the names ‘Ivan Mihailov’ and ‘Tsar Boris III’, thus removing the two Bulgarian cultural associations in Bitola and Ohrid from the list of associations and foundations that are allowed to legally operate in the country. This followed an assessment by the Commission for the Uses of Names, which established that the naming of the two cultural clubs after controversial historical figures had triggered a reaction in society. The drafting of new legislation on associations and foundations should be subject to a broad consultation process with civil society and concerned stakeholders. The law should aim to apply the highest international standards and guidance in this area, including by consulting the Venice Commission prior to the adoption of the law, in line with the recommendation of the European Commission against Racism and Intolerance (ECRI).

Issues of **labour and trade union rights** are covered in *Chapter 19 – Social policy and employment*.

No significant progress was made with regard to **property rights**. Procedures remain lengthy and expensive, due to the lack of an efficient central institution and the lack of coordination between institutions dealing with these rights. There was no progress with the national strategy on property rights. At municipal level, property registers are not regularly updated and are still kept in analogue format. The Cadastre Office maintained a satisfactory rate of over 90% of cases resolved. The registration of land and properties has been completed, and laser-scanning has covered the whole country. The administrations that handle restitution, compensation and legalisation processes still struggle to manage their caseload, mainly due to understaffing and lack of funds. Over 6 000 denationalisation cases are still open and form the bulk of complaints addressed to the Ombudsman’s Office, even though this process was officially declared closed in 2013.

Non-discrimination principles are enshrined in the Constitution and national legislation. The authorities should align the national legal framework with anti-discrimination provisions, based on the Law on promotion and protection against discrimination. On the back of the 2021-2026 strategy for equality and non-discrimination, the authorities adopted an action plan for implementation of the strategy, accompanied by a financial forecast. The Commission for the Prevention and Protection against Discrimination continued to be proactive, despite existing logistical and financial challenges. The Commission’s annual budget was slightly higher than the previous year, but this is considered insufficient to enable the Commission to perform its functions. Among the issues hindering the Commission’s work are: two unfilled commissioner posts (out of seven in total), a lack of financial independence, low numbers of administrative staff and some limitations in the current anti-discrimination Law. Parliament once more failed to agree on the appointment of commissioners, which affects the enforcement of the Law on the prevention of and protection against discrimination. The lack of diversity in the Commission, notably as regards gender and persons with disabilities, continues to attract criticism from certain commissioners and civil society. Despite existing challenges, in 2022, the Commission worked on 248 complaints and 7 *ex officio* procedures and issued two recommendations. It confirmed discrimination in 30% of cases, particularly in public information and media and labour relations. Based on its wide-ranging powers, the Commission submitted 14 requests for misdemeanour procedures. In response to a request made by the Commission, a court passed judgment confirming the discrimination findings.

The legal framework on combating hate speech needs further improvements, in line with the European Commission against Racism and Intolerance (ECRI) General's Policy Recommendation No 15 on combating hate speech. Furthermore, the country should fully address ECRI's findings and recommendations in its sixth report of September 2023.

The availability of official data on hate crime remains sporadic, despite efforts by the authorities to develop a recording and data collection framework. A civil society database continues to register hate crime cases successfully. Among law enforcement and criminal justice officials, a greater capacity to prevent and prosecute all instances of violence, hate crimes and hate speech is needed. Strengthening of the capacities and understanding of law enforcement officials and legal experts is needed, as part of a wider effort to foster a more tolerant and non-discriminatory culture in society.

In October 2022, 49 members of the National Coordination Body for Equality and Non-discrimination were appointed. The Ombudsman's Office worked *ex officio* on three cases and received 76 complaints on grounds of discrimination (43 in 2021), predominantly concerning work and labour relations, and it issued 16 opinions. The Ombudsman's Department for Anti-Discrimination Protection remains understaffed.

In 2022, the Ministry of the Interior opened investigations into 11 online crimes. CSOs report that hate speech is on the rise in the country. There should be a systematic practice of collecting data and addressing hate speech and hate crime.

Some progress was made on promoting **gender equality** through further alignment with the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence and developing a policy framework for integrating gender perspectives and aligning with the EU gender equality *acquis*. A national strategy for gender equality was adopted in July 2022, together with an action plan for 2023-2024. In February 2023, amendments were made to the Criminal Code, regulating criminal acts of gender-based violence, including stalking and hate crimes based on gender identity and gender differences. The Ministry of Defence continues to implement the operational plan for implementing the Second National Action Plan on the UN Security Council Resolution 1325 *Women, Peace and Security* (2020 - 2025). However, there is no progress in implementing the objective on communication and capacity building for the implementation of Resolution 1325 at local level, including the local self-government units and the Association of the units of local self-government. The cross-institutional mechanisms for implementing and monitoring gender equality policy need to be strengthened with an improved structure, technical capacity, adequate funding and trained professionals in line with international standards. The Law on Gender Equality has not been adopted yet. This is largely due to a growing anti-gender movement countrywide. Anti-gender campaigns, at times supported by local government officials, religious and political leaders, raise serious concern.

Implementation of the Istanbul Convention remains a challenge. While the Law on the prevention of and protection from violence against women and domestic violence was adopted in 2021, the implementing legislation was not adopted. Implementation also suffers from the lack of adequate funding (including for the National Coordinative Body on Domestic Violence), effective operating procedures and programmes for the reintegration of victims of violence.

Operational cross-institutional protocols are missing, and the police and health workers still struggle to assess the consequences of violence and respond to them. Victims of gender-based and domestic violence faced several challenges in accessing health services due to a lack of adequately trained staff and limited accommodation facilities. CSOs providing services for

victims outside the capital are still entirely dependent on donor funding.

Persistent gender gaps exist also in employment and in labour force participation. Among the working age population, 46% of women have consistently been out of the labour force compared to 23.3% of men. The gaps are even wider for marginalised women. Roma women aged between 40 and 44, in particular, have the highest unemployment rate. Women registered as individual farmers are excluded from the Law on health insurance when it comes to compensation due to illness, workplace injury and absence due to pregnancy, birth and motherhood.

In addition, 50.5% of women are out of the labour force because of their caring responsibilities towards other people, compared to 1.7% of men. This shows that unpaid care work directly contributes to inequalities in women's participation in the labour force and women's exclusion more generally. The adoption of a draft Law on labour relations, which includes shared parental leave, and a Law on harassment at the workplace has been pending for a number of years now.

The lack of reliable sex disaggregated data across sectors is a significant obstacle to developing evidence-based policies and proper measures. The first national gender equality index, published in 2019, has not yet been updated. The relevant institutions lack the capacity and coordination needed for proper gathering and analysis of gender statistics.

Various legislative, institutional and policy measures protect the **rights of the child** in line with international standards and EU *acquis*. However, a better legislative framework, more funding and more human resources are needed across most sectors. Further reforms and better interinstitutional cooperation are needed to ensure respect for children's rights to education, health, protection from violence, non-discrimination, etc.

The preparation of a national action plan for children was further delayed. North Macedonia still has no national body responsible for coordinating all policies relating to implementation of the UN Convention on Child Rights and the Optional Protocols. Family law provisions on adoption and marriage under the age of 18 fall short of international standards. This has to be addressed as a matter of urgency. The third optional protocol on communications procedure is still not ratified. In 2022, 252 complaints were filed with the Ombudsman related to breaches of children's rights, 12 of which concern children with disabilities. The Ombudsman issued 103 opinions, which were accepted in 87 cases. Awareness raising is needed on the possibility for children to file complaints themselves. Further action is needed to strengthen the capacity, in particular, the human and financial resources, of the Ombudsman's Department for the Rights of the Child and Persons with Disabilities. The Ombudsman also needs to be more independent and to have a stronger remit.

Children need to be more involved in the making of policies related to or affecting children's rights. The best interests of the child should be the primary consideration when institutions devise policies relevant to children and this principle should be incorporated into all relevant laws and policy documents. Mechanisms for protecting children from violence need more support, in the form of sufficient funding and implementation of the national strategy to end violence against children (2020-2025). To ensure a cultural shift and dismantle the social acceptance of violence against children, appropriate educational support for parents is needed, aimed at strengthening positive, non-violent parenting skills. Measures are needed to strengthen the child protection system and improve the collection of data on violence and abuse, both online and offline. There is currently no provision for specialised therapy and child-friendly rehabilitation for children who are victims of violence. Reliable and

comparable data disaggregated by age and sex is essential for the implementation and monitoring of the National Strategy on addressing violence against children.

There is lack of up-to-date information on measures undertaken to combat child poverty and to assess the impact of the existing legal protection. Despite social protection measures aimed at combating the socioeconomic consequences of COVID-19, further efforts to prevent and mitigate the effects of child poverty are needed. Authorities need to commit to making changes to the social protection system to be more child-sensitive and based on a child-centred service delivery model. Cooperation at local level needs to improve among stakeholders, to involve child rights CSOs and children themselves in decisions that affect them. The capacity of social work centres needs to be expanded, so that they can develop and support new community services around the country, including services to support children at risk, Roma children and children with disabilities who are victims of discrimination and segregation.

North Macedonia continued its efforts to include children with disabilities in regular schools and pre-schools. However, there are insufficient financial and human resources to implement the Law on primary education and the social model of disability assessment based on human rights. Despite improvements in the legal framework, some issues remain, relating to the collection of centrally disaggregated data on children with disabilities, the lack of suitable facilities, the lack of community services, and prejudice. This leads to marginalisation and discrimination against children with disabilities in terms of access to education, health and social protection services. With regard to children without parental care, community-based services and sub-regional centres for foster family assistance were made available throughout the country and no children are in institutionalised care. However, the authorities should continue to reform the child protection system in ways that would prioritise family placement for children over small group homes.

The authorities identified 7 child victims of trafficking in human beings in 2022. More measures are needed to ensure effective support for vulnerable children, including protection from sexual exploitation. The authorities need to set up training programmes on children's rights for all professionals. Continuing professional development training should be provided to judges and public prosecutors on issues such as discrimination based on disability, gender-based violence against women, and violence against children. The National Action Plan and Strategy for the fight against trafficking in children (2021–2025) should be aligned with the Lanzarote Convention.

The new Law on justice for children was adopted, in line with international standards and the EU *acquis*, including the Directive on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

The administration of child justice was enhanced by the adoption of a 2022-2026 strategy on justice for children and a 2022-2023 action plan, further promoting alternative measures to custody and children's resocialisation. There is a need for concrete measures supporting the judicial training providers and all relevant professionals' bodies to address the rights of the child and child friendly and accessible justice in their activities. Legislation needs to be amended to find child-friendly solutions for educational correctional measures for girls. The educational correctional facility in Volkovija hosts only young males; in the absence of a female section, there is no long-term provision for statutory education for girls. There is a need for regular monitoring and inspection of the educational correctional facility in Tetovo and Ohrid prison, to ensure that the authorities provide proper protection and other services for the children detained there. Access to justice and legal representation is still inadequate, as is the capacity of public officials involved with child victims, child witnesses and children

in conflict with the law. Juvenile justice professionals need to take a more consistently inter-sectoral and streamlined approach to implementing the legal framework.

The rights of **persons with disabilities** are constitutionally guaranteed and set out in greater detail in the Law on prevention and protection from discrimination. A number of other laws specifically regulating social policy and assistance are also relevant in this context. The new 2023-2030 national strategy for the rights of persons with disabilities was adopted, along with the 2023-2025 action document. Rules were adopted for the functional assessment of children with disabilities according to the international classification of functioning, disability and health. The rules are in line with the Convention on the Rights of Persons with Disabilities (CPRD) and will enable assistance to be given based on children's individual needs. Implementation of the 2018-2027 national deinstitutionalisation strategy continues. This involves a transition from institutional care to family and community-based care with support from social services. The national coordination body for the implementation of the CPRD consists of representatives from the relevant ministries and two representatives of CSOs for persons with disabilities. A team for monitoring implementation has been incorporated into the Ombudsman's Office. The new Law on primary education promotes the full inclusion of students with disabilities by transforming special schools and classes into learning support centres. There are no more children with disabilities in large-scale social care institutions. To support the mainstreaming of education for children with disabilities, 725 education assistants are now employed, covering 850 children. A number of adults with disabilities are being gradually rehoused in 57 newly established residential units for supported living. Home care and day-care services have also been set up. (*see Chapter 19 – Social policy and employment for aspects related to social services, assistance and benefits*).

Negative stereotypes and hate speech against **lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ)** persons prevail in society. There was no progress in removing negative stereotypes and hate speech toward LGBTIQ persons from textbooks, nor in adopting a national action plan for LGBTIQ as part of systematic promotion of equality and prevention of discrimination. There was no progress in implementing the ECtHR judgment (January 2019) concerning legal gender recognition by amending the Law on the civil registry. The legal framework does not allow for the official recognition of same-sex couples.

No progress was made in investigating the attacks on the LGBTIQ support centre which took place in 2012, 2013 and 2014. Law enforcement agencies did not pursue the investigation into the acts of vandalism on the office of an LGBTIQ organisation in Tetovo or into death threats against activists. The court in Strumica handed down a six-month prison sentence for an attack against an LGBTI activist. In June 2023, the authorities facilitated the successful organisation of a LGBTIQ pride parade. However, CSOs and LGBTIQ activists criticise the authorities for shrinking the space for CSOs, especially those working on sexual and reproductive rights. Growing anti-LGBTIQ rhetoric, at times involving political and religious figures, has led to increased intolerance and hate-speech within society. Serious efforts are needed to enable LGBTIQ persons to enjoy their rights.

Concerning **procedural rights**, the country remains partially aligned with the EU *acquis*. The Law on compensation for victims of violent crime was adopted by Parliament and entered into force in May 2023.

The country has a solid network providing primary and secondary free legal aid to those who cannot afford to hire an attorney. Free legal aid is accessible through the 34 regional branch offices of the Ministry of Justice, civic associations authorised to give legal aid, legal clinics within the faculties of law and lawyers certified to give secondary legal aid. A register of associations and individual lawyers who provide legal aid is available on the website of the

Ministry of Justice. Increasing numbers of requests were submitted and approved for primary and secondary legal aid. The system of legal aid in criminal proceedings needs to be reformed to improve access to justice. Most of all, the authorities need to revise the eligibility criteria for legal aid in criminal proceedings (for mandatory defence, defence of indigent persons and representation of the interests of victims of crime). The budget allocated for legal aid in 2022 amounted to EUR 616 304, while the budget implemented amounted to EUR 521 612 (a 0.7% increase compared with 2021).

The country is not yet aligned with the European Protection Order Directive. Further amendments are needed to the Law on criminal procedure to ensure alignment with the Victims' Rights Directive (for instance, regarding the individual assessment of victims). The Law on the payment of monetary compensation to victims of violent crimes entered into force in May 2023. This includes victims of trafficking in human beings. The authorities should also take concrete steps to adopt legislation in line with the Directive on procedural safeguards for children who are suspects or accused persons in criminal proceedings.

As regards the **protection of minorities**, the authorities continued to partially implement the national strategy to promote a multi-ethnic society, 'One Society for All and Interculturalism'. However, further efforts are still needed to ensure sufficient political support, coordination between relevant authorities, adequate funding and other resources, in order to promote equal opportunities and to improve social cohesion in the country. The Language Implementation Agency and the Agency for Community Rights Realisation remain under-staffed and under-funded. There is a need for the training and recruitment of translators and interpreters. Further efforts are needed to strengthen the financial independence of these two institutions, which will enhance their ability to resist political influence. Representation of non-majority communities at local level remains poor. The authorities should implement the recommendation issued by the Advisory Committee of the Framework Convention on National Minorities to ratify the European Charter for Regional or Minority Languages, signed in 1996. The authorities need to organise a public consultation and top adopt in a timely manner a new strategy building on the concept of 'one society and interculturalism', for 2023-2025.

There was some progress with inclusion of **Roma**. With the 2022-2030 Roma inclusion strategy now in place, the action plans were adopted in October 2023 covering anti-gypsyism, education, employment, social care, healthcare, housing, civic registration and culture. An adviser to the Prime Minister overseeing Roma inclusion issues was also appointed as the National Roma Contact Point. Enrolment of Roma children in kindergartens increased slightly by 1.25% from 420 last year to 462. In the 2022/23 school year, 4 429 Roma children enrolled in the first grade of primary education and 202 children were identified by CSOs as not registered. The annual dropout rate for Roma children in primary schools is still relatively high. According to the Ministry of Education and Science, 93.17% Roma pupils remained in school after the academic year 2021/22, while 6.83% left. 89.08% of Roma children of school-leaving age successfully completed their secondary education. The employment of 35 Roma education mediators is a positive step, while segregation in schools remains a significant issue. There are no systematic measures in place to prevent irregular attendance or to reintegrate children who have left education, or systematic enforcement of compulsory education at primary and secondary level as required by the law.

Access to preventive and curative health services, reducing mortality, addressing discrimination and unequal treatment by health professionals and women's health remain key challenges in the field of Roma healthcare. There is a slight decrease in the number of unemployed Roma. Measures were introduced to target Roma individuals with low levels of

education and promote their inclusion in the labour market. 969 Roma were included in the Youth Guarantee scheme. A geographic mapping of Roma settlements in five municipalities identified areas where housing interventions are needed. Most Roma settlements are still not covered by urban plans. The enacted amendments to the Law on civil registry, the Law on Registering the Place of Residence and the Law on ID pave the way to resolving all known cases of statelessness and fulfil the country's international obligations. They guarantee the right of registration for children born in the territory of North Macedonia within 45 days of birth, regardless of the status of their parents. Ending statelessness can have a significant positive impact on the affected Roma and society as a whole.

Cases of discrimination and police brutality based on Roma ethnicity were recorded, particularly against young Roma, girls and Roma in detention. Other barriers such as a lack of digital skills and access to technology continue to prevent Roma people from fully enjoying their rights and accessing most services, most of which are now digital (healthcare, education, employment, social protection etc.). Additional efforts and resources are required to speed up inclusion of Roma, to tackle anti-gypsyism, discrimination and educational and spatial segregation, and to reduce inequalities with the rest of the population. The government is working on implementing the priorities identified in the Poznan Declaration and on priority measures identified in the EU Roma bilateral seminars. Overall, while progress has been made, further efforts are needed to fully promote inclusion and protection of Roma and tackle anti-gypsyism and discrimination, including multiple and structural discrimination, against Roma. Systematic participation, empowerment and capacity building are required.

Citizenship rights

In December 2012, North Macedonia amended the law allowing the **acquisition of citizenship for special economic interests**. The scheme could pose migratory and security risks, especially given the different criteria for granting citizenship. In line with the Commission's recommendation on this matter in its sixth report under the visa suspension mechanism, North Macedonia should refrain from systematically granting citizenship based on special economic interest (investor citizenship schemes), as such schemes pose risks as regards security, money laundering, tax evasion, terrorist financing, corruption and infiltration by organised crime, and are incompatible with the EU acquis.

2.2.2. Chapter 24: Justice, freedom and security

The EU has common rules for border control, visas, residence and work permits, external migration and asylum. Schengen cooperation entails the lifting of border controls within the EU. Member States also cooperate with North Macedonia in the fight against organised crime and terrorism, and on judicial, police and customs matters all with the support of the EU justice and home affairs agencies.

North Macedonia is **moderately prepared** to implement the EU *acquis*. **Some progress** was made. Cooperation in the field of counterterrorism, and the prevention and countering of violent extremism was further upgraded by the new arrangement for the implementation of a joint action plan on counterterrorism. The national strategies for countering terrorism (2023-2027) and countering violent extremism (2023-2027) were adopted in May 2023, along with the related action plans. Registration of migrants needs to be done in a systematic manner and protection-sensitive profiling needs to be improved. The country should establish a proper system for managing irregular movement and stop the practice of returning migrants outside a legal framework. A contingency plan to manage large migratory flows needs to be finalised and adopted. The Status Agreement for operational cooperation in border management with Frontex entered into force on 1 April 2023. This made it possible to launch a joint operation

with the deployment of officers from EU Member States to provide support with border control and the management of irregular migration and cross-border crime. Last year's recommendations were only partially addressed, and remain valid. In the coming year, the country should in particular:

- continue to proactively reform the structures responsible for fighting organised crime with a focus on increasing operational capacity and cooperation;
- ensure effective implementation and monitoring of the national strategies for countering terrorism (2023-2027), countering violent extremism (2023-2027) and of the joint action plan on counterterrorism;
- systematically register migrants and improve protection-sensitive profiling, adopt a more systematic approach to fighting migrant smuggling and align national legislation with the EU's list of visa-required countries.

Fight against organised crime

North Macedonia has **some level of preparation** in the fight against organised crime. **Some progress** was made in the area of the fight against terrorism and violent extremism. The country continues to have a good level of operational cooperation with EU Members States, non-EU neighbouring countries, Europol and Eurojust. A new Law on money laundering and financing of terrorism entered into force in July 2022. Certain forms of crime, such as money laundering and financial crimes still need to be addressed more effectively.

The capacity of the National Coordination Centre for the Fight against Organised Crime needs to be improved. Coordination remains crucial for all stakeholders involved in fighting organised crime, including coordination between prosecutors and police.

Most of the recommendations from last year remain valid. In the coming year, North Macedonia should in particular:

- improve its track record on investigations, prosecutions and rendering convictions in organised crime and money laundering cases with a focus on confiscation of proceeds of crime;
- adopt and implement the necessary legislation for an Asset Recovery Office;
- strengthen human and financial capacities of the law enforcement agencies investigating organised and serious crimes, financial crimes and money laundering.

Institutional set-up and legal alignment

The number of police officers increased in 2022, reaching 347.6 per 100 000 inhabitants (330 in 2021), which is higher than the EU average of 335.3/100 000 (Eurostat, 2019-2021).

Key **institutions** in the fight against organised crime include the specialised police units within the Ministry of the Interior, which have jurisdiction and competence over different types of organised crime and financial investigations. Medium-term priorities and objectives for the development of the police force are determined in the Ministry of the Interior's strategic plan for 2022-2024. In 2022, 47% of the planned activities were implemented.

In 2018 and 2019, North Macedonia comprehensively reformed its intelligence services in line with the findings of the report by the Senior Experts' Group on Systemic Rule of Law Issues. The former Bureau for Security and Counterintelligence (UBK) was replaced by the National Security Agency (NSA) which, contrary to its predecessor, is no longer under the authority of the Ministry of the Interior and does not have police powers. The NSA is located

within the premises of the Ministry of the Interior, which is against international standards and continues to be a matter of concern.

The Operational and Technical Agency can be authorised by a court order to monitor communications as part of a criminal investigation or in the interests of state security and defence or as part of monitoring of mobile operators. It does not yet have its own independent premises and is located in a building owned by one of national telecommunications operators. The Agency has modernised its technical systems and started to digitalise the procedure for obtaining court orders. The mandate of the Director of the OTA expired in September 2023, leading to a gap in the functioning of the agency until the appointment by the Parliament of a new director.

The National Coordination Centre for the Fight against Organised Crime (NCCFOC) is operational but, to ensure its proper functioning, permanent staff should be recruited to cover positions currently filled by temporary staff. A database for better data management and software for information analysis have been developed and are expected to be fully operational before the end of 2023.

There are three structures with a role in conducting **financial investigations**: the Financial Police Office within the Ministry of the Interior, responsible for financial crimes under police jurisdiction; the Financial Intelligence Office within the Ministry of Finance, responsible for intelligence analysis related to money laundering and terrorism financing; and the Sector for Control and Investigation within the Customs Administration, responsible for investigating crimes within its jurisdiction.

The Asset Recovery Office is part of the Unit for International Legal Assistance in the Public Prosecutor's Office. Though preparations have been underway since 2021, the Office, is not yet regulated by law. and functions on the basis of standard operational procedures.

Both the Ministry of Defence and the Ministry of the Interior have responsibilities for cybercrime and cybersecurity. The army is also developing capacity for cyber defence and cooperates with international organisations in the field of global cyber security and hybrid threats. The Ministry of the Interior's Sector for Computer Crime and Digital Forensics carries out investigations into cybercrime, using digital forensics.

Regarding the **legal framework**, the Criminal Code is regularly updated to stay in line with EU and international standards. Its scope has been extended to criminalise activities such as trafficking in human beings, online child pornography, drug trafficking, computer crime. More recently, provisions were added to bring the Criminal Code into line the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence.

The country is a signatory to the 'Convention on Cybercrime on Enhanced Cooperation and Disclosure of Electronic Evidence' (Budapest Convention). North Macedonia signed the Convention's second additional protocol in May 2022, but it has not yet been ratified by Parliament.

North Macedonia is implementing a wide range of **strategic documents** concerning organised crime and other forms of serious crime, based on the corresponding EU strategies. These include: a national strategy against human trafficking and irregular migration together, accompanied by an action plan (2021-2025), a national strategy against children trafficking (2021-2025), a national drug strategy (2021-2025), a strategy for building capacity to conduct financial investigations and confiscate property, with action plan (2021-2023), a national

strategy for control of small arms and light weapons, with action plan (2022-2024), and a national strategy for preventing money laundering and terrorism financing (2021-2023).

In line with Europol methodology and policy, in 2022, the Ministry of the Interior prepared and presented a 'national serious and organised crime threat assessment (SOCTA) 2021'. Launched at the beginning of 2022, it defines the priorities in the fight against organised and serious crime.

Concerning **trafficking in human beings**, in compliance with the recommendations from the Group of Experts on Action against Trafficking in Human Beings, in November 2022, a Law on state compensation for victims of violent crime was adopted, also covering the crime of human trafficking. In March 2023, the Ministry of the Interior and the State Labour Inspectorate signed a cooperation memorandum at the initiative of the National Anti-trafficking Commission, to strengthen cooperation on prevention, detection and suppression of trafficking in human beings for the purpose of labour exploitation, and to ensure timely protection of victims of labour exploitation and child victims of all forms of exploitation.

Concerning **small arms and light weapons**, national legislation is not yet harmonised with EU directives and regulations. After the adoption of the Law on Development, Production and Trade in Military Goods, implementing legislation was finalised in 2022. The Law on Weapons of North Macedonia is partly aligned with Directives 2021/555(EU) and still pending the alignment with Implementing Directive 2019/68 on marking of firearms and Implementing Directive 2019/69 on technical specification of alarm and signal weapons. The responsible authority is the Ministry of Interior. There is a national commission for the control of weapons, that cooperates with the relevant national authorities (ministries of interior, defence, justice, finance (customs administration), foreign affairs, and agency for seized and confiscated property (for the destruction of weapons).

In the framework of the actions in Western Balkans within the EU Action Plan on firearms trafficking, which correspond with the goals of the Regional Roadmap to better control SALW in Western Balkans, North Macedonia improved the investigation and record keeping of firearms capacities and made some progress with limited destructions of the confiscated firearms and ammunition and surplus ammunition. Several activities related to the implementation of the Roadmap continued to be limited, including awareness raising, outreach and education on the dangers and risks related to the misuse, illicit possession, and trafficking of firearms/SALW, as well as reduction of illicit firearms through legalization, voluntary surrender and deactivation.

Concerning **child sexual abuse**, the Cybercrime and Digital Forensics Section liaises with the Interpol I-24/7 Child Sexual Exploitation-ICSE network.

Implementation and enforcement capacity

In 2022, 21 investigations on organised crime groups were initiated involving a total of 102 persons (compared with 17 investigations in 2021); of these, 13 are still ongoing (compared with 11 in 2021) and 8 were closed in 2022 (six in 2021), of which 1 was transferred and 1 dismissed. Seizure measures were applied in nine cases. 27 individuals were indicted, and eight verdicts were reached, resulting in prison sentences or suspended sentences with probation. The external oversight mechanism is being implemented. Within the Public Prosecutor's Office, the Special Department for investigation and prosecution of crimes committed by persons with police powers and members of the prison police has only two investigators. Two posts are vacant. In the reporting period, the Department registered 183 cases against 299 individuals (135 in 2021), 25 verdicts were reached / penalties handed down, eight cases were transferred, and 74 cases were dismissed.

The NCCFOC is operational, and its role and activities increased in 2022. All institutions participating in NCCFOC nominated their representatives in 2022. The Centre: facilitates the exchange of data and information among the affiliated institutions; shares information among institutions on a 'need-to-know' basis; coordinates activities among institutions in cases where more than one received a request about a natural or legal person; and supports the international exchange of information, especially between police forces.

The Basic Public Prosecutor's Office for Organised Crime and Corruption has insufficient human resources and lacks financial resources for expert services. Specialisation within the Office is needed, as well as a pro-active approach in pursuing cases.

The investigative centres within the Basic Public Prosecution Office, located in Skopje, Kumanovo and Tetovo, and within the Basic Public Prosecutor's Office for Organised Crime and Corruption, are operational, but they still lack sufficient human and financial resources and adequate equipment to perform properly. These investigative centres have not achieved their objectives of more efficient investigations and better coordination among prosecutors, police and other relevant bodies.

The country participates in **international police cooperation** activities through the main cooperation channels (INTERPOL, Europol and the South-Eastern Law Enforcement Centre (SELEC)). The level of cooperation and exchange of information with Europol is good and increased in 2022. North Macedonia is participating in Europol analysis projects in the field of organised and serious crime and combating terrorism. The Ministry also provided input for the development of Europol's EU serious and organised crime threat assessment (SOCTA). In 2022, the relevant authorities participated in activities forming part of Europol's analysis project 'Hydra', on Islamic terrorism.

The National Central Bureau (NCB) INTERPOL Skopje is working on expanding INTERPOL I-24/7 communication system. Connectivity has been provided with some of the databases available in I-24/7. The national authorities and NCB INTERPOL are working to expand access to other databases in that system.

In 2022, 1 887 new cases were opened in the International Police Cooperation Sector (1 429 at NCB INTERPOL, 254 at Europol, 151 at Liaison Officers, and 53 at SELEC). Most cases concern the illegal drug trade, illegal arms trade, financial and computer crime, violent crime, motor vehicles, irregular migration and human trafficking, computer crime and missing persons.

Operational international police cooperation with neighbouring countries includes Albania, Serbia, Greece and Bulgaria, and has been conducted through established channels: NCB INTERPOL, Europol National Units, and SELEC.

North Macedonia is participating in the European Multidisciplinary Platform against Criminal Threats (EMPACT). In 2022, the country participated in 26 operational actions, and was co-leader of one operational action (part of the operational action plan (OAP) on firearms). In 2023, North Macedonia has substantially increased its participation in EMPACT and is involved in 98 operational actions. It is co-leader of four operational actions (two as part of the OAP on firearms trafficking, 1 as part of the OAP on migrant smuggling and 1 as part of the OAP on cocaine, cannabis and heroin trafficking). North Macedonia continued to participate in EMPACT joint action days.

Cooperation with CEPOL has been based on a Working Arrangement since 2017. In accordance with the EU strategic training needs assessment, 27 specialised/resident training courses were developed by CEPOL, the EU agency for law enforcement training, and were

attended by 150 representatives from the Ministry of the Interior in 2022. Law enforcement officers also participated in the exchange programme training organised by CEPOL. It is recommended that the authorities of North Macedonia, with the assistance of CEPOL, design, prepare and organise targeted training to address the priority training topics at national level as follows: Counter Terrorism: Prevent; Counter Terrorism: Protect; Counter Terrorism: Respond; Firearms trafficking; and Environmental crime.

Since 2014, an **intelligence-led policing** model has been implemented in the Ministry of the Interior's Public Security Bureau. The Ministry is now able to detect current needs and set strategic priorities and activities for each year, for greater efficiency in fight against organised and serious crime.

The Financial Intelligence Unit conducted four financial investigations against 44 individuals and four entities in 2022. A total of nine law enforcement officers were assigned to the unit. There is still a need for additional technical equipment and other material. Access to several databases was provided and negotiations are underway to provide access to the cadastral (property) register database.

The Financial Police Office (FPO) currently has five positions for investigators occupied, with four still vacant. A standard operating procedure for conducting financial investigations was adopted in July 2022. It conducted 25 financial investigations in 2022. The FPO has access to several databases of other institutions. An additional database is currently being developed which connects the FPO database to those of the Customs Office, the Public Revenue Department and the Ministry of the Interior.

The Sector for Control and Investigation within the Customs Administration initiated a total of 14 financial investigations against 22 individuals and nine legal entities in 2022. All eight available positions for executors in the service have been filled. The Customs Administration adopted a procedure for financial investigations in July 2022.

In May 2023, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) discussed and approved a report regarding the country's technical compliance and effective implementation of the international anti-money laundering and combating the financing of terrorism (AML/CFT) standards, in accordance with the 2013 Financial Action Task Force (FATF) methodology. According to the conclusions set out in the evaluation report published in July 2023, the legal framework has improved, but the authorities should further strengthen measures to combat money laundering, the financing of terrorism and proliferation, in particular through investigations and prosecutions (*see chapter 4*).

The Law on prevention of money laundering and financing of terrorism entered into force in July 2022. The Law aims to align with EU Directive 2018/843, the fifth Directive on the prevention of the use of the financial system for the purposes of money laundering and financing of terrorism and to address the revised Financial Action Task Force recommendations. Additional implementing laws deriving from the Law need to be drafted and adopted. North Macedonia needs to align its legislation with Directive (EU) 2018/1673 on combating money laundering by criminal law.

In 2022, the authorities managed to freeze assets worth around EUR 40 million, including cash, land, business premises, apartments, shares and securities. They confiscated assets worth some EUR 28 million.

North Macedonia is currently implementing its national strategy against human trafficking and illegal migration. This is accompanied by an action plan and a national strategy against

trafficking in children – both covering 2021-2025. The Group of Experts on Action against Trafficking in Human Beings published its third-round evaluation report on North Macedonia. Recommendations were made to the authorities to address gaps and weaknesses in the legal framework and in other areas. To further align with the EU *acquis*, amendments to the legislative framework should be adopted, including on the referral to the Centre for Victims of Trafficking in Human Beings of foreign victims of trafficking in human beings who cooperate with the authorities. Adequate avenues for compensation for victims should be provided.

In 2022, 9 victims were identified as part of investigations and prosecutions of perpetrators of trafficking in human beings. Of these, 8 were victims of internal trafficking while 1 was exploited abroad (in a neighbouring country). As a result of the investigations, 6 criminal charges were brought against 19 individuals for alleged trafficking in human beings offences.

In 2022, the Ministry of the Interior filed charges against 210 individuals, accused of committing 199 crimes involving **small arms and light weapons**. Moreover, 139 weapons were seized in 2022. Under the supervision of the State Commission for destroying weapons, 270 seized weapons were destroyed in February 2023.

Concerning **cybercrime**, in 2022, the authorities registered 287 criminal acts constituting computer crimes under the Criminal Code, committed by 220 perpetrators. The most common computer crimes are: ‘damage and unauthorised entry into a computer system’, ‘spreading xenophobic material via information systems’, ‘processing and use of a false payment card’, ‘endangering safety’.

Regarding online child sexual exploitation, the number of registered crimes in 2022 was 14. Of the reported crimes, eight were solved and eight perpetrators were identified. The remaining cases are being investigated. There were seven reported cyber-attacks against public institutions and public infrastructure in 2022 and 11 against private institutions. The Ministry of the Interior’s Sector for Computer Crime and Digital Forensics participated actively in EMPACT.

The Central Register has kept a register of beneficial owners since January 2021, but not all entities that are required to have provided the necessary information.

In accordance with the Law on payment services and payment systems, a single register of accounts was set up and maintained by the Central Register. Infrastructure for the register is currently being constructed, and technical specifications have been defined for the software and its main components. It is expected that the register will be operational by the second quarter of 2024.

In the reporting period, witness protection measures were applied in 4 cases.

Cooperation in the field of drugs

Institutional set-up and legal alignment

The national strategy against drugs covers the period 2021-2025 and is being implemented through a specific action plan. The National Drugs Observatory was set up in 2007, but its operational capacity remains limited. It lacks resources to cope with its daily drug monitoring tasks. There is still no national early warning system capable of connecting with relevant national bodies to enable fast exchange of information about illegal manufacturing and illicit trade on a national and international level.

The European Monitoring Centre for Drugs and Drug Addiction has had technical cooperation arrangements with North Macedonia since 2007. The focal point for this cooperation is the Ministry of Health, which also cooperates with the International Narcotics Control Board, and United Nations Office on Drugs and Crime.

National legislation on drugs, psychotropic substances and precursors does not comply with the EU *acquis* or international standards.

Implementation and enforcement capacity

There was a positive trend in the prevention of drug trafficking. A total of 749 crimes were detected in 2022 (compared with 701 in 2021), leading to criminal prosecution against 9 legal entities and 853 perpetrators (840 in 2021). Police action broke up 12 organised groups (10 in 2021) with 46 members (36 in 2021).

In 2022, the authorities seized 2 561 kg of marijuana and 8 723 kg of cannabis stems (18 301 kg for both in 2021) from legal entities with licences for the cultivation of cannabis for medicinal purposes, which raises concerns about deficiencies in the system for legal cultivation. Law enforcement authorities need to gain tighter control over those entities and their activities, to prevent illegal activity and take effective measures against infringements.

Regarding international police cooperation, throughout 2022 the Ministry of the Interior received 62 pieces of information concerning the illegal trafficking of drugs through INTERPOL from EU and non-EU countries. The relevant police structures also maintained a good level of cooperation with Europol, with 481 messages concerning ‘illicit drug trafficking’ exchanged through Europol’s secure information exchange network application (SIENA) in 2022. In addition, 18 cases of illicit drug trafficking were opened as a result of exchanges of information through SELEC.

Harm-reduction activities, one of the main pillars of the country’s drug policy, are implemented by local CSOs through a nationwide network of national focal points.

Preparatory work was done on the register of drug users by the Institute for Public Health in cooperation with the Ministry of the Interior. The register now needs to be finalised.

In February 2023, the Agency for the Management of Confiscated Property destroyed 1 400 kg of confiscated drugs and illegal psychotropic substances following a final court decision.

Cooperation with Eurojust continues. Between April 2022 and February 2023, North Macedonia was involved in 20 new cases at Eurojust – 17 as requested country and three as requesting country. Most cases related to money laundering, swindling or fraud. North Macedonia’s acting Eurojust Liaison Prosecutor was actively engaged in facilitating ongoing investigations.

Fight against terrorism

Institutional set-up and legal alignment

North Macedonia has a national committee for countering violent extremism and counterterrorism, but the draft rulebook for its work needs to be adopted.

North Macedonia’s legislative framework is broadly aligned with the EU *acquis* and international counterterrorism instruments and is sufficient for the prosecution of individuals suspected of committing or aiding terrorist activities or participating in foreign wars.

National strategies for countering terrorism (2023-2027) and countering violent extremism (2023-2027) were adopted in May 2023. These are based on the four pillars of the UN and EU's global strategies: prevention, protection, prosecution/enforcement and response.

The country continues to implement its national plan for the re-integration, re-socialisation and rehabilitation of returnees from foreign armies and members of their families. A variety of activities are implemented daily in the work with foreign terrorist fighters and their families.

In December 2022, the European Commission and North Macedonia's Ministry of the Interior signed a new arrangement for the implementation of a joint action plan on counterterrorism for the Western Balkans. The arrangement upgrades cooperation on counterterrorism and action to prevent / counter violent extremism. It requires national authorities to submit interim reports twice a year.

Implementation and enforcement capacity

North Macedonia submitted in July 2023 a first progress report on the implementation of the bilateral arrangement for the implementation of the Joint Action Plan on Counterterrorism for the Western Balkans. Implementation of the newly signed counterterrorism arrangement began with some priority activities, undertaken in accordance with the schedule.

At local level, measures to prevent violent extremism and terrorism continue to be implemented by local councils for prevention, action teams in community, and local multidisciplinary teams. Two additional local action teams were set up in November 2022 in Prilep and Struga. Local multidisciplinary teams now operate in 9 municipalities – Skopje, Kumanovo, Gostivar, Tetovo, Kicevo, Ohrid, Struga, Stip and Prilep – to provide support for returnees and their families. These teams work in coordination with social service centres. Greater clarity is needed around the division of powers, tasks and responsibilities between local and central level, for better cooperation on prevention and countering of violent extremism. The state needs to adopt additional legal provisions to legitimise and regulate the activities of local-level bodies.

The practice of handing down light sentences for terrorism-related offences remains a challenge for prevention efforts, and more effective follow-up is required for convicted foreign terrorist fighters after they are released from prison.

Radicalisation in prisons remains a concern despite the existence of a strategy on the penitentiary system (2021-2025) which includes provides measures against radicalisation in prisons. Online radicalisation should be addressed effectively, which requires better equipment and training, and human capacity building.

No foreign terrorist fighters were repatriated in the reporting period. In 2022, five individuals were indicted for allegedly perpetrating five separate crimes involving 'terrorism' and 'participation in foreign paramilitary or para-police formations'. In 2022, 3 cases resulted in convictions for the crime of 'terrorism', of which two were final and one under appeal procedure. In comparison, court verdicts were passed against four repatriated foreign terrorist fighters and one person was indicted for terrorism in 2021.

In 2022, the sector dealing with the fight against terrorism, violent extremism and radicalism located within the Ministry of Interior participated in Europol's analytical projects on the fight against terrorism and financing for terrorism. A total of 387 messages were exchanged with partner services from other countries, through SIENA, Europol's counterterrorism platform.

The Financial Intelligence Office updated indicators for the recognition of suspicious transactions potentially linked to the financing of terrorism or proliferation financing. In 2022, a number of strategic analyses were adopted by the Head of the Financial Intelligence Office, such as the strategic analysis for proliferation finance, a strategic analysis for transactions through fast money transfer services, and a manual to facilitate the use of practical indicators for identifying suspicious financial transactions.

A memorandum for cooperation, coordination and exchange of information for effective and efficient application of the Law on restrictive measures was signed in September 2022 by the Minister of Interior, the Minister of Foreign Affairs, the Director of the Intelligence Agency, the Director of the Financial Intelligence Office, the Director of the Agency for National Security and the Public Prosecutor. Financial restrictive measures were introduced for 15 individuals who participated in foreign armies, police, paramilitary or para-police formations outside North Macedonia.

Additional multidisciplinary teams were set up within the state prison system to monitor the behaviour of inmates convicted of terrorism.

Pre-release standard operating procedures and post-penal assistance were introduced for radicalised convicts.

Judicial cooperation in civil and criminal matters

Progress regarding the legal framework for cooperation in civil and commercial matters was limited. North Macedonia should ratify the 2005 Hague Choice of Court Convention, the 1996 Hague Child Protection Convention, the 2007 Hague Child Support Convention and its Protocol on Applicable law, which have been already signed. Furthermore, the country should take the necessary steps to ratify the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (the 'Hague Judgments Convention').

The Ministry of Justice's Criminal Department is currently understaffed, with just a head of department and four civil servants, out of a planned seven.

In 2022, there were 789 incoming and 220 outgoing requests for mutual legal assistance in civil matters (compared with 429 incoming and 141 outgoing in 2021). The requests are forwarded to the relevant authority within seven days.

In 2022, there were 1 147 incoming and 824 outgoing requests for mutual legal assistance in criminal matters (compared with 856 incoming and 233 outgoing requests in 2021). These cases have not been fully processed and the Ministry of Justice does not have accurate data on the number of ongoing procedures.

Cooperation with Eurojust continues. The Ministry of Justice issued Rules on cooperation between the State PPO, the Ministry of Justice and Eurojust. These Rules are based on the 2021 Law on international legal cooperation in criminal matters. North Macedonia's acting Eurojust Liaison Prosecutor was actively engaged in facilitating ongoing investigations. The procedure for selecting a permanent Eurojust Liaison Prosecutor, upon a call published in December 2022, is ongoing.

In October 2022, the European Public Prosecutor's Office and North Macedonia's State Public Prosecutor's Office concluded a working arrangement.

Legal and irregular migration

Institutional set-up and legal alignment

The legal framework for migration is largely in line with EU standards. The state of crisis declared at the country's borders was further extended until the end of December 2023, allowing for the continued deployment of the army.

The Ministry of the Interior is the main operator in the field of migration.

North Macedonia has a series of strategic documents in place on migration: the 2021-2025 national strategy for integrated border management with an action plan for implementation (2022-2025); the resolution on migration policy for 2021-2025; the 2021 migration profile and the 2019-2023 national strategy for cooperation with the diaspora. The new strategy for the integration of refugees and foreigners has been pending adoption since September 2021. A contingency plan to manage large migratory flows still needs to be finalised and adopted.

North Macedonia participates in the regional Anti-Smuggling Operational Partnership with the Western Balkans launched in November 2022 to support law enforcement and judicial cooperation against criminal smuggling networks and to increase border management capacities.

Implementation and enforcement capacity

The country continued to play an active role in the management of mixed migration flows. Further efforts were made to ensure basic living conditions and services for all migrants in North Macedonia. However, there is a need to enhance institutional and administrative capacities for all aspects of migration management by increasing the number of employees and by providing additional material and technical resources. As of April 2023, Frontex has been deployed and has provided operational support on the country's southern border.

The strategic framework should be further strengthened, particularly on implementation of support measures. While registration of migrants resumed in 2021, the lack of adequate protection-sensitive profiling needs addressing as a priority. Better, more systematic registration and protection-sensitive profiling is required. The fragmentation of tasks between the multiple institutions dealing with migration makes migration management less effective. Implementation of the in-depth assessment (masterplan) for North Macedonia developed by Frontex last year is still pending.

The readmission agreements and implementing protocols signed with eight EU Member States continue to be implemented. Four additional agreements are under negotiation. In addition, North Macedonia has bilateral readmission agreements with eight non-EU countries (six further agreements are being negotiated). Cooperation with neighbouring countries continues to be satisfactory. However, there is room for more cross-border cooperation with neighbouring countries in implementing returns and addressing trafficking in human beings and smuggling of migrants.

The number of irregular movements through North Macedonia increased, with 27 391 irregular arrivals in 2022 compared to 20 874 in 2021. Most of these people were travelling from Greece towards Serbia. Nationals of Syria (11 018), Pakistan (5 594) and Morocco (2 541) constituted the largest groups, most of whom were single males. Irregular migrants in transit remain targets for organised criminal groups engaged in people smuggling, who often extort money and abuse the migrants in various ways. A new phenomenon in the Western Balkans is the misuse of North Macedonia's visa-free regime by individuals coming

from Türkiye, Tunisia, India, Burundi and China, among others. North Macedonia re-introduced visa requirements for nationals of Azerbaijan, Botswana and Cuba.

In 2022, 107 cases of smuggling were detected, involving 1 454 migrants (compared with 64 cases involving 815 migrants in 2021 – an increase of 67.2% and almost 80% respectively). The number of migrants smuggled remained high and combating smuggling networks remains a priority.

Regular reception capacity was unchanged and is appropriate to current needs. The arbitrary detention of persons apprehended in irregular movements for the purpose of taking statements as evidence before the Criminal Court remains an issue of concern. The percentage of asylum applications registered at the reception centre for foreigners in Gazi Baba significantly increased to 62.5% in the first quarter of 2023, from just 8% in 2022.

Since the attempt to build a new EU-funded reception centre for foreigners was blocked by a government decision in October 2021, no improvements have been made in the existing reception centre, where living conditions are poor and basic rights are not respected. The National Preventive Mechanism within the Ombudsman repeatedly pointed out that this facility does not meet the required standards for hosting persons with restricted freedom of movement. The detainees do not receive the information about legal remedies they would need to fully understand their legal status or the length of detention.

Two temporary transit centres providing short-term housing remain operational (Vinojug capable of housing 1 500 persons and Tabanovce with a capacity of 500). However, both transit centres are unsuitable for longer stays and the legal status of both centres breaches international standards. The lack of legal oversight over migrants' freedom of movement in the Vinojug transit centre is also a major issue.

Since the summer of 2021, North Macedonia has temporarily hosted some 791 evacuees/refugees from Afghanistan. By September 2023, 674 had been resettled. Since March 2022, North Macedonia has been hosting refugees from Ukraine. By September 2023, 67 151 Ukrainians have arrived in North Macedonia, 48 807 of which left the country. By June 2023, 405 Ukrainians had received temporary residence in North Macedonia on humanitarian grounds. Under the Law on foreigners, temporary residence means the right to legally reside in the country for 1 year with the possibility of extension.

There are 235 Roma, Askhali and Egyptian individuals from Kosovo* in the country, including 11 with refugee status, 64 under subsidiary protection and approximately 160 whose protection status has ended. The individuals remain in a vulnerable situation due to the lack of legal status and insufficient access to basic rights.

In 2022, a total of nine persons were assisted with voluntary returns to their countries of origin within the assisted voluntary return and reintegration programme.

Asylum

Institutional set-up and legal alignment

The asylum sector in the Ministry of the Interior is the authority responsible for asylum procedures. The Law on international and temporary protection is largely aligned with the EU *acquis*. However, efforts are still needed to improve information and counselling in detention facilities and at border crossings. Efforts are also needed to improve personal interview and border procedures. Further efforts are needed to improve working rights of applicants for

* 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.

international protection, and access to a personal identification number so they can work, open a bank account and manage property. Furthermore, there is a need for the current legislation to provide alternatives to detention for persons involved in irregular movements. Further efforts are required to improve delays in family reunification for persons under subsidiary protection, particularly for unaccompanied minors. Delays can be counter to the principle of the best interest of the child.

Under the Law on foreigners, persons who enjoy international protection can be granted long-term residence. However, they must still present proof of regular income and a registered place of residence to benefit from this provision. Given the vulnerability of some applicants, notably Roma people from Kosovo under subsidiary protection, there is a risk that the rights under this provision remain theoretical, without practical implementation. The existing database on foreigners still needs to be upgraded with a new asylum module to provide a case management tool for processing asylum claims. There is no backlog of asylum cases. Most cases are discontinued due to the high rate of claim abandonment.

Implementation and enforcement capacity

Implementation of asylum procedures is not fully aligned with the EU *acquis*. Developing the asylum authorities' administrative capacity remains a challenge, particularly as regards the recruitment and retention of highly qualified and dedicated staff, which is a prerequisite for high-quality administrative processing of asylum claims. The government has not invested enough in improving the asylum system, for example by through funding, technical expertise and staff to fill specific roles.

There is no problem with access to the asylum procedure and asylum claims are promptly registered and processed. However, the quality and speed of asylum decisions remains of concern. Most of those granted subsidiary protection are vulnerable persons and unaccompanied minors. Decisions are based on humanitarian needs but without proper consideration of the merits of the claim. The overall length of the entire asylum procedure is unreasonable; it may last for several years from initial registration of an asylum claim.

The Administrative Court and the High Administrative Court take decisions on procedural grounds rather than on the merits of individual asylum claims. The cases returned to the administrative authority remain unchanged despite court rulings. This lengthens the asylum procedure, without providing asylum-seekers with an effective remedy. The practice continued of holding in-person hearings with attorneys and asylum officials present but without the asylum-seekers themselves. Although guaranteed by law, no procedure has been implemented to adequately cater for persons with specific needs. Furthermore, decisions on expulsion are made with no quality assessment, and without the necessary steps being taken to ensure that returning asylum-seekers will not be subjected to persecution in their country of destination.

A lack of personal identification numbers for asylum-seekers and persons under temporary protection remains unaddressed and is a critical gap in the legal protection of rights.

Further efforts are needed to ensure that the children of asylum-seekers are provided with proper educational services in accordance with the Law on primary education. There is a lack of national data on refugee and asylum-seeker children in primary and secondary education.

In 2022, 168 asylum applications were submitted (compared with 100 applications in 2021), with most applicants coming from Syria (49%), Morocco (10%), Afghanistan (6%), Türkiye (5%) and Iraq (5%). The registration of asylum applications is not integrated, with different entities within the Ministry of the Interior being involved. These include police stations

where applications are first registered, reception centres and the Sector for Asylum. By the end of 2022, the Sector for Asylum had conducted 14 asylum interviews (mostly online), rejected 20 asylum applications, and granted no form of international protection (refugee status has not been granted to anyone since 2016), while most decisions were written off due to high rates of absconding. In the first quarter of 2023, 71 asylum applications were registered, a 500% increase compared to the same period in 2022. Most of the applicants came from Afghanistan, the Democratic Republic of the Congo, Pakistan and Syria.

The roadmap for cooperation agreed on between the European Union Agency for Asylum and North Macedonia for the period October 2020–September 2022 remained an important tool for: strengthening the asylum system, particularly for persons with special needs and unaccompanied minors; strengthening the training system on asylum and reception; increasing the quality of asylum decisions; and strengthening the reception system for vulnerable migrants and unaccompanied minors.

Visa policy

The national visa regime is largely aligned with that of the EU. To date, only Türkiye is accessible without visa for North Macedonia but not for the EU. In January 2023, North Macedonia reintroduced a visa requirement for nationals of Botswana and Cuba. The decision to temporarily allow nationals of Azerbaijan to enter North Macedonia without a visa expired in March 2023 and was not extended. The Commission's sixth report under the Visa Suspension Mechanism of 2023⁷ concluded that North Macedonia continued taking action to address the Commission's previous recommendations and recommended North Macedonia to continue this good progress. North Macedonia has a high level of compliance with International Civilian Aviation Organisation standards. The visa sticker meets the EU requirements.

Schengen and external borders

Institutional set-up and legal alignment

The legislative framework for the management of North Macedonia's external borders is largely aligned with the EU *acquis*. The Department of Border Affairs and Migration is a specialised unit within the Ministry of the Interior. The country has eight border crossing points. The border police are structured into four regional centres, within which police stations for border surveillance and border checks operate. North Macedonia has a National Coordination Centre for Border Management.

A new integrated border management strategy for 2021-2025 was adopted in 2022. It aims to achieve safe and open borders that allow fast and secure transit of passengers and goods, while enabling effective measure to be taken against irregular cross-border activities.

Implementation and enforcement capacity

A Status Agreement for operational cooperation in border management with Frontex was signed in October 2022, including a Macedonian language version. Following the entry into force of the status agreement on 1 April 2023, a North Macedonia 2023 joint operation was launched on 19 April with the deployment of 110 officers to provide support for border control and the management of irregular migration and cross-border crime along the entire border section with Greece. Reinforcing controls along North Macedonia's borders will help increase security at the EU's external borders.

⁷ COM(2023) 730 final

Cooperation with the border services of Albania, Bulgaria, Kosovo and Serbia is carried out in accordance with the Schengen catalogue of recommendations and best practice. The following agreements were signed and are being implemented: Agreement on freedom of movement with identity cards (Western Balkans); Agreement on regulation of local traffic; and Agreement on systematic prosecution of perpetrators of crimes. In 2022, a total of 786 meetings and other contacts at all levels were held with these countries' border services (compared with 708 in 2021); 355 mixed patrols were carried out (compared with 96 in 2021); and 1 247 information exchanges took place through the Joint Contact Centres (compared with 1 988 in 2021). There are no mixed patrols with Greece and no Joint Contact Centre has yet been set up.

In 2022, 85 disciplinary procedures were conducted against police officers from the Department for Border Affairs and Migration and from the four regional centres for border affairs. These procedures resulted in 54 fines, 11 dismissal decisions and one warning; 19 procedures were terminated. In 2022, an investigative procedure was launched in a case established in 2021 against 11 persons for criminal offences under Articles 353 (abuse of official position and authorisation) and 357 (receiving a bribe) of the Criminal Code, and in March 2023, an indictment was filed against five persons for the crimes of criminal association and of receiving bribes and against one person for the crime of receiving a bribe.

All aspects of customs cooperation are now covered in Chapter 29 – Customs Union.

2.3. ECONOMIC CRITERIA

	2014-19 average	2020	2021	2022
North Macedonia - Key economic figures				
GDP per capita (% of EU-27 in PPS) ¹⁾	37	38	42	42
Real GDP growth	3.0	-4.7	3.9	2.1
Economic activity rate of the population aged 15-64 (%) , total	65.3	65.5	66.8	66.4
<i>female</i>	52.3	54.0	55.1	54.3
<i>male</i>	77.8	76.7	78.4	78.4
Unemployment rate of the population aged 15-64 (%) , total ²⁾	23.2	16.6	15.8	14.5
<i>female</i>	22.9	16.1	13.8	12.6
<i>male</i>	23.4	16.9	16.9	15.9
Employment of the population aged 15-64 (annual growth %) ²⁾	2.7	-0.5	n.a.	n.a.
Nominal wages (annual growth %)	3.2	8.3	5.7	11.1
Consumer price index (annual growth %)	0.5	1.2	3.2	14.1
Exchange rate against EUR	61.57	61.67	61.63	61.62
Current account balance (% of GDP)	-1.4	-2.9	-3.1	-6.0
Net foreign direct investment, FDI (% of GDP)	3.1	1.4	3.3	5.2
General government balance (% of GDP)	-2.8	-8.0	-5.4	-4.5
General government debt (% of GDP)	39.4	51.9	51.8	51.1

Notes:

1) Eurostat

2) From Q1-2022, the Labour Force Survey is based on the results of the 2021 population census, restricting comparability with previous year's data. In a first step, the Statistical Office has recently revised 2021 data based on census data.

Source: national sources

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

2.3.1. The existence of a functioning market economy

North Macedonia has made **some progress** and is at a **good level of preparation** in developing a functioning market economy. In 2022, the economy was badly hit by the fallout from Russia's war of aggression against Ukraine, which significantly slowed down its post-COVID recovery. The government supported households and businesses through large-scale energy subsidies, tax reductions and targeted direct income support. Owing to an inflation-driven boost to tax income and under-execution of several expenditure categories, the general government deficit remained below the revised target. Capital expenditure was raised significantly, but still fell short of the revised plan. The public debt ratio dropped, but remains significantly above pre-COVID-19 levels. The central bank tightened its policy stance further in view of still elevated inflationary pressures, which began to subside gradually towards the end of 2022 and beyond. The current account deficit rose substantially as energy import prices surged, but external financing needs were met with the help of market-based and IMF borrowing.

A new Organic Budget Law (OBL) provides for the introduction of fiscal rules and a fiscal council, considerably strengthening fiscal sustainability. However, progress has been slow in implementing wider-ranging measures to improve the management of public investment, vital for underpinning the government's plans for a sizeable increase in capital expenditure.

The banking sector was resilient throughout the crises, and financial stability was bolstered by progress on some key legislation. The labour market showed some improvement, but structural problems persist, including high youth and long-term unemployment rates and a large gender gap. The business environment continued to be impeded by the large size of the informal economy, slow progress in streamlining parafiscal charges and an opaque and inefficient State aid regime.

Last year's recommendations were only partly implemented and remain partially valid. To improve the functioning of the market economy, North Macedonia should in particular:

- provide targeted and temporary support to vulnerable households and firms to cushion the impact of the energy crisis, if needed, and at the same time start to phase out untargeted subsidies to the energy sector;
- adopt and submit to Parliament the next set of revenue-enhancing measures, in line with the tax system reform strategy;
- accelerate implementation of the public investment management action plan, in particular by ensuring the new Department for Public Investment Management in the Ministry of Finance becomes fully staffed and operational;
- strengthen access to active labour market measures, in particular for the low-skilled unemployed and people in vulnerable situations.

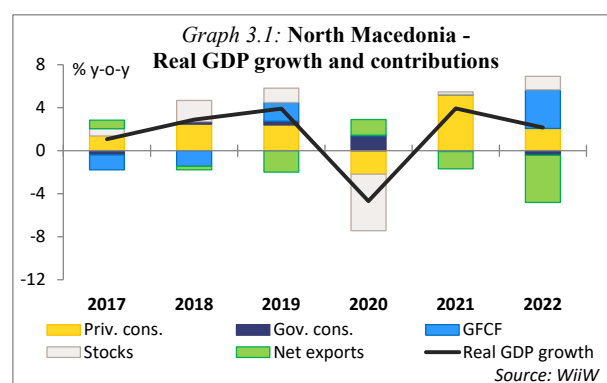
Economic governance

The government provided fiscal support to help the economy cope with rising price pressures, but progress on important reforms was slow. While phasing out the broad-based pandemic-related support measures adopted in 2020 and 2021, the government adopted two sets of – partially – better targeted and temporary measures in 2022, to ease the burden of high food and energy prices on households and small business. These include a temporary reduction in the VAT rate on electricity for households, as well as sizeable subsidies for the state-owned electricity producer, ESM, which supplies the electricity to the universal supplier in the regulated market, to lower the price of electricity for its customers. It currently satisfies 100 percent of the demand of the regulated market, through government decision. Through the Law on financial support for socially vulnerable categories of citizens to deal with the energy crisis, adopted in November 2022, the government has provided targeted direct income support. It also introduced temporary price caps on certain food products, which were lifted on 1 June 2023. The new Organic Budget Law, enacted by Parliament in September 2022, introduced fiscal rules and a fiscal council as well as an improved medium-term budget framework. However, progress has been slow in other key reform areas. Improvements to the management of public investment are hampered by staffing and IT issues. Some of the public revenue-enhancing tax reforms adopted by the government in December 2022, which aim to reduce tax exemptions, were stalled in Parliament. The new legal framework for public-private partnerships (PPPs), which would address a number of shortcomings in the management of PPPs and of concessions, has yet to be adopted by the government. The government has advanced in implementing the green transition, notably by adopting major legislation to increase the use of renewable energies.

The policy guidance jointly agreed on at the May 2022 Economic and Financial Dialogue between the EU and the Western Balkans and Türkiye has been partially implemented. The country benefits from EU budget support worth EUR 80 million to cushion the impact of energy price increases on households, small and medium-sized enterprises and public service providers, of which EUR 72 million was disbursed in March

2023. In November 2022, the country received the first EUR 110 million tranche from an arrangement under the IMF's Precautionary and Liquidity Line (PLL)⁹. On 12 July 2023, in view of the country's large financing needs in 2023 and 2024, and following a request from the government, the Council and the European Parliament endorsed a Commission proposal for macro-financial assistance to North Macedonia of up to EUR 100 million.

Macroeconomic stability



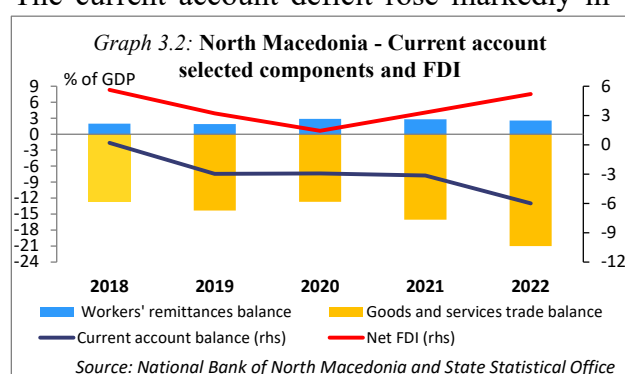
GDP growth slowed, as the economy was hit by the fallout from Russia's war of aggression against Ukraine. Following a partial recovery from the recession caused by the COVID-19 pandemic, annual GDP growth slowed down to 2.1% in 2022, from 3.9% in 2021, as external demand weakened, disruptions in global supply chains persisted, and global food and energy prices rose rapidly. Trade dynamics were buoyant, but the rate of import growth

exceeded the export growth rate, which meant that external trade made a negative contribution to economic growth. Investment rose strongly, partly on account of the build-up of stocks of intermediate products and raw materials, as companies anticipated further price rises. Private consumption growth slowed sharply despite being bolstered by remittances from abroad and government support measures. While industrial production and construction output declined, the service sector continued its post-COVID trend of strong annual increases. In the first half of 2023, annual GDP growth dropped to 1.6% on average. Convergence with EU income levels has been slow, with real GDP per capita increasing from 37% of the EU-27 average in 2017 to 42% in 2022.

Reflecting the country's large dependence on energy imports and surging import prices, the external position deteriorated in 2022. The current account deficit rose markedly in

2022, to 6% of GDP from 3.1% in 2021, much above its average in the pre-COVID-19 period 2017 to 2019 (1.5%). This rise is accounted for by a widening energy trade deficit, which reflects the country's high dependence on energy imports and skyrocketing international energy prices. In addition, in an uncertain environment, companies built up their inventories of imported production inputs. Deterioration in the energy and trade balance in 2022 was

partly offset by a sizeable increase in private transfers (remittances) and in the services surplus, helped by a rebound in tourism. In the first half of 2023, the merchandise deficit has narrowed sharply, in annual terms, largely reflecting the drop in energy import prices and driving a large improvement in the current account balance. Foreign direct investment (FDI) inflows recovered after a fall triggered by the COVID-19 pandemic, increasing to 5.2% of GDP in 2022, and almost covered the surging deficit. External debt amounted to 84.3% of



⁹ The IMF's first review of the PLL program has been delayed from April 2023, mainly as the IMF is seeking more clarity on the fiscal implications of the (single-sourced) contract with the US-Turkish consortium Bechtel-Enka to build a EUR 1.6 billion (around 10 percent of GDP) highway section of Road Corridor 8/10d.

GDP at end-2022 (+2.3 percentage points (pps) year on year), with long-term debt accounting for the bulk of the total (70%). The increase was largely due to a rise in private intercompany lending, which is an important instrument for improving liquidity for foreign-owned companies in the country. About 40% of total external debt is made up of intercompany loans and trade credits, which is a less risky and more flexible category of debt.

Foreign reserves have more than recovered following pressures in the first half of 2022.

Exchange markets dropped sharply in the first half of 2022 (-14% year on year at end-June 2022), mainly on account of increased conversion of domestic denar-denominated savings into euro-denominated deposits, surging energy imports, and high external debt payments. Subsequently, however, the exchange markets stabilised, supported by a good tourism season in 2022, external market borrowing, including a EUR 250 million private placement of government securities in Germany in September 2022 and a EUR 500 million Eurobond issuance in March 2023, as well as the disbursement of the first instalment from an arrangement under the IMF's Precautionary and Liquidity Line (PLL). Inflows from foreign direct investment surged in 2022, catching up after a pandemic-related trough, but became more muted in 2023 so far. Foreign reserves declined again with the government's redemption of the 2016 Eurobond in July 2023. At the end of August 2023, they stood higher by 26% y-o-y, corresponding to around 4 months of prospective imports. The denar has remained in a stable, *de facto* pegged exchange rate regime with the euro.

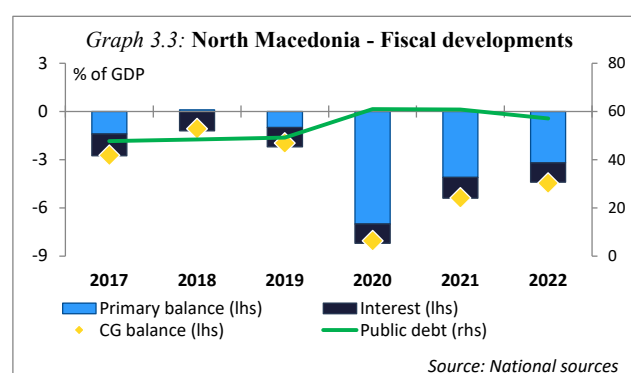
Monetary policy was appropriately tightened in view of persistent inflation. Annual average inflation in 2022 was at a record high of 14.2%, driven by the global energy and food price shock. The annual inflation rate peaked at 19.8% in October 2022, which was more than in peer countries in the region, before abating gradually to reach 8.3% in August 2023. Core inflation, however, has remained persistent, reflecting the high transmission from the recent energy price hikes into core sectors of the economy such as industrial production, transport, and hotels and restaurants. Appropriately, the central bank continued its tightening of monetary policy throughout 2022 and beyond. It raised the policy rate by 495 basis points in ten consecutive steps between April 2022 and August 2023, to 6.15%, thereby increasing the spread to the European Central Bank (ECB) policy rate. Furthermore, it adjusted reserve requirement rates, both in June and September 2022, and again in August 2023, to disincentivize shifts into euro deposits, that were a significant factor behind the drop in foreign reserves in early 2022. It also eased reserve requirements for bank lending for renewable energy projects. A 2020 repo line from the ECB, intended to provide Euro liquidity to the central bank, was extended in 2022. Concerns about the operational independence of the central bank persist, as the central bank has not been exempted from the draft laws on administrative servants and the Law on public sector employees. Overall, the monetary policy stance has been in line with current economic fundamentals, responding to market expectations of further rising inflation, while mitigating the negative impact on the economy stemming from the pandemic and the energy crisis.

An inflation-driven boost to tax revenue and under-execution of expenditure underpinned the lower-than-projected budget deficit in 2022.

The fiscal deficit came in at 4.5% of GDP, down from 5.4% in 2021 and remaining below the revised target of 5.3% of GDP adopted in the July 2022 budget revision. Central government revenue rose by 11.3% compared with 2021, driven by a 22.4% surge in VAT receipts. Current expenditure increased by 6.9% in 2022, which was less than the 8.3% increase in total expenditure. At 89.2% of budget, implementation of capital expenditure was higher than the average for the previous 5 years. The government has phased out some untargeted support measures. VAT on electricity for households was raised from the reduced 5% rate to a still reduced 10% on

1 January 2023¹⁰ and was normalised to the standard rate of 18% from 1 July. Several expenditure categories, most notably transfers to the state-owned electricity company, ESM, and capital expenditure, on the other hand, were heavily under-implemented in 2022. In January-July 2023 the budget deficit stood at 2.9% of the projected full-year GDP, with a weak performance on the revenue side from VAT, in particular. In July, the government raised public sector wages by 10%, effective from September 2023, and subsequently adopted a budget reallocation in order to accommodate the additional expenditure within the initial deficit target of 4.6% of GDP. In the 5 years preceding the pandemic, the general government fiscal deficit declined each year, in terms of GDP, partly on the back of under-execution of budgeted capital expenditure, before jumping to 8.2% of GDP in 2020 as the COVID-19 crisis hit public finances. The revenue ratio has remained largely unchanged at a relatively low level (2022: 30.6%) in the past 5 years, suggesting the need to take further measures to increase public revenue. The expenditure structure remains dominated by transfers to the pensions fund (2022: 28% of total expenditure), where a recent policy reversal back to linking annual pensions increases to both prices and average wages, has further exacerbated the financing pressures.

Inflation helped lower the public debt to GDP ratio in 2022 which however remains well above pre-pandemic levels. After having increased by some 10 pps to more than 50% in



2020, the general government debt-to-GDP ratio stabilised in 2021, and subsequently posted a slight decline in 2022 (-1.1 pps year on year to 50.9% of GDP). The public debt ratio dropped by more (-1.2 pps), to 59.8%, reflecting a decrease in the debt of public enterprises. Still, in nominal terms, the debt stock gradually increased further also in 2022 and in the first half of 2023. At the end of

June 2023, the general government debt level was higher by 19.3% compared to end-21. The share of fixed interest rate debt in total debt remained high throughout 2022 (74% at end-year) but stood somewhat lower than one year earlier (-1.3 pps). External debt accounted for some 60% of total general government debt at the end of 2022, the same as in 2021. Foreign currency debt, mostly denominated in euro (92% of total foreign currency debt), accounted for 76% of total debt (also unchanged year on year). The de facto exchange rate peg to the euro limits debt vulnerabilities stemming from fluctuations in the value of the denar. In March 2023, the government successfully issued a Eurobond, its ninth since 2005, for EUR 500 million, for refinancing the 2016 Eurobond (EUR 450 million) repayment in July 2023. The country has a proven track record of timely debt repayments.

The fiscal framework has been strengthened through a new Organic Budget Law (OBL), but deficiencies in public finance management remain. In September 2022, Parliament passed the OBL, which provides for the introduction of fiscal rules and a fiscal council and strengthens the medium-term budget procedure. Key provisions, such as the fiscal rules, are due to enter into force in 2025. Preparations for setting up the new fiscal council are advancing, with the members of the council nominated and appointed by Parliament in September 2023. However, the adoption of by-laws, which is necessary for the full implementation of the OBL, is not progressing. Furthermore, shortcomings in revenue

¹⁰ The planned increase from 5% to 10% had been postponed from July 2022 to January 2023.

collection and a large number of tax exemptions eroding the tax base hamper a potential increase in public revenue ratios. In December 2022, the government adopted tax policy reform measures in the areas of personal income tax, corporate income tax, and value-added tax, with a view to broadening the tax base. While amendments to the Law on Personal Income Tax entered into force in January 2023, amendments to the Law on Corporate Income Tax, to the Law on Value Added Tax, as well as a new Law on the Solidarity Tax were adopted by Parliament only in September 2023¹¹. Implementation of measures to improve the planning, allocation and execution of public investment projects, as presented by the government in its 2021 Action Plan, is progressing only slowly, hampered by staff shortages and IT requirements. The government set up a dedicated unit for public investment management in the Ministry of Finance in December 2022, to ensure centralised oversight of public sector investment, but it still has to become fully operational.

Fiscal risks are sizeable and not always well monitored. Risks to the government's fiscal consolidation plans have increased, notably from the government's March 2023 contract with the Bechtel-Enka consortium for the construction of part of Road Corridor 8/10d. The project is expected to cost EUR 1.3 billion (10% of 2022 GDP) and to be completed over a 6-year period, with EUR 215 million (1.7% of 2022 GDP) earmarked in the 2023 budget. A special law that replaces standard public procurement rules for this project has been adopted and enacted by Parliament. To solidify the fiscal cost and manage fiscal risks, in particular recent rises in construction costs and uncertain cost evolution of the project, the IMF requested the authorities to provide an independent due diligence study as a structural benchmark under the 2022 precautionary and liquidity line for North Macedonia, which is delayed. Further fiscal risks stem from expenditure arrears, which remain consistently above 3 percent of GDP, as well as from public sector wage growth, and the July 2023 decision by the government to link future rises in public sector wages to average wage growth, in addition to price developments. The rising pensions bill poses further risks to fiscal sustainability, also exacerbated by the recent change in the indexation formula. The steep rise in minimum wages (+12% as of April 2023), in line with the new methodology for alignment adopted in 2022, further impacts on general wage and pension developments. Some fiscal risks, such as contingent liabilities arising from PPPs and other off-budget entities are not systematically reported to the central government¹².

The policy mix has been somewhat inconsistent, in addressing the challenges posed by the cost-of-living crisis and high energy imports, but financial and macroeconomic stability was secured. Monetary policy was appropriately tightened in view of soaring inflation, and measures to promote savings in domestic currency ('denarisation') were stepped up, which contributed to the stability of the exchange rate. Fiscal support to households and companies, on the other hand, could have been better targeted and fiscal consolidation plans could be more ambitious, also in order to help monetary policy to contain inflation. Energy subsidies remained large, against the background of falling market prices. Furthermore, the government's decision to revise the indexation mechanism of public wages and the minimum wage from 2024 is likely to fuel domestic price pressures and put at risk fiscal consolidation plans. Further improvements in the fiscal framework, such as monitoring and addressing fiscal risks and improving public investment management, would make a

¹¹ Furthermore, in August 2023, the government passed tax base-broadening amendments to the Excises Law, with parliamentary adoption still pending. These changes include the introduction of ad-valorem excise for cigars and cigarillos at 9 percent and the introduction of the new excise calendar that envisages a gradual increase of specific excises over time.

¹² There is a requirement in the new Organic Budget Law for the government to include a description of fiscal risks (at a minimum those pertaining to the government's contingent liabilities) in the annual fiscal strategy; and for the Fiscal Council to assess fiscal risks relating to various public entities, including public enterprises and public-private partnerships.

significant contribution to further safeguarding macroeconomic stability and raising the economy's growth potential.

Functioning of product markets

Business environment

Challenges in the business environment are undermining the competitiveness of domestic companies, investment and global value chain integration. North Macedonia's economy relies heavily on its integration in global value chains, in particular in the automotive sector, with export-destined production concentrated among a few firms. The reliance on imported inputs makes the economy vulnerable to external shocks. These competitive pressures are exacerbated by low productivity, partly stemming from a lack of skills and from sluggish adoption of innovation and new technology, as well as by a complex legal and regulatory environment and the large informal economy. The impact of the COVID-19 pandemic and Russia's invasion of Ukraine has intensified these structural challenges. The government's approach to simplifying the business environment is not sufficiently systematic and consistent.

The government has progressed somewhat in streamlining the array of parafiscal charges. Activities to optimise, consolidate and streamline parafiscal charges are ongoing. The government has tasked the Ministry of the Economy with coordinating the process, but the decision to streamline 100 selected parafiscal charges will have to be adopted by the government as a whole. Implementation of other key measures to improve the business environment is protracted, such as implementation of the 2019 Law on inspection supervision and implementing transparent and consistent procedures for inspections. The new Bankruptcy Law, intended to facilitate market exit by reducing the cost and duration of procedures, has not yet been adopted. The use of fast-track procedures for public consultation has not abated, while quality control and *ex post* follow-up to consultations remains deficient. Work is ongoing to upgrade the e-portal in order to develop a more user-oriented service delivery. The number of registered users and completed services on the portal is increasing, but remains below expectations. Many of these services remain purely informational and cannot be fully performed online (OECD, 2022).

Challenges posed by the large informal economy are not addressed in a decisive manner. The informal economy continues to present a major obstacle to business operations. According to IMF estimates, it likely accounts for as much as 38% of GDP¹³. The number of informal employees as a proportion of total employees is estimated to have decreased from 18.6% in 2018 to 13% in 2022. Implementation of the government's 2018 Strategy and Action Plan to combat the informal economy remains sluggish, particularly regarding the formalisation of undeclared workers. In October 2022, to enable more efficient coordination between relevant institutions and stakeholders, the Ministry of Finance took over responsibility for preparing the new 2023-2027 Strategy for Formalisation of the Informal Economy with an Action Plan which were adopted by the government in September 2023. The government adopted tax legislation at the end of 2022 to strengthen the tax-paying culture and thereby fight the informal economy. The country's informal sector takes various forms, of which the most prominent are unregistered labour, partially undeclared wages and other irregularities in the enforcement of the Labour Relations Act.

State influence on the product market

The transparency and efficiency of State aid remains deficient. Instead of tackling the

¹³ The IMF figure is at the upper range of estimates.

country's underlying structural challenges and business environment issues, the government's flagship policy to attract FDI and improve domestic firms' competitiveness relies on providing various forms of State aid to businesses. The effects of State aid on efficiency and competition have not yet been assessed. The transparency and effectiveness of State aid is affected by the high number of State aid providers, the lack of an updated registry, and the still marginal powers of the Commission for the Protection of Competition in State aid supervision. The public information provided by the government on State aid to companies remains incomplete and the criteria for the selection of beneficiaries are often unclear. As a precondition for the establishment of a State aid registry, the government is setting up a management information system connecting different institutions, but overall, the process is delayed. There is no strategy for properly determining priorities, goals and policies for investment activities in the country's technological industrial development zones.

Competition in the energy market is increasing. While the energy market was fully liberalised in 2019, almost all households and small companies remain in the regulated electricity market being provided with heavily-subsidized electricity. In the last quarter of 2022, 24 639 consumers (per metering point) purchased electricity from active suppliers in the open electricity market, according to mutually agreed (unregulated) prices. This makes up about 55% of the market, compared to some 53% at the end of 2019. In 2022, there were 18 electricity suppliers in the open market and one electricity supplier in the regulated electricity market. An increasing number of consumers have been switching electricity suppliers. In 2019, 2 350 consumers switched supplier. In 2020, that figure rose by 10.8% to 2 603 consumers, in 2021 by a further 37.1% to 3 568 consumers and in 2022 by 11.7% to 3 986 consumers.

Privatisation and restructuring

The public sector's stake in the economy remains low. In 2022, the number of companies in full-state ownership declined by two, to 15, compared to the preceding years. The number of companies in partial ownership decreased by one, to 38, most of these with a state ownership share of below 1% of issued capital¹⁴. The total value of state ownership in enterprises was unchanged, at about 10% of GDP. There are currently no plans for further privatisations.

Functioning of the financial market

Financial stability

Bank capitalisation and profitability have improved since the pandemic. The banking sector remained resilient throughout the recent crises. Banks' capital adequacy ratio increased further in 2022, and in December 2022, it was well above its level of 5 years earlier, far exceeding the regulatory minimum. Liquid assets accounted for over a third of total assets at end-2022 and covered more than half of short-term liabilities. At 12.2%, return on equity was above its pre-pandemic level at end-2019 (11.7%). The proportion of loans to the non-financial sector which were non-performing has been steadily decreasing since the end of 2013, to a record low of 2.8% at the end of 2022 (-0.2 pps year on year). However, financial diversification is progressing slowly, with banks still accounting for some 79.1% of financial sector assets at end-2021, only slightly lower than the end-2016 figure (84.7%). The share of foreign equity in total bank equity has been consistently high in the past 5 years, at about

¹⁴ The figures are based on information from the government. A new harmonised and internationally standardised global database of state-owned enterprises (SOEs) by the World Bank indicates that there are 88 SOEs, of which 35 are 100% owned by the government of North Macedonia.

75%.

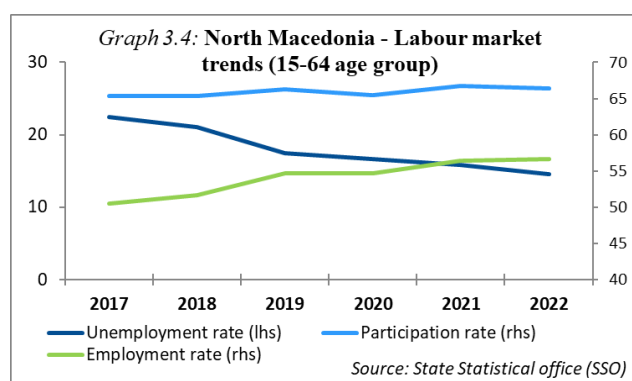
The legal and institutional framework for ensuring financial stability has been strengthened. In July 2022, the new Financial Stability Law was enacted, giving the relevant authorities in the financial sector a legal mandate to develop and implement macroprudential measures to maintain the stability of the financial system. The Law sets up the Financial Stability Council, which held its first meeting in November 2022 and submitted the first annual financial stability report to Parliament at end-March 2023. In February 2023, the Council of the National Bank adopted a new decision on the credit risk management methodology, so as to strengthen the management of non-performing and restructured loans, due to enter into force on 1 January 2024. In August 2023, the National Bank's decision to increase the countercyclical capital buffer to 0.5%, adopted in July 2022, entered into force. The National Bank has already scheduled increases in the countercyclical buffers to 0.75 by 2024Q2 and to 1% by 2024Q4. However, critical legislation including the Bank Resolution Law and the Deposit Insurance Law is not yet enacted by Parliament.

Access to finance

Growth in credit to the private sector decelerated, while deposit growth remained robust. Annual growth in loans to households and non-financial companies has also been decelerating since autumn 2022, with corporate loans particularly affected. Lending to nonfinancial corporations slowed down mainly on account of repayments of working capital loans linked to the surge in energy costs. Even so, over 2022 as a whole, private-sector credit growth accelerated by 3.8 pps to 9.6% year on year, before slowing in the first quarter of 2023 to 8.3%, and further to 6.4% in the second quarter. Foreign exchange loans are contributing most to the annual increases. The proportion of loans that were foreign-denominated rose by 0.8 pp year on year to 43.2% in the first quarter of 2023. The increase was more pronounced in the corporate sector, partly because corporations needed extra liquidity to cover their energy purchases. Overall, however, the currency denomination of domestic credit shifted further towards denar-denominated loans in the latter part of the year. While household demand for foreign currency deposits strengthened throughout the pandemic and energy crises, deposits in national currency have rebounded since early 2023, supported by the central bank's strategy of applying different reserve requirements for bank deposits in foreign and local currency. The share of foreign currency-denominated in total bank deposits amounted to 46.7% at the end of the first quarter 2023 (-0.7 pp year on year).

Functioning of the labour market

The labour market's resilience masks persistent structural problems. While fiscal support to employers was gradually withdrawn in the second half of 2022, the labour market continued to prove resilient. The employment rate has steadily increased over the last decade. The COVID-19 pandemic interrupted this trend, but in the first quarter of 2023 the employment rate stood above the pre-pandemic level, at 56.5%. For 2022 as a whole, the average unemployment rate (15-64 age group) was 14.5%, compared with 15.6% in 2021. The labour force decreased by 1.3% year on year, with the bulk of the drop accounted for by women (-2%, compared with 0.8% for men). The labour market participation rate dropped to 66.4% in 2022 (-0.4 pps year on year). Young people in particular continue to



face obstacles to entering the labour market. In 2022, the government adopted a new implementation plan to strengthen the Youth Guarantee which has been in place since 2018 and which has contributed to a significant reduction in youth unemployment from 45.4% in 2018 to a still high 32.5% in 2022. The rate of inactivity in the labour market is particularly high for women and, after steadily narrowing between 2014 and 2019, the gender gap widened for the third year in a row in 2022 (by 0.8 pps to 24.1 pps.), as the participation rate for men remained stable (at 78.4%), while it dropped for women (to 54.3%). Long-term unemployment stands at around 80% of total unemployed, largely reflecting an entrenched skills mismatch. Spending on active labour market policies (0.3% of GDP in 2022) is relatively high in regional comparison, but lower than the EU average (0.6% of GDP). Given limited human and financial resources in employment agencies, the government faces the challenge of better targeting the vulnerable unemployed, with a view to their participation in the labour market. Average gross nominal wages rose by 11.1% in 2022, with the annual increase accelerating to 14.3% on average in the first half of 2023. Real wage growth turned positive as of April 2023 after raising the minimum wage according to the indexation mechanism that takes into account inflation and changes in average wages. The average tax wedge is regressive at the bottom of the income distribution: the average contribution rate therefore takes a much higher share of low-wage earners' total income.

2.3.2. The capacity to cope with competitive pressure and market forces within the Union

North Macedonia has made **some progress** and is **moderately prepared** to cope with competitive pressure and market forces within the EU. Integration with the EU in trade and investment remained at a high level in 2022. The share of high-value products in exports increased further and trade openness surged to a record high. There was further progress towards improving vocational educational training (VET), but major skills shortages persist relative to labour market needs, entailing long school-to-work transitions. These, coupled with large gaps in transport and energy infrastructure and low investment and innovation funding, are restricting potential growth. Digitalisation of the economy is advancing, but the competitiveness of domestic businesses could be improved through a wider offering of public e-services.

As the 2022 recommendations have not been fully implemented and remain mostly valid, North Macedonia should in particular:

- adopt the new Law on VET, the Law on secondary education and the Law on adult education, and increase financial and human resources to speed up reforms of the VET system;
- finish unbundling gas transmission systems, increase investment in new energy sources and enhance administrative capacity in the Energy Department of the Ministry of Economy and the Energy Agency;
- adopt secondary legislation under the Energy Efficiency Law and operationalise the energy efficiency fund; adopt the Law on biofuels and the energy efficiency renovation strategy for buildings; and establish a renewable energy guarantee of origin scheme.

Education and innovation

Progress in reforming education curricula and reducing skills mismatches is hampered by lack of funding and capacity. While North Macedonia has progressed well in terms of the number of people with higher education qualifications, curricula are not well suited to equipping graduates with skills to match labour demand. State financial support for education

is insufficient and coordination between the education sector and businesses is weak. In 2022, public spending on education and training amounted to 3.7% of GDP, about the average of the preceding 5 years. This is below both the EU-level (5%) and peer-country averages, and impedes implementation of the 2018-2025 education strategy. Moreover, spending is inefficient, mainly on account of outdated formulas for the redistribution of public education funds by the municipalities. There was substantial improvement in the 2018 PISA ranking¹⁵, compared to 2015, but the country still ranks in the lowest quartile. VET curricula have been under review since 2019 to align them with labour market needs. However, the government has not yet adopted a new VET Law with a focus on inclusion, labour market needs and a new methodology of financing VET. The envisaged annual report on the implementation of the education strategy, which should include recommendations for a new formula for higher education funding, has not yet been published. The percentage of adults participating in learning was 2.6% in 2020, which is significantly below the EU-27 average of 10.8% (2021). Further development of qualifications is key to bringing medium-skilled and low-skilled people into the labour market.

Innovation activity remains overall low. At 0.4% of GDP (including a small share from the private sector), the economy's expenditure on research and innovation remains significantly below the EU average. Participation of the private sector in overall research spending remains particularly weak, at 0.1% of GDP. Allocations to the Fund for Innovation and Technological Development and its programmes have increased, but their effectiveness, design and methodology could benefit from an independent evaluation. Links between businesses and others involved in innovation are very weak. To overcome the lack of strategic direction towards innovation, a smart specialisation strategy has yet to be adopted and implementation measures to be developed.

Physical capital and quality of infrastructure

Investment spending remains moderate despite a major need to increase physical capital. Gross capital formation (including inventories) rose to 35% of GDP in 2022 (+1.8 pps year on year), exceeding its pre-COVID level (2019: 34.5%). Investment in fixed assets (gross fixed capital formation) increased steadily in the 5 years to 2021 (latest data), when it reached 22.5%. This is above the average of 21.9% in the preceding 5 years, and close to the EU-27 average of 22.8% (2022). Investment in construction as a percentage of total investment in 2021 (55.2%) was down on its 5-year average (58.2%), while investment in machinery and equipment rose to 35.3% of total investment, above the average (32.8%). The share of private-sector investment in total investment remained steady in the 5 years up to 2021, at around 75%. In the face of the current energy crisis and protracted works on a number of major road and rail projects, the need to modernise the country's capital stock, in particular the transport and energy networks, appears ever more pressing.

Regional transport connectivity is progressing slowly. Road transport continues to dominate the transport sector. There is limited investment in other means of transportation and no consistent and intelligent system for managing and controlling traffic. Relatively low-quality transport infrastructure, as well as weak trade and transport logistics continue to present barriers for businesses. The joint electronic toll collection system between Serbia and North Macedonia has become operational, facilitating trade and travel between the two countries. There has been some progress on upgrading major road sections to highway level. Work has started on Railway Corridor VIII, which aims to link North Macedonia with Albania and Bulgaria and will give the country's companies an alternative export option via

¹⁵ PISA is the OECD's Programme for International Student Assessment.

Albanian and Bulgarian ports.

The digitalisation of the economy continues to advance, but is still at a low level compared with the EU. The percentage of households with internet access at home increased by 10.1 pps. between 2017 and 2021, to 83.6%. A fixed broadband connection to the internet is used by 88% of household users, and by 92% of businesses with 10 or more employees, but smaller companies still face obstacles. Of the total number of enterprises, 54.5% had a website/homepage. Overall, there is a particular need to increase access to broadband, expand e-government services and develop digital skills.

The government is taking steps to incentive investment in energy efficiency improvements in the public sector. The economy is characterised by high-energy intensity with low efficiency in energy production and consumption. North Macedonia is a contracting party to the Energy Community Treaty and its government has committed to reducing the use of energy, which requires substantial investment. Further improving energy efficiency, including in residential and public buildings, is also important to lower the economy's dependence on energy imports and to enable a reduction in fiscal subsidies for energy. Yet, implementation of the 2020 Law on Energy Efficiency and the adoption of by-laws is lagging behind. In order to support energy efficiency investments in the public sector, which has the greatest potential to improve energy efficiency, the government is establishing an Energy Efficiency Fund (EEF). At the end of 2022, the government decided to establish the EEF within the Development Bank. The legal and regulatory framework for its establishment and operationalisation requires amendments to the Law on the Development Bank, which have been adopted by the Parliament in October 2023. Rules of procedure of the Fund and a project pipeline remain to be established.

The legal framework for investment in renewable energy sources was improved. Electricity generation is highly dependent on coal, and, with domestic coal reserves declining, on imports. The proportion of energy from renewable sources remains comparatively low, at 17.3% in 2021. The government plans to increase renewable energy to 35-45% of energy consumption by 2040, to reduce the country's high reliance on imported liquid fuel and natural gas. In November 2022, Parliament enacted amendments to the 2018 Energy Law incentivising investment in renewable energy sources, notably solar power. At the same time, the central bank began implementing a measure to encourage lending to the corporate sector to finance domestic electricity production projects from renewable sources.

The distribution of natural gas remains limited. Meanwhile, the distribution of natural gas is advancing, as an intermediate step in the decarbonisation process, with efforts made to enhance the transmission and distribution network. The natural gas market was liberalised in 2015. The number of connected users remains limited; in 2022, it increased by 10% year on year, to 550. Similarly limited are the length of the transmissions network (+5% year on year to 210 km) and the total distributed quantities. Gas accounts for some 11% of electricity production. There was little progress in the unbundling of the gas transmission system operator, now planned for end-2023. The work to connect to regional gas pipelines is making slow headway. Works on the gas interconnection with Greece have not yet started. This project would support diversification of natural gas sources and facilitate access to transit pipelines.

Sectoral and enterprise structure

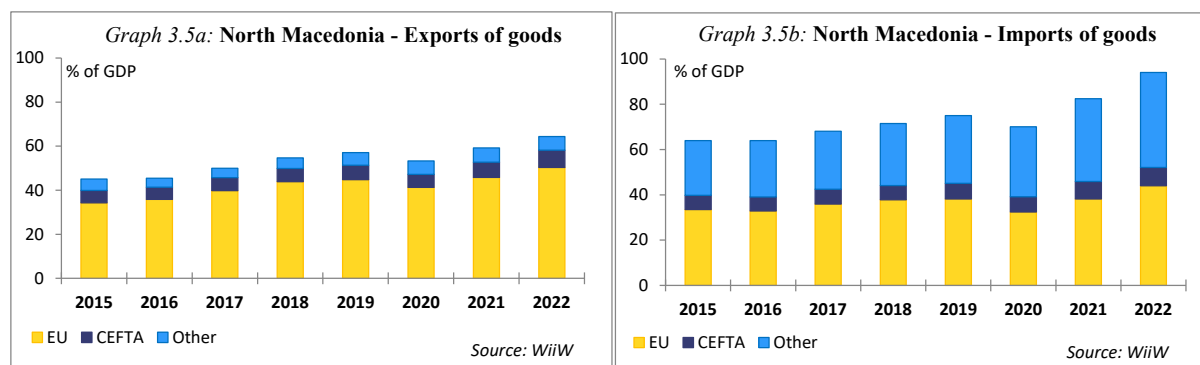
The diversification of the economy continued after the pandemic. The economy's output is strongly reliant on the manufacturing sector. Services and trade have only gradually increased their share in value added in recent years. Together, they accounted for some 66%

of total value added in 2022, about the same as a year earlier, and up from 60.4% in 2016. The share of manufacturing decreased slightly for the second year in a row, to 14.6% of value added in 2022, having progressively gained ground in the pre-pandemic years. The share of construction increased somewhat, in annual comparison, in 2022, to 6.2%, reflecting a recovery of investment after the pandemic, yet remaining below its average of 7% in 2017-2021. After steadily dropping over a number of years, the share of agriculture remained at 9% of value added, as in 2021.

Trade and services increasingly dominate the employment structure. In employment, too, trade and services assume an increasingly important role, accounting for close to 60% of total employment in 2022, compared with 58.4% in 2021. The manufacturing sector's share in total employment also rose in 2022, compared to the preceding year (+0.4 pps to 19.6 %), possibly reflecting in part the post-pandemic end of short working hour regimes and a pick-up in production. The construction sector accounted for 6.5 % of all employment, as in 2021, and the share of agriculture dropped by 1.8 pps year on year, to 10%.

Economic integration with the EU and price competitiveness

Trade openness increased steeply as both exports and imports surged. The economy posted a large increase in trade openness (exports and imports in goods and services as a percentage of GDP) in 2022, to a record high of 171% (2021: 148.5%, 2015-19 average: 120%), which is by far the highest level in the Western Balkans. Trade values increased by more than nominal GDP in 2022, largely reflecting the steep rise in energy imports, but also a large increase in export values. The share of higher-value added products in the export structure rose further in 2022, including chemicals (32% of total exports) and machinery and transport equipment (31%), at the expense of traditional exports such as iron and textiles (below 20%). In 2022, the EU was the country's most significant trading partner, accounting for 59.6% of total trade (78.3% of total exports compared with 77.3% in 2021 and 46.8% of total imports compared with 46.2% in 2021). As the second most important trading partner region, the Central European Free Trade Agreement accounted for 10% of total trade, with the share of exports slightly higher and the share of imports lower than in the preceding year (12.1% of total exports and 8.6% of total imports). EU countries also remain the biggest investors in North Macedonia, accounting for some 50% of total FDI inflows in 2022 (2021: 56%), but the EU-27 share in the total stock of direct investment has declined to 64% at end-2021, compared to 66% in 2015.



External competitiveness slightly deteriorated. In 2022, the real effective exchange rate (REER) of the local currency appreciated by 2.1%, on an annual basis, due to an increase in the nominal effective exchange rate in relation to the currencies of some of the trading partner countries, with relative prices remaining stable. The rise in real wages coupled with stagnant or declining productivity erodes price competitiveness. Nominal unit labour cost rose by some 7% in 2022, reflecting the stark increase in nominal wages, while productivity

growth remained muted. Over the last 5 years, the REER of the denar deflated by inflation has seen little change in either direction (on average a small appreciation of 1%). Concerns over external competitiveness have increased as wage growth has accelerated, fuelled by the 12% hike in minimum wages starting from April 2023¹⁶.

2.4. PUBLIC PROCUREMENT, STATISTICS, FINANCIAL CONTROL

Chapter 5: Public procurement

EU rules ensure that the public procurement of goods, services and works in any Member State is transparent and open to all EU companies on the basis of non-discrimination and equal treatment.

North Macedonia is **moderately prepared** in the area of public procurement. **Limited progress** was made in the reporting period. The capacity of key institutions, contracting authorities and economic operators should be increased through continuous training. National authorities should introduce more effective anti-corruption measures across the procurement cycle. The direct award of the contract for the construction of Corridor VIII and X-d raises concerns as it exempts the project from applying the law on public procurement.

The recommendations from last year's report were not fully implemented and therefore remain valid. In the coming year, the country should in particular:

- adopt the public-private partnership law and the law on concessions, to further align the legal framework in these areas with the EU *acquis*;
- improve coordination among key stakeholders and strengthen their capacity to implement the principles of transparency, free competition, equal treatment and non-discrimination;
- further increase the use of 'most economically-advantageous tender' (MEAT) criteria for the award of contracts, and improve the monitoring of public procurement procedures through reporting and efficient follow-up of irregularities, conflict of interest cases and fraudulent practices.

Institutional set-up and legal alignment

The **legal framework** on public procurement is broadly aligned with the EU *acquis*. The practice of 'blacklisting' companies due to professional misconduct during the procurement phase continued, although this is not in line with EU rules. In 2022, 55 negative references were issued against 50 economic operators, of which 21 expired and nine were removed by the Public Procurement Bureau. By the end of 2022, 25 negative references issued in 2022 were active, as well as six negative references issued in 2018 and 2019.

The finalisation and adoption of the Law on PPP and the Law on concessions are still pending.

In March 2023, the government approved a contract for the construction of highway sections along Corridor VIII and X-d. The contract was directly awarded to an international consortium without a competitive procedure as the ad hoc Law on determining the public

¹⁶ Public sector wages were increased by 10 percent in September 2023, in addition to the linear increase as a result of the minimum wage increase in March 2023, as well as several separate decisions granting larger wage increases implemented in 2023. Higher average nominal wages accelerate the increase in pensions under the new indexation formula, thus creating additional demand pressures.

interest and the Law on nominating a strategic partner for the implementation of the project for the construction of infrastructure Corridor VIII and X-d adopted by the Parliament in 2021 exempts the project from the application of the law on public procurement. In May 2023, the Government submitted for adoption to the Parliament legal amendments that are necessary for the implementation of the project. These laws were labelled with the EU flag to fast-track the procedure although this was not an appropriate use of the procedure.

The 2022-2026 public procurement strategy is under way. According to the first monitoring report of 2022, 68% of the activities have been fully implemented, 8% are ongoing and 24% were moved forward to 2023. The Public Procurement Bureau (PPB) continued to modernise and improve the country's public procurement system and to enhance the system's performance and functionalities. However, the PPB's capacity, monitoring and control competencies need to be strengthened.

The Public Procurement Bureau and Ministry of Economy continued activities to accede to the WTO Agreement on Government Procurement (GPA). On 7 June 2023, the Committee on Government Procurement decided on the accession of North Macedonia to the GPA.

In 2022, a Memorandum of Understanding to exchange information and standardise procedures was signed between the Public Procurement Bureau, the State Appeals Commission, the Commission for the Protection of Competition, the State Audit Office and the State Commission for Preventing Corruption. This should result in a more effective exchange of data and information with the objective of enhancing consistency and integrity in implementing the legal framework.

The capacity of the Ministry of Economy, the Ministry that deals with concessions and PPPs, remains limited. In 2022, only one new agreement establishing a PPP was concluded. The PPP register and the register on concessions still need to be set up.

The electronic system for public procurement is working efficiently. Despite the development of an e-marketplace platform and e-catalogues, procuring entities demonstrated little interest in using this system. In 2022, 70 small value procurements were concluded using e-market. Contracting authorities' annual procurement plans are regularly published on the electronic system for public procurement. The electronic archive module ensures the integrity of electronic procedures by keeping the documentation in original electronic form, while the e-complaints module provides for an electronic exchange of data with the appeals procedures.

Implementation and enforcement capacity

In 2022, the **public procurement market** amounted to 8.6% of the country's GDP as compared to 11% in 2021. It represented 25% of the state budget. The capacity of both central and local contracting authorities needs to be strengthened.

On the award criteria used in public procurement procedures, the use of 'most economically-advantageous tender' (MEAT) is still limited. In 2022, only 1 383 procurement notices out of 22 901 applied MEAT criteria (6.03%). There is a need for organisation of continuous training of contracting authorities on how to apply this criterion.

Contract award and implementation monitoring shows that the use of negotiated procurement procedures (number of procedures) fell to 6.6% in 2022, from 8% in 2021. An assessment of the use of centralised procurement and framework agreements by the Public Procurement Bureau is under way. The proportion of the overall value of public procurement awarded to SMEs increased to 57% in 2022 compared to 53% in 2021. Tender cancellation (number of procedures) increased to 31% compared to 28.8% in 2021. In 2022 the average

number of bids accounted for three bids per tender procedure and approximately one third of contracts were awarded in tender procedures with a single bid.

Capacity to manage public procurement processes needs to be further enhanced, especially by local authorities, to ensure a more coherent approach in managing the procurement cycle. The quality of tender documentation remains a challenge for smaller contracting authorities.

The regulatory and institutional mechanisms on **integrity and conflict of interest** are still insufficient. There is no risk assessment system embedded in the procurement cycle to ensure timely information on possible corrupt practices or to flag irregularities.

Efficient remedy system

The legislation on the **right to legal remedy** is broadly aligned with the EU *acquis*. The **implementation capacity** of the State Appeals Commission is insufficient for handling the number of appeals (967 in 2022, 1 109 in 2021). Additional qualified staff are needed to ensure timely processing of the appeals. In the reporting period, 83 complaints were filed against the decisions of the State Appeals Commission before the Administrative Court.

On the **prevention of corruption**, the public procurement strategy includes measures to fight against corruption and conflict of interest. However, the follow-up of red flag reports published on the PPB's website is insufficient. The country should improve institutional coordination with the State Commission for Prevention of Corruption and law enforcement institutions to follow up on the findings of red flag reports.

Chapter 18: Statistics

EU rules require Member States produce statistics based on the principles of professional independence, impartiality, reliability, transparency, and confidentiality. Common rules are in place for the methodology, production and dissemination of statistical information.

The country is **moderately prepared** in the area of statistics. **Good progress** was made, in particular with finalising the publication of the population census data in December 2022. Improvements are noted in most statistical areas and in aligning sectoral statistics with EU standards, including better use of administrative sources. Continued efforts are needed to improve the scope and data quality underpinning macroeconomic and social statistics.

In the coming year, the country should, in particular:

- carry out the agriculture census by June 2024;
- urgently ensure adequate staffing and sufficient financial resources for the State Statistical Office;
- continue to improve macroeconomic statistics, notably by enhancing consistency, timeliness and coverage of excessive deficit procedure and government finance statistics and by further aligning financial accounts and quarterly national accounts with the European System of Accounts 2010 (ESA 2010).

The **statistical infrastructure** has reached a high level of alignment with the EU *acquis* and international standards. In February 2023, the government adopted a new programme for statistical surveys for 2023-2027. Another main statistical producer - the central bank, remains fully committed to the European Statistics Code of Practice. The Ministry of Finance has yet to appoint a head of statistics. On quality management, in 2023 the State Statistical Office (SSO) introduced an internal quality audit to monitor the quality of products and processes. Human resources in the SSO have increased only slightly. However, the SSO's

annual budget for regular operations increased by 9.4% in nominal terms in 2023 compared to 2022, reversing the previous negative trend.

On **classifications and registers**, the main classifications comply with the EU *acquis* and are updated regularly. Progress was made in the use of administrative data for the development of an employment register. In June 2022, the SSO started to test the logical design of the new national statistical business register. Overall data submission to Eurostat has further increased.

The country made some progress on **macroeconomic statistics**. The SSO made very limited progress regarding the excessive deficit procedure (EDP) tables. The SSO transmitted EDP notification tables for North Macedonia to Eurostat in October 2022 and in April 2023. The latest submission included 2022 data (i.e. for the first time data for t-1). Significant further efforts are needed to improve the quality, consistency, coverage and timeliness of EDP tables and government finance statistics provided through ESA 2010 transmission programme. Moreover, to comply with ESA 2010 rules on sector classification, it is needed to reclassify without further delay inside the government sector a large public company with a substantial impact on government deficit and debt. For the quarterly accounts, tables on GDP by income approach were compiled and sent to ESTAT for publication in August 2023. However, further efforts are needed to ensure the completeness and quality of data submitted on quarterly national accounts.

Trade by invoicing currency (TIC) statistics for 2022 were submitted to Eurostat in March 2023 in line with the latest European Business Statistics Regulation requirements. In October 2022, the SSO began compiling quality reports in Eurostat's European Statistical System metadata handling tool. It also compiled quality reports on detailed data for 2020 and on TEC data (trade by enterprise characteristics - TEC) for 2019. 2020 TEC data are fully harmonised with the Methodological Manual for TEC statistics. In January 2023, these data were transmitted to Eurostat in SDMX format.

The central bank continued to transmit annual financial accounts stock data to Eurostat (data series 2013-2021, non-consolidated balance sheets only) and to prepare experimental quarterly financial accounts data (stocks and flows), and annual flows data by sub-sector and financial instrument. It produced and disseminated external sector data in line with the latest 6th BoP Manual (BPM6).

On **business statistics**, good progress was made. Regarding inward foreign affiliates statistics, data for 2020 were published in December 2022. In June 2023, the SSO carried out a third pilot survey on international trade in services statistics by geographical breakdown. Work on tourism satellite accounts (TSA) was completed. In September 2022, the first TSA data for 2019 was published and submitted to Eurostat. Based on the European business statistics requirement, the structural business statistics (SBS) compilation methodology improved, extending the coverage of activities, and refining the calculation of the variables and the technical format for the data transmission. An algorithm for calculating the basic variables for firms providing financial services was created and in October 2022, preliminary data for 2021 was sent to Eurostat. In March 2023, the final business data for 2021 were published. Work is under way to set up a 'complex enterprises' statistical unit. Regarding business demography, in June 2022 the SSO provided Eurostat with the complete set of data for 2020 as required by the Regulation.

Good progress was made on **social statistics**. The SSO published the 2021 population census data. Based on this census data, in June 2023 the SSO produced new time series of the population data at national level. Submission of the results of the survey on income and living

conditions has been delayed due to shortage of staff. The SSO started using administrative registers for education statistics. Crime statistics data for 2018-2021 were submitted to Eurostat in August 2023. In summer 2022, the SSO conducted a gender-based violence survey. The results were submitted to Eurostat but metadata are missing and the data are not disseminated. Labour force survey micro data and the 2020 labour cost survey data were not submitted to Eurostat during the reporting period.

Good progress is noted for **agricultural statistics**. In June 2022, the SSO carried out the pilot agricultural census. Preparations for the main agricultural census in 2024 need to be stepped up, including the legislative and budgetary framework. Data for fishery statistics were aligned to EU standards, published by the SSO and submitted to Eurostat in December 2022. For forestry statistics, the SSO assessed the data sources for the compilation of forestry accounts.

On **energy and environmental statistics**, in May 2023 monetary environmental accounts were compiled for the main tax categories as well as for expenditure on environmental protection. The scope of the environmental goods and services sector accounts was broadened. Moreover, physical energy flow accounts (PEFA) were compiled for each reference year between 2018 and 2020 using the 'PEFA builder'. Material flow accounts data were also regularly reported to Eurostat, although material flow balances are not yet included. The inclusiveness of energy balances data increased thanks to the inclusion of solar heat energy. Data collection for energy statistics improved thanks to the re-design and reduction of number of statistical surveys for data collection.

Chapter 32: Financial control

The EU promotes the reform of national governance systems to improve managerial accountability, sound financial management of income and expenditure, and external audit of public funds. The financial control rules further protect the EU's financial interests against fraud in the management of EU funds and the euro against counterfeiting.

The country is **moderately prepared** in the area of financial control. **Some progress** included the setting up of the Anti-Fraud Coordination Service Network, the adoption of the Organic budget Law and the Law on inspection, and the signature of a Memorandum of Understanding between the Parliament and the State Audit Office to strengthen follow-up on individual audit reports. On internal control and managerial accountability, the adoption of the public internal financial control (PIFC) Law has been delayed for more than two years. The efficiency of financial inspection needs to be strengthened. The independence of the State Audit Office is not yet guaranteed by the Constitution. The efficiency of parliamentary oversight of public funds and follow-up to audit recommendations needs to improve.

As last year's recommendations were only partially addressed, they remain valid. In the coming year, the country should in particular:

- adopt the new PIFC Law and related methodological tools and start to implement them to improve transparency, managerial accountability and sound management of public funds;
- adopt the draft state audit Law to strengthen the State Audit Office's (SAO's) independence, boost cooperation between the SAO and the Parliament, improve parliamentary scrutiny of individual audit reports and the follow-up of recommendations provided by SAO;
- ensure the efficient functioning of the Anti-Fraud Coordination Service Network (AFCOS) and improve the prevention, management and reporting of irregularities that affect EU funds.

Public internal financial control

PIFC initiatives are included under pillar VI of the 2022-2025 public finance reform programme. The implementation of the PIFC policy paper is included in the public financial management reform programme's annual monitoring report for 2022. The Organic Budget Law was adopted in September 2022 after a long delay but PIFC reforms continued to be undermined due to delays in adoption of the PIFC law and limited capacity of key institutions.

The legal framework for **internal control** is broadly harmonised with international standards. Its implementation needs to be further strengthened. Despite ongoing work to provide further guidance, the efficient implementation of **managerial accountability** remains a challenge for budget users at central and local levels. Coherent and consistent application of the manual on managerial accountability is yet to be ensured.

A new financial inspection Law was adopted by Parliament in January 2023 but **financial inspections** are not yet working efficiently. This will require strengthening capacity, further developing methodological tools and ensuring their implementation.

Fragmentation and inadequate staffing of the **internal audit** function undermine its organisational capacity and quality assurance. A national certification system for internal auditors still needs to be introduced.

The **Central Harmonisation Unit** (CHU) continued to coordinate financial management and control and internal audit in the public sector, and to provide methodological guidance. A new unit for quality check on the financial management and control and internal audit operations was established. However, the capacity of CHU remains insufficient. CHU currently has eight staff for monitoring and reporting on the functioning of the overall internal control system, which encompasses more than 1 300 public entities.

External audit

The current **state audit** Law is broadly harmonised with international standards. The new state audit Law aimed at strengthening the public sector's external audit function and increasing the SAO's financial and operational independence - not yet guaranteed under the Constitution, should be adopted. The SAO carries out a compliance audit on the final government accounts of the core budget by June each year. In 2022, the audit covered 82% of expenditure, which is an increase of 2% from last year. This included expenditure covered by the regularity audit for an amount of EUR 3 182 million EUR (i.e. 77%), expenditure covered by the performance audit for an amount of EUR 188 million (i.e. 4%), and expenditure covered by the compliance audit for an amount of EUR 39 (i.e. 1%).

The 2021 annual report on the audits carried out was adopted by the Parliament in March 2023 and published on the SAO's website. Its **quality** was deemed sufficient. In 2022, the SAO carried out the full audit work programme consisting of 188 audits, including 171 regularity (financial and compliance) audits, 10 performance audits, two IT audits and five compliance audits. Reports were sent to Parliament for deliberation and published on the SAO's website. The quality of the audit reports is acknowledged by local and international stakeholders.

Regarding its **institutional capacity**, a new 2023-2027 SAO development strategy and related action plan were adopted in September 2022. The strategy closely aligns with the priorities and measures set out in 2022-2025 public financial management reform programme. The SAO continues to work on the 2020-2023 human resources management strategy. The new SAO systematisation act, approved in December 2022, provides for 245

job posts, of which 114 or 46% are filled (104 audit staff, seven administrative support staff and three technical staff).. In 2022, SAO staff increased by one person. The SAO's 2023 budget was approved, and it has continued to implement the annual plan for the professional development and training of state auditors, to raise awareness of its activities among citizens and the media, and to implement the 2020-2023 communication strategy.

On the **impact of audits**, in 2022 some actions were taken in response to 80% of the audit recommendations. Cooperation between the SAO and the Parliament continued to improve and a Memorandum of Understanding between the two was signed in October 2022. Nevertheless, parliamentary scrutiny over budget preparation and implementation needs to be further enhanced. Transparency and accountability in the management of public funds needs to be strengthened. This will require efficient monitoring mechanisms by the executive and the Parliament and the effective implementation of audit recommendations.

To combat corruption, PIFC institutions and the SAO should strengthen cooperation with anti-corruption/law enforcement institutions. Moreover, monitoring systems should be strengthened and mechanisms to monitor the number of cases investigated, prosecuted and subject to court resolutions as a result of internal audits or inspections should be developed.

Protection of the EU's financial interests

Some progress was made in 2022 on the protection of EU's financial interests. The legal basis to formally establish the framework for the protection of EU's financial interests (AFCOS) was adopted in December 2022 and AFCOS' staff has been extended to five employees. National legislation is broadly aligned with the EU Directive on fighting fraud affecting EU's financial interests by means of criminal law. Amendments to the Criminal Code to further align it with the EU *acquis* were adopted by the Parliament in February 2023. The national 2022-2025 anti-fraud strategy and related action plan were adopted by the government in June 2022. The national authorities reported 85 cases of irregularities through the irregularity management system in 2022, of which one case was reported as suspected fraud. This is a further consolidation of the reporting trend of the last four years, which has seen a considerable improvement in comparison with previous years. The national authorities should continue their good cooperation with the European Commission on investigations.

Protecting the euro against counterfeiting

On **alignment with the EU *acquis***, national legislation is to some extent aligned with EU regulations setting out the system for fighting euro counterfeiting. Progress in the reporting period has been limited. The National Bank continued to improve its capacity by organising online trainings courses and by involving experts from all key institutions in capacity building.

The capacity of the Ministry of the Interior to prevent, detect and investigate criminal offences related to counterfeiting money, remain limited. An electronic system for exchange, processing, analysis and reporting of cases still needs to be set up.

3. GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

Good neighbourly relations and regional cooperation form an essential part of North Macedonia's European integration process. They contribute to stability, reconciliation and a climate conducive to addressing constructively open bilateral issues and the legacies of the past.

North Macedonia maintained its engagement in a number of regional initiatives such as the Central European Free Trade Agreement, the Energy Community, the Transport Community,

the South-East European Cooperation Process and the Regional Cooperation Council. North Macedonia also actively participated in initiatives such as the Central European Initiative and the Centre for Security Cooperation.

The **EU-Western Balkans Summit** in December 2022 took place for the first time in the region, in Tirana. The summit focused on the support to the region in the fields of energy and migration, and on youth cooperation, roaming, green lanes and overall progress on implementing the Economic and Investment Plan.

On the **Common Regional Market**, a political breakthrough was achieved at the Berlin Process Summit in Berlin in November 2022, where leaders adopted three mobility agreements respectively on higher education qualifications, on professional qualifications and on free movement with identity cards. North Macedonia has ratified all three mobility agreements and has deposited the related notification instruments. A number of important decisions agreed at the technical level within CEFTA remain blocked.

Overall, the country's cooperation and **bilateral relations** with other enlargement countries and neighbouring EU Member States continued to evolve positively.

Bilateral relations with *Albania* remained good. In November 2022, the governments of North Macedonia and Albania held a second joint session in Skopje, during which the two countries signed 21 bilateral agreements and memorandums of understanding for joint cooperation in a number of areas, including security, defence, infrastructure, energy, education, science and culture. Both governments agreed on three initiatives on Corridor VIII infrastructure of, the construction of a dry port in Struga, and the opening of the new Struga-Pogradec border crossing point. Albania and North Macedonia will also set up joint investigation teams in the fight against organised crime. The countries also agreed to pursue cooperation on defence, security, digitalisation, border control, improving child protection and the use of Albanian sign language in both countries.

Relations between the North Macedonia and *Bosnia and Herzegovina* continue to be good. The two Foreign Ministers met in the margins of the meeting of the Berlin Process and Foreign Ministers of the six Western Balkan countries in London. At the beginning of 2023, the Foreign Minister of Bosnia and Herzegovina paid an official visit to North Macedonia. Several bilateral agreements are in place, including on cooperation on EU integration.

Bilateral cooperation with *Kosovo* continues to be intensive and constructive, with several meetings held at the highest level. The President of Kosovo visited North Macedonia in April 2023. The Parliament of Kosovo set up a Group for Friendship with North Macedonia. The Speaker of the Parliament of Kosovo paid an official visit to North Macedonia in December 2022. In March 2023, the two Prime Ministers met in the margins of the Delphi Economic Forum.

Bilateral relations with *Montenegro* continued to be good. In February 2023, there were comprehensive political consultations between the Foreign Ministries of both countries at State Secretary level, focusing on bilateral, EU and NATO-related issues. In February 2023, the President of North Macedonia met with the Prime Minister of Montenegro in the margins of the World Economic Forum in Davos. The Foreign Minister held meetings with the President and Prime Minister of Montenegro in the margins of the Adriatic Charter meeting in March 2023. The two Prime Ministers met in the margins of the Delphi Economic Forum in March 2023. The two countries signed a Programme of Cooperation on culture for 2023-2026.

Bilateral relations with **Serbia** are good. The two Prime Ministers met in the margins of the Munich Security Conference and the Foreign Ministers met twice in the margins of other international events. In January 2023, the Serbian Defence Minister paid an official visit to North Macedonia, and the two Ministers of the Interior signed a Protocol on border controls at the joint Lojane-Miratovac border crossing point. In March 2023, the Prime Minister of North Macedonia visited Belgrade. During the visit, three memorandums of understanding were signed on measures promoting the movement of persons and goods, cooperation in the mining and energy sector, and a project to establish an interoperable electronic road tolling system. In April 2023, a memorandum of understanding on cooperation in EU integration was signed.

Relations with **Türkiye** are good. The two countries celebrated 30 years of diplomatic relations. The Chairperson of the Turkish Grand National Assembly paid a visit to North Macedonia in November 2022. In the wake of the devastating earthquake in the eastern part of Türkiye in February 2023, the government dispatched humanitarian aid, and soldiers and members of the Directorate for Rescue and Protection to provide aid. In February 2023, the two countries signed a memorandum of cooperation on youth and sports.

Relations with **Ukraine** have intensified since the beginning of Russia's aggression. North Macedonia declared support for Ukraine as a priority for its OSCE Chairmanship in 2023. North Macedonia supports the territorial integrity and sovereignty of Ukraine, condemning Russia's aggression against Ukraine. North Macedonia has provided humanitarian and military assistance and is fully aligned with the EU's package of restrictive measures against Russia. North Macedonia and Ukraine have agreements on trade, the protection of investments, culture, education, tourism, transport and military cooperation. A visa-free regime has been in place for short stays since 2019.

Relations with **Georgia** are good. In his capacity as incoming OSCE Chairperson-in-office, North Macedonia's Minister of Foreign Affairs met with his Georgian counterpart December 2022. An agreement on culture is in place.

Relations with **Moldova** are good. North Macedonia, through its chairpersonship of OSCE follows the Transnistrian settlement process. In his capacity as OSCE Chairperson-in-office, North Macedonia's Minister of Foreign Affairs travelled to Chisinau to address some of the challenges Moldova is facing, in particular the situation in Transnistria. Both countries have agreements in place on transport, trade, customs, finance, medicine and health, police, foreign affairs and consular matters. There is no visa-free regime between both countries.

During the reporting period, relations with **Bulgaria** focused on the next steps in North Macedonia's EU accession negotiations process and on the bilateral commitments under the Treaty of Friendship, Good-Neighbourliness and Cooperation and its Protocol. North Macedonia set up an inter-ministerial working group, chaired by the Minister of Foreign Affairs, to coordinate implementation of measures provided for in Protocol. Thematic sub-groups were also created on: hate speech; rehabilitation of victims of repression from the communist period; implementation of recommendations adopted by the Multidisciplinary Expert Commission on Historical and Educational Issues; and protection against discrimination. The Multidisciplinary Expert Commission on Historical and Educational Issues held several meetings during the reporting period. In October 2022, the President of North Macedonia paid an official visit to Bulgaria, and a month later the Foreign Minister went on an official visit to Sofia. In October 2022, the two Prime Ministers launched the construction works on the eastern railway segment of Corridor VIII in North Macedonia at a ceremony attended by several ministers from both countries. In December 2022, the two Foreign Ministers opened a bilateral business forum in Skopje. At the forum, four agreements

worth over EUR 3 million were signed by companies from both countries. Bilateral relations were negatively affected by statements made by individual politicians and by several incidents, in particular those relating to Bulgarian cultural clubs, to celebrations of historical events and historical figures, football events and to the denial of entry of citizens, including Members of the European Parliament. The relevant authorities in North Macedonia took some steps to address these situations, and, where necessary, establish accountability, including by launching investigations and bringing those responsible for criminal acts to justice. Further efforts are needed to promote an atmosphere of dialogue and mutual respect.

Cooperation with *Greece* intensified, particularly in key areas of mutual interest. Progress was made on implementation of the Prespa Agreement and further efforts should continue in this regard. Several meetings were held at Prime Minister and Foreign Minister level. In October 2022, the two Prime Ministers met in the margins of the European Political Community in Prague. In November 2022, the permanent mixed border commission held its 10th meeting. In December 2022, the Foreign Minister of North Macedonia paid an official visit to Greece, followed by a visit by the Deputy Prime Minister in charge of EU Affairs in January. The Greek Foreign Minister visited Struga in June 2023 to participate in the Prespa Forum Dialogue. The two countries intensified energy cooperation on the construction of the natural gas interconnector between North Macedonia and Greece.

4. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

CLUSTER 2: INTERNAL MARKET

The internal market cluster covers: free movement of goods (Chapter 1); freedom of movement for workers (Chapter 2); right of establishment and freedom to provide services (Chapter 3); free movement of capital (Chapter 4); company law (Chapter 6); intellectual property law (Chapter 7); competition policy (Chapter 8); financial services (Chapter 9); and consumer and health protection (Chapter 28).

North Macedonia is moderately prepared in most of the areas covered by Cluster 2 on internal market, namely the free movement of goods, services and capital, intellectual property, competition policy, financial services and consumer and health protection. The country has achieved a good level of preparation on company law, although it is still at an early stage on freedom of movement for workers. In the reporting period, North Macedonia made good progress on free movement of capital and some progress on financial services and on consumer and health protection. Limited progress was made on the free movement of goods, rights of establishment to provide services. No progress was made on company law, intellectual property law and competition policy and freedom of movement for workers.

Overall, more progress is needed in the coming year in the areas covered by this cluster as it will feed into the preparations of North Macedonia to meet the requirements of the EU's internal market. Work on this cluster is highly relevant for the development of the Common Regional Market.

Chapter 1: Free movement of goods

The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of the free movement of goods prevents these creating unjustified barriers to trade.

North Macedonia is moderately prepared on the free movement of goods. Although national legislation allows products to be traded freely, alignment with the latest EU <i>acquis</i> needs to be intensified. Limited progress was made on last year's recommendations by the
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adoption of two laws to align with the EU General Products Safety Directive. Most of last year's recommendations therefore remain valid.

In the coming year the country should, in particular:

- adopt the Law on market surveillance and the implementing legislation necessary to complete the alignment with the EU General Products Safety Directive, and start to significantly increase the human resources that ensure market surveillance;
- prepare and adopt a new action plan to eliminate non-tariff barriers to trade and ensure compliance with Articles 34-36 of the Treaty on Functioning of the European Union (TFEU);
- finalise and adopt a strategy for the free movement of goods to ensure further alignment of national legislation with the relevant EU *acquis*.

General principles

The country has set up the institutional framework for the **production, distribution and marketing of industrial products**. A new Law on technical requirements and a Law on general product safety designed to align with the relevant EU *acquis* were adopted, but the relevant implementing legislation has not yet been adopted. A new Law on market surveillance also needs to be adopted.

Non-harmonised area

The follow-up and implementation of compliance with **Articles 34-36** TFEU is ensured by the Ministry of Economy. The Ministry has completed a screening of the national legal framework to identify areas not compliant with these articles. The drafting of an action plan for the elimination of non-tariff barriers to trade and to ensure compliance with Articles 34-36 TFEU is under way. This should be completed, adopted, and implemented.

Harmonised area: quality infrastructure

The necessary institutional and legal structure for technical regulations, standards, conformity assessment, accreditation, metrology and market surveillance is in place. The National **Standardisation** Institute is a full member of the European Committee for Standardisation (CEN) and the European Committee for Electro-technical Standardisation (CENELEC), and participates in the work of relevant EU standardisation bodies. It adopted 24 953 European standards as national standards and adopted 84 national standards.

By June 2023, North Macedonia had 19 active **conformity assessment** bodies for calibration, testing, medicinal laboratories, product and process certification and inspection. The Institute for **Accreditation** of the Republic of North Macedonia is a member of the International Accreditation Forum, of the European co-operation for Accreditation (with which it has signed a Multilateral Agreement) and also party to the Mutual Recognition Agreement of International Laboratory Accreditation Cooperation (ILAC). It ensures the accreditation procedures for testing, calibration and medical laboratories, product certification bodies, and inspection bodies. There is no national accreditation scheme for the certification of personnel and for skills testing.

The Bureau of Metrology, the national **metrology** body, is an official member of the European Association of National Metrology Institutes and the General Conference on Weights and Measures. It has well equipped calibration laboratories for mass, temperature and relative humidity, length and angle, pressure, volume and flow, time and frequency, electrical quantities, acoustics and vibration and one laboratory for testing the quality of

fuels. All accredited laboratories are signatories to the European Accreditation Multilateral agreement.

The State Market Inspectorate (SMI) is the **main market surveillance** body, along with the State Technical Inspectorate and the State Sanitary Inspectorate. There is also a coordination body for market surveillance. In 2022, the SMI carried out 539 inspections under the general **product safety** law (up from 428 in 2021) and 168 under the construction products law (up from 20 in 2020). This led to 59 harmful products being taken off the market, in particular textiles and toys. The Inspectorate has 257 employees, but an insufficient number of licenced inspectors (151). There is no efficient software system for market surveillance document management in place, including for the recording of inspection results or proper risk planning and management.

Harmonised area: sectoral legislation

On **‘new and global approach’ product legislation**, the level of alignment with the EU *acquis* remains low. No progress was made on aligning with the relevant EU *acquis* during the reporting period. Since January 2023, 10 Eurocodes with 58 standards and 57 national annexes have become obligatory in the construction sector.

National legislation is not yet aligned to the latest EU **‘old approach’ product acquis** on motor vehicles, two or three wheeled vehicles, tractors (agricultural, forestry), or non-road mobile machinery emissions. New laws on these products aligned with the relevant EU *acquis* need to be adopted. No progress has been made on alignment with the EU *acquis* on chemicals, including the Regulations on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), chemicals, classification, labelling and packaging of substances and mixtures (CLP), good laboratory practices (GLP), and **fertilisers** and **detergents**. Administrative capacity in the area of **firearms** also remains insufficient.

On **procedural measures, notification procedures** for standards and technical regulations are ensured by the Ministry of Economy and the Standardisation Institute. National legislation is partly aligned with the EU *acquis* on returning **cultural goods** unlawfully removed from a Member State. On **drug precursors**, import or export of these products has to be pre-approved, and is tracked by a national IT system, and legal entities are obliged to report to the authorities any suspicion of abuse of manufacturing, marketing, unusual orders, theft or any other illegal activity regarding narcotic drugs and psychotropic substances. On **civil explosives**, economic operators need to be licenced by the authorities to buy, sell, import and export, and use these products, and an electronic system is in place to track the purchase, transfer, import, transit, and export of explosive for civil use.

The national strategy for the prevention of corruption pointed out that the inspectorates responsible for market surveillance and product safety are vulnerable to corruption, and that they have unclear and overlapping powers, and inadequate staffing.

Chapter 2: Freedom of movement for workers

Citizens of one Member State have the right to work in another Member State and must be given the same working and social conditions as other workers.

North Macedonia is at an **early stage of preparation** in the area of freedom of movement for workers. **No progress** was made in addressing last year’s recommendations, but the authorities organised capacity building activities for civil servants who will work on the European network of employment services (EURES) and the European Labour Authority (ELA).

Last year's recommendations therefore remain valid. In the coming year, North Macedonia should in particular:

- strengthen the capacity of the Employment Service Agency, by continuing training activities, and further align legislation and exchange of good practices, in line with EURES and ELA regulations;
- continue to adapt the legal framework to the EU *acquis* on access to the labour market, particularly to rules on non-discrimination on grounds of nationality against EU workers in all sectors;
- continue negotiating and concluding bilateral agreements on social security coordination and healthcare insurance with EU Member States and put in place administrative measures to prepare for accession.

No progress was made on aligning national legislation with the EU *acquis* on **access to the labour market**. Foreign workers entering the country require a work permit. The Agency for Employment issues several types of work permits for foreign workers in line with the annual quotas set out in the Law on employment of foreigners. EU citizens still cannot access public administration posts and some posts in private companies are also exclusive to citizens of North Macedonia. In 2022, North Macedonia issued 800 work permits to foreign workers and 334 during the first five months of 2023.

Capacity building activities for public servants took place in the area of **EURES** and the **European Labour Authority** over the reporting period.

No new agreements for bilateral **coordination of social security systems** or for mutual recognition of the healthcare services were concluded in the reporting period. The country has 23 bilateral agreements in place for the coordination of social security systems, out of which 13 are with EU Member States. It also has 18 agreements in place for mutual health insurance, out of which 12 are with EU Member States.

Citizens of nine EU Member States may use the **European Health Insurance Card** and the Card is recognised by public and private healthcare institutions in the country that have a contract with the Fund for Health Insurance.

The Employment Service Agency needs to adopt an integrity policy document strengthening the efforts to fight corruption.

Chapter 3: Right of establishment and freedom to provide services

EU natural and legal persons have the right to establish themselves in any Member State and to provide cross-border services. For certain regulated professions, there are rules on mutual recognition of qualifications. EU rules on postal services focus on improving the quality of universal service, gradually opening the market to competition, and the establishment of an independent regulator.

On the right of establishment and the freedom to provide services, North Macedonia is **moderately prepared**. It made **limited progress** notably on alignment with the Services Directive. The legislative framework in the areas of postal services and mutual recognition of professional qualifications remains to be aligned with the EU *acquis*.

Last year's recommendations remain valid. In the coming year, North Macedonia should in particular:

- adopt and start implementing the 2024-2025 action plan to ensure that sectoral laws

comply with the EU Services Directive, and increase the amount of information and ensure online access to services under a Point of Single Contact;

- further align legislation with the EU *acquis* on postal services, including with the Postal Services Directive and with the Regulation on cross-border parcel delivery;
- align with the EU *acquis* on mutual recognition of professional qualifications, including Directive on recognition of professional qualifications and Directive on a proportionality test before adoption of new regulation of professions.

On the **right of establishment and freedom to provide cross-border services**, North Macedonia continued to align its legislation with the EU Services Directive by adopting amendments to the Law on performing accounting activities and the Law on mineral resources. A new 2024-2025 action plan to address non-compliance of sectoral laws is being prepared. The point of single contact (www.uslugi.gov.mk) needs to be developed and upgraded to meet the requirements set out in the Services Directive. By September 2023, 238 services for citizens and businesses were accessible online (applications may be submitted electronically).

In the area of **postal services**, national legislation is aligned with the 1997 and 2002 Postal Services Directives and partly with the 2008 Postal Services Directive, as the designated universal service provider (the Post of North Macedonia) still has the exclusive right to provide reserved postal services until 31 December 2023. The Postal Agency is the independent regulatory authority ensuring compliance with postal law and monitoring quality of service against European standards for universal service provision in North Macedonia. There are currently one universal service provider and 33 other postal operators. In view of the near future postal market opening to full competition, preparations are ongoing to set up systems for accounting separation and net cost calculation of the universal service, in line with the Postal Services Directive. North Macedonia is preparing to align its framework with the Regulation on cross-border parcel delivery services. The Postal Agency and the Ministry of Transport and Communications should ensure they have sufficient administrative capacity to monitor and enforce the new postal market rules.

No progress was made on the **mutual recognition of professional qualifications**. The law designed to align with the relevant EU *acquis* has not yet been adopted. National legislation still needs to align with EU Directive 2005/36/EC to comply with minimum training requirements. A transparent list of all regulated professions and an electronic register are yet to be put in place. The institutional capacity of the Ministry of Education and Science's section dealing with the mutual recognition of professional qualifications needs to be strengthened.

Chapter 4: Free movement of capital

In the EU, capital and investments must be able to move without restriction, with common rules for cross-border payments. Banks and other economic operators apply certain rules to support the fight against money laundering and terrorist financing.

North Macedonia is **moderately prepared** in the area of free movement of capital. **Good progress** was made on further aligning national law with the EU *acquis*, with the adoption of a new law to fight money laundering and financing of terrorism and implementing legislation on the law on payment systems and services. There is a need to swiftly further strengthen administrative capacity. In the coming year, the country should, in particular:

- refine, adopt and implement the roadmap with actions and timelines for applying EU rules on the free movement of capital, including the acquisition of agricultural land;
- continue to implement the new law on payment systems and services, including through market entry of new payment services providers, contributing to a broader high quality set of secure payment services, and through advancing the establishment of the unified register of bank accounts;
- on the fight against corruption, implement the new legislation on prevention of money laundering and financing of terrorism in line with the EU *acquis*, including by adopting the implementing legislation and by upgrading the register of beneficial owners.

North Macedonia maintained some restrictions on **capital movements and payments**. For example, the opening of a bank account abroad by residents is still subject to restrictions and authorisation. The same conditions apply if residents want to receive insurance services abroad. Non-residents can still not acquire agricultural land. In this respect, North Macedonia is lagging on its obligations under the Stabilisation and Association Agreement. The country should further refine and begin to implement the roadmap for applying EU rules in this area, in line with obligations under the Stabilisation and Association Agreement. North Macedonia maintains a register of direct investments and a register of real estate investments for both non-residents investing in North Macedonia and residents investing abroad. The registries are largely for statistical purposes and transactions cannot be blocked for failing to be registered therein.

In January 2023, the law on **payment systems and services** entered into force. Good progress was made in terms of alignment of national legislation with EU rules on payment services, as the National Bank adopted a significant number of implementing acts on payment institution licensing, e-money institutions and payment system operators, as well as on their oversight. Moreover, steps were taken to facilitate the comparison of fees among payment service providers. As required by the fifth Anti-Money Laundering (AML) Directive, the law on payment systems and services also plans for a unified register of bank accounts to be set up under the Central Registry.

The new Law on the fight against money laundering and the financing of terrorism that aims to align with the fifth AML Directive entered into force in July 2022. After the onsite visit of the Council of Europe's Committee of Experts on the Evaluation of AML Measures and the Financing of Terrorism in September 2022, the Moneyval plenary adopted the fifth Moneyval report in May 2023. In this report, North Macedonia has been rated compliant or largely compliant in 28 of 40 FATF recommendations. Among the shortcomings identified are a modest number of convictions related to money laundering, concerns about the proportionality, dissuasiveness and effectiveness of pecuniary sanctions, the data quality of the Beneficial Ownership Register, lack of sanctions for failures related to basic or beneficial ownership information, technical deficiencies on confiscation, lack of systematic approach to conducting a financial investigation, and a low number of Suspicious Transaction Reports compared to the to the risk, context, and size of the country. The Financial Intelligence Office prepared ad hoc assessments of specific trends, such as money laundering threats, proliferation financing and transactions conducted through fast money transfer service providers. It also improved its IT applications. In 2022, obliged entities submitted 258 suspicious transactions reports (315 in 2021). The Office sent 44 reports (92 in 2021) of money laundering and terrorism financing cases and 159 notifications (305 in 2021) of other cases to law enforcement bodies. (See also Chapter 23 - Judiciary and fundamental rights and Chapter 24 - Justice, Freedom and Security).

Chapter 6: Company law

The EU has common rules on the formation, registration and disclosure requirements of a company, with complementary rules for accounting and financial reporting, and statutory audit.

The country has a **good level of preparation** in the area of company law. **No progress** was made during the reporting period. The country needs to step up efforts to align its legislation with the EU *acquis* in this area.

As last year's recommendations were not fully implemented, they remain valid. In the coming year, North Macedonia should in particular:

- align national legislation with the *acquis* on encouraging long-term shareholder engagement, on cross-border conversions, mergers and divisions and on the use of digital tools and processes in company law;
- adopt legislation on accounting and on audit aligned with the latest EU *acquis* in these areas, to include strengthening the role and capacity of the Council for Advancement and Oversight of Audit.

On **company law and corporate governance**, alignment with the Company Law Directive is well advanced on the formation, registration and domestic, mergers of companies. The Central Registry provides a modern one-stop-shop system where company registration and the filing of documents - including financial documents - can be carried out fully online. In the future, the national business register should be technically ready to interconnect with the EU Business Registers Interconnection System. The 2021 Corporate Governance Code is only mandatory for listed companies that meet certain criteria. National legislation is broadly harmonised with the EU *acquis* on the legal forms *Societas Europaea* and European Economic Interest Grouping, while draft legislation to partially align with the EU *acquis* on a European cooperative society awaits adoption by Parliament. Further alignment is necessary with the EU *acquis* on cross-border operations (mergers, divisions, conversions), as well as with the rules on the encouragement of long-term shareholder engagement (2017 Directive), and 2022 Directive on gender equality on boards of directors.

On **company reporting**, a draft Law on accounting, aimed at further alignment with the EU *acquis* in this area, is going through the adoption process. North Macedonia will need to align with the most recent *acquis* (2022) on corporate sustainability reporting. International financial reporting standards apply to all companies, with no reduced obligations for small and medium enterprises as provided for in the EU *acquis*. Although certain provisions of the *acquis* on transparency requirements for listed companies are already well reflected in current national legislation, further alignment is needed in this area. Adoption is also pending of a new draft law on audit, aimed at reaching greater harmonisation with the EU *acquis*, including the area of investigations and sanctions. Currently, there is no body with ultimate responsibility for statutory audit oversight, as required by the EU Audit Directive. The visibility and overall performance of the Council for Advancement and Oversight of the Audit remains poor. Efforts are needed to ensure its independence.

Chapter 7: Intellectual property law

The EU has harmonised rules for the legal protection of intellectual property rights (IPR), copyright and related rights. Rules for the legal protection of IPR cover for instance, patents and trade marks, designs, biotechnological inventions and pharmaceuticals. Rules for the legal protection of copyright and related rights cover, for instance, books, films, software and broadcasting.

North Macedonia remains **moderately prepared** in the area of intellectual property law. **No progress** was made over the reporting period. Further efforts are needed to align the legislation with the EU *acquis* in this area.

As last year's recommendations were not implemented, they remain valid. In the coming year, North Macedonia should in particular:

- further improve the legal framework on copyright and related rights, notably by aligning with the Directive on collective rights management and the Directive on orphan works;
- further improve the legal framework on industrial property rights, by aligning with the Directive on the enforcement of intellectual property rights and with the Directive on trade secrets;
- implement the 2021-2026 intellectual property strategy and make operational the online information platform for law enforcement institutions to exchange data on intellectual property rights.

In the area of **copyright and related rights**, the adoption of the amendments to the Law on copyright to further align it with the EU *acquis*, including on the collective rights management system, orphan works and certain permitted uses of certain works and other subject matter protected by copyright and related rights, for the benefit of persons who are blind, visually impaired or otherwise print-disabled remains delayed. North Macedonia is not yet aligned with the Directives on online transmissions of broadcasting organisations and retransmissions of television and radio programmes (SatCab II Directive), on copyright and related rights in the Digital Single Market (DSM Directive). The relevant intellectual property rights unit in the Ministry of Culture remains significantly understaffed.

Regarding **industrial property rights**, the State Office for Industrial Property (SOIP) continued its cooperation with the EU and international bodies, in particular with the EU Intellectual Property Office (EUIPO). The SOIP also started to fully use EUIPO's harmonised database of products and services for the registration of trade marks. North Macedonia needs to further align its legislation with the EU *acquis* in this area, in particular on patents, trade secrets, and the Directive on IPR enforcement.

On **enforcement**, the hardware infrastructure of the information platform for exchanging IPR-related data, still needs to be made operational, in order to provide full insight into the institutional handling of IPR infringements. The coordination body for the protection of intellectual property needs to step up its activity to address the key challenges related to IPR. Substantial work is needed on the overall enforcement of IPR.

From January until the end of August 2023, there were 18 cases of suspected infringement of intellectual property rights involving 22 380 pieces of 43 trademarks of seized goods. Violation of intellectual property rights was confirmed in 7 cases (for 9 588 pieces) involving 12 international trade marks.

Chapter 8: Competition policy

EU rules protect free competition. They include antitrust rules against restrictive agreements between companies and the abuse of a dominant position, and also include rules on concentrations between companies which would significantly impede effective competition. EU rules also set out a system of State aid control. Governments are only allowed to grant State aid if restrictive conditions are met, with a view to preventing distortion of competition.

The country is **moderately prepared** in the area of competition. **No progress** was made in the reporting period. The Commission for Protection of Competition (CPC) continues to face budgetary and capacity constraints. The enforcement record remains low.

As last year's recommendations were not addressed, they remain valid. In the coming year, the country should in particular:

- further align the legislative framework, in particular the implementing legislation in the area of State aid and antitrust, with the EU *acquis*.
- ensure full transparency of State aid granted by the authorities;
- strengthen the administrative and financial capacity of the national competition authority.

Antitrust and mergers

The **legislative framework** is broadly aligned with the EU *acquis* in the area of antitrust and mergers, although parts of implementing legislation remain to be aligned.

On the **institutional framework**, the CPC is responsible for implementing the Law on the protection of competition. It can impose fines, propose remedies, or issue an opinion if competition rules are breached. The CPC may approve mergers, with or without conditions, or prohibit them. Its decisions are binding and can be subject to an appeal before the Administrative Court.

The CPC remains understaffed, leading to a limited enforcement capacity. Its annual budget remains insufficient. The poor capacity of the CPC as well as of the courts dealing with antitrust cases undermines enforcement.

On **implementation**, the number of merger decisions increased from 81 in 2021 to 101 in 2022, including decisions on small cases. The CPC should increase onsite inspections and use the leniency instrument to strengthen enforcement. Further strengthening, including training of judicial professionals is needed on the application of antitrust and merger rules.

State aid

The **legislative framework** on State aid broadly reflects Articles 107 and 108 TFEU. The Law on State aid and its implementing legislation need to be further aligned with the EU *acquis*. The State aid inventory still lacks transparency.

On the **institutional framework**, the CPC is also responsible for implementing the Law on State aid. The CPC issues non-binding opinions and binding decisions on State aid. The enforcement capacity of CPC staff dealing with State aid control remains insufficient.

Concerning **implementation**, the CPC issued 27 decisions and 33 opinions on State aid in 2022. No negative or conditional decisions were adopted by the CPC in the reporting period. One procedural order has been adopted on completion of procedure examining the existence of unlawful State aid. Increased awareness among aid-granting public bodies of the existence of State aid rules is reflected in the growing number of requests for opinions and notifications of State aid submitted by the ministries to the CPC.

Liberalisation

Antitrust and State aid rules also apply to state-owned undertakings and undertakings entrusted with special or exclusive rights, except when applying them would obstruct the performance of the particular tasks assigned to them. There is no evidence of the existence of commercial monopolies within the meaning of Article 37 TFEU.

Chapter 9: Financial services

EU rules aim to ensure fair competition among, and the stability of, financial institutions, namely banking, insurance, supplementary pensions, investment services and securities markets. They include rules on authorisation, operation and supervision of these institutions.

The country remains **moderately prepared** in the area of financial services. **Some progress** was made on further alignment with the EU *acquis* on banks and financial market infrastructure, namely through adoption and entry into force of new legislation on payment services and payment systems, on financial stability, on credit risk management, and on disclosure of banks' data and reports. Alignment with the EU *acquis* on the supervisory and regulatory framework for credit institutions and financial market infrastructure is well advanced. Alignment in the area of insurance and capital market is still lagging behind, partly due to the size and the structure of the market. The central bank organisational set up was restructured to reflect its function of a bank resolution authority. The continued failure to effectively tackle and prevent unregistered and uninsured vehicles is a concern.

Last year's recommendations were partially implemented. In the coming year, the country should in particular:

- adopt the recovery and resolution law to allow for the possibility to design a bank resolution authority and amend the law on deposit insurance as well as the banking law to improve deposit insurance in line with EU requirements;
- advance with the preparation and adoption of key pieces of legislation that regulate capital markets, namely the Law on financial instruments and the Law on prospectuses and transparency of security issuers;
- address gaps in alignment with the revised versions of Capital Requirements Regulation and Directive, notably with the net stable funding ratio and align with the Solvency II Directive, notably pillar 1 and pillar 3 of that Directive.

On **banks and financial conglomerates**, North Macedonia adopted in February 2023 a new methodology on credit risk management and a decision on disclosure of banks' data and reports, partly aligning with both the Capital Requirements Regulation and Directive. The central bank restructured its organisational set-up by establishing a new department for banking regulation and bank resolution, separate from the bank supervision sector. Basic ratios of the banking sector continue to be well above the minimum requirements. The Law on deposit insurance and the Banking Law have not yet been amended to improve deposit insurance, including to introduce depositor preference, in line with EU requirements and to address the concerns raised by the Constitutional Court in June 2021 revoking priority to the claims of the deposit insurance fund on a failed bank. Neither the legislation nor the capacity of the Ministry of Finance to license and supervise financial companies sufficiently protect consumers and both therefore require reinforcement. Legislation on the bank resolution authority (including a Law on bank resolution and its implementing legislation and amendments to the Law on the central bank and the Banking Law) is yet to be adopted. The legal and institutional set-up for establishing the financial Ombudsperson is yet to be finalised. Legislation aligning with the requirements of the Covered Bond legislation is yet to be implemented.

On **insurance and occupational pensions**, legislation aligning with the Solvency II Directive is yet to be adopted. A new rulebook on life insurance was issued linked to the

investment risks an insured person undertakes when investing in shares via investment firms. Legislation still allows the Ministry of Finance to set premiums for motor vehicle insurance, which is contrary to the EU *acquis*. Data on the proportion of vehicles that are uninsured is available, but it is unclear whether these vehicles are actually in circulation. Based on the number of non-insured vehicles discovered through controls, the portion of uninsured vehicles was 5.8% in 2022. No systemic measures are taken to prevent uninsured driving. The 50% limit on investing in non-domestic securities by pension funds is still in place, contrary to the EU *acquis* and the second stage of the Stabilisation and Association Agreement (SAA).

On **financial market infrastructure**, provisions of the new Law on payment systems and services aim to achieve a high level of alignment with the settlement Finality in payment systems. Provisions of the *acquis* related to securities settlement systems still need to be reflected in the domestic legislation of North Macedonia. The country's legislation is not yet aligned with the Financial Collateral Directive and new legislation in this area remains to be adopted. The new Law on financial stability adopted in August 2022 regulates the status, composition, tasks and functioning of the Financial Stability Committee, an interinstitutional body that monitors the financial system and foresees actions to prevent financial instability.

As regards **securities markets and investment services**, the Securities and Exchange Commission issued legislation on the issuance and registration of foreign securities on domestic markets, as planned under the second stage of the SAA. Legislation still needs to be further aligned with the EU *acquis*, including the Markets in Financial Instruments Directive, the Prospectus Regulation, and the Capital Requirements Directive, as well as provisions on liquidity and solvency ratios for brokerage houses. Moreover, North Macedonia is still to align with the EU *acquis* with respect to MiFIR (Markets in Financial Instruments and Amending Regulation) and benchmarks. As regards investment funds, North Macedonia has adopted legislation to align with the Directive relating to undertakings for collective investment in transferable securities but further alignment with the EU *acquis* is required in this area. Moreover, North Macedonia is still to align with the EU *acquis* with respect to the Directive on alternative investment fund managers and the Directive on the cross-border distribution of undertakings for collective investment in transferable securities.

On **sustainable and digital finance**, North Macedonia is not yet aligned with the EU *acquis* on taxonomy, nor on EU Climate Transition Benchmarks, EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks. The National Bank has started working on the development of a Strategy for the management of climate-related risks, which will cover regulatory and supervisory activities, as well as activities related to monitoring the impact of these risks on financial stability. As part of the Strategy, North Macedonia adopted a Decision on the methodology for credit risk management in February 2023, according to which banks will be required to adequately incorporate the climate-related risks in their credit risk management from January 2025. Finally, the country's Stock Exchange has prepared a Guide for environmental, social and governance (ESG) reporting for listed companies, in order to raise awareness among policy makers, regulatory and institutional investors.

Chapter 28: Consumer and health protection

EU rules protect consumers' economic interests and in relation to product safety, dangerous imitations and liability for defective products. The EU also ensures high common standards for tobacco control, blood, tissues, cells and organs, and medicines for human and veterinary use. The EU also has rules for upholding patients' rights in cross-border healthcare and in preparing for and responding to cross-border health threats.

In the area of consumer and health protection North Macedonia remains **moderately prepared**. **Some progress** was made on addressing last year's recommendations, by the adoption of the new Law on consumer protection, which is designed to align with many items of the EU consumer *acquis*. The other recommendations remain valid. The country's first-ever liver transplantation was made. Many challenges remain to be addressed in the area of public health, notably in regard to tobacco control, and the availability, scope of services, geographical distribution and funding of primary healthcare and on cancer screening could be improved. Alignment with EU health *acquis* remains incomplete.

In the coming year, the country should in particular:

- adopt and start to implement the next three-year consumer protection strategy and reinforce the capacity for market surveillance;
- intensify efforts on tobacco control by implementing the relevant EU *acquis* effectively and ratifying the Protocol to Eliminate Illicit Trade in Tobacco Products;
- ensure adequate funding and capacity to ensure the early detection of cancer and rare diseases based on data from the registers.

Consumer protection

The country adopted a new Law on **consumer protection** designed to align with several of the EU consumer *acquis*, including the *acquis* establishing rules on unfair terms in consumer contracts, unfair business-to-consumer commercial practices, price indication timeshare and long-term holiday product, resale and exchange contracts, consumer rights, digital content and services, and the sale of goods. The Law on consumer protection is also designed to be aligned with the latest changes to EU consumer *acquis* introduced by Directive (EU) 2019/2161 on the better enforcement and modernisation of Union consumer protection rules and the EU *acquis* on liability for defective products (relevant to product safety – see below), though implementing legislation on this still needs to be adopted. National legislation is not yet aligned with the current EU *acquis* on package travel. The law on consumer protection clearly defines the responsibilities of the physical and legal commercial bodies towards consumers. The next three-year consumer protection strategy is yet to be adopted. The web platform providing information on consumer protection still needs to be developed. The mediation scheme remains expensive and difficult for consumers to access.

Some progress was also made in aligning national **product safety** rules with the EU *acquis* (*see above*). The country now needs to adopt the implementing legislation necessary to complete the alignment with the EU General Product Safety Directive. The State Market Inspectorate intensified inspections under the national Law on general product safety (500 in 2022, up from 428 in 2021) and carried out 130 inspections under the Law on construction products. The Inspectorate maintained its good cooperation with the customs for control of harmful products on the market. The number of inspections increased to 4 838 in the reporting period. The number of licenced inspectors (170) remains insufficient as many of the staff are close to retirement. On **non-safety-related issues** further efforts are needed on developing the guidance and procedure for consumers' appeals and means of compensation.

Public health

Primary **healthcare** in North Macedonia is provided free of charge. However, the availability, scope of services, geographical distribution and funding of primary healthcare could be improved. During the reporting period, the **e-health** application was updated with new functionalities and new modules, and a mobile application called "MyHealth" was

launched. This allows patients access to their health record, including what medical examinations they have had, referrals to specialists, prescriptions, vaccines received, and relevant certificates. Certain specialists continue to be lacking. The ratio of doctors and nurses per 100 000 inhabitants continues to be below the EU average, and medical staff, nurses and specialists continue to leave the public health sector to work either in the private sector or abroad. Out-of-pocket healthcare costs remain high, at 38%, constituting a barrier to equal access to healthcare.

No progress was made on **tobacco control**. Though the institutional and legal setup in place are broadly aligned with the EU *acquis* on smoking in public places, it is not systematically implemented and is still broadly tolerated and unsanctioned, especially in restaurants and other facilities, even in some closed areas. Smoking in public areas should be penalised in line with the EU *acquis*, but this is not fully applied. North Macedonia has not yet ratified the Protocol to Eliminate Illicit Trade in Tobacco Products. On **communicable diseases**, the upgrade of the syndromic disease reporting system in real time was completed. On **COVID-19**, few preventive measures remain in place.

Progress was made on **blood, tissues, cells and organs**. The number of performed transplantations continued to increase, including the first-ever liver transplantation. However, the country is yet to align with the *acquis* on **patients' rights in cross-border healthcare**.

On **medicines for human and veterinary use**, legislation was adopted, designed to align to the *acquis* on residues of pharmacologically active substances, residues of pesticides and the maximum levels of individual contaminants in and on food from animal origin. As regards **cancer screening**, the first report on the National Register of Malignant Neoplasms was published. A comprehensive and proactive approach on cancer screening is lacking, and funding for cancer screening is insufficient. Following public pressure, funding for **rare diseases** somewhat increased but not sufficiently to cover the costs for medical treatment of all registered patients. An online survey was done on **drug abuse prevention**, and there was awareness raising in schools on drug abuse and **alcohol related harm reduction**. There was no progress on **healthy environments**. Some efforts were made with regard to fighting **health inequalities**, particularly for people living in poverty and people living in remote areas, though these were led by international organisations and the non-governmental sector rather than by the health authorities.

The national strategy for the prevention of corruption identified the health sector and inspectorates as vulnerable to corruption, in particular as there are no effective criteria for determining the prices of health services or of medicines. Procedures for treatment abroad are non-transparent and not objective. The inspectorates responsible for market surveillance and product safety have unclear and overlapping jurisdictions, and inadequate staffing. Most of the anti-corruption strategy activities in the health area have not been carried out. Strengthening integrity, asset declarations and digitalisation are considered key tools for preventing corruption.

CLUSTER 3: COMPETITIVENESS AND INCLUSIVE GROWTH

Cluster 3 on competitiveness and inclusive growth covers the following chapters: digital transformation and media (chapter 10); taxation (chapter 16); economic and monetary policy (chapter 17); social policy and employment (chapter 19); enterprise and industrial policy (chapter 20); science and research (chapter 25); education and culture (chapter 26) and customs union (chapter 29).

Overall, North Macedonia is moderately prepared in most of the areas covered by this cluster. The country is in between a moderate and a good level of preparation in the area of economic

and monetary policy. It has a good level of preparation in the areas of science and research and in the customs union. Some progress was made in the areas of taxation, economic and monetary policy, enterprise and industrial policy, science and research policy, as well as social policy and employment. More efforts are needed, however, particularly in areas where limited progress was made, such as digital transformation and media, customs union, and education and culture.

Chapter 10: Digital transformation and media

The EU supports the smooth functioning of the internal market for electronic communications, electronic commerce and audio-visual services. The rules protect consumers and support the universal availability of modern services.

The country is **moderately prepared** in the area of digital transformation and media. **Limited progress** was made during the reporting period, consisting of a slight increase in the number of electronic services offered to citizens and businesses. The Law on audio-visual media was amended in order to align with the EU Directive on Audiovisual Media Services of 2018 in July 2023. North Macedonia joined the Digital Europe Programme in 2023. The services of the 112 European emergency number were further developed.

Last year's recommendations remain valid. In the coming year the country should:

- finalise and adopt the long-term information and communication technology (ICT) strategy; finalise and adopt the national cybersecurity strategy for 2023-2027; align national legislation with the European Electronic Communications Code, the EU broadband cost reduction Directive; the EU Directive on security of network and information systems (NIS 2 Directive) and the 5G toolbox;
- strengthen the independence and capacity of the media regulator, the Public Service Broadcaster and the regulator on electronic communication;
- improve the functioning of the 112 emergency number by ensuring adequate human resources and improve communication among emergency services.

The country continued to successfully participate in the Digital Agenda for the Western Balkans and benefit from the regional roaming-free agreement. In line with the 2019-2023 national broadband operational plan's targets, 5G signal was expanded to Skopje. Authorities continued to carry out activities included in the 2018-2022 national cybersecurity strategy. However, there is need for better coordination and interinstitutional cooperation. North Macedonia needs to adopt the national cybersecurity strategy for 2023-2027. The 112 European emergency number services increased their capacity, but communication among emergency services and human resources need further improvement.

On **electronic communications and information technologies**, in 2022, 75.57% of all households had access to fixed broadband internet, while nationwide broadband coverage with 30-100 Mbps stood at 82.84% and >100Mbps at 63.1%. Mobile broadband take-up increased to 86.12%. Only 2.53% of all households had access to ultrafast broadband internet. Segregated data on access to internet by schools, hospitals, enterprises, etc., is not collected by the Agency for Electronic Communications. This Agency granted approvals for the use of radiofrequencies for 5G. Telecom operators continued to invest throughout the country. No progress was made on aligning the legal framework on electronic communications with the EU *acquis*. The Broadband Competence Office publishes biannual reports on the broadband development in the country and the implementation of the National

Operational Broadband Plan. Authorities need to align national legislation with the EU Broadband Cost Reduction Directive.

The alignment of national legislation with the EU Regulation on electronic identification and trust services for electronic transactions in the internal market (eIDAS Regulation) was further delayed. Alignment with the Digital Services Acts and Digital Markets Act needs to be stepped up, to provide predictability for the business community. Amendments to the Law on audio and audio-visual media services were adopted on 18 July 2023, thus aligning the legislation with the Audiovisual Media Services Directive.

On **competitive safeguards**, the telecom market remains predominantly shared by the two biggest mobile operators.

Regarding **digital transformation**, the long-term information and communication technologies strategy for 2021-2026 has not been adopted. The strategy's activities on digital skills development should be built upon and supported with specific measures. The country signed an association agreement to the Digital Europe Programme on 30 June 2023.

The national regulator promoted cybersecurity through its national centre responding to computer incidents. Cyber-related incidents were reported in 145 entities such as state institutions, banking, health, energy, transport and communications organisations. Better coordination and interinstitutional cooperation is needed on cybersecurity and on strengthening the National Cybersecurity Council's capacity. State institutions need to further strengthen their cyber capacity and infrastructure.

The new law on security of networks and information systems, needs to be adopted to align with the NIS and NIS2 Directives. The Ministry of Information Society and Administration needs to strengthen its capacity to drive the digital transformation and media reforms. The full independence of the regulator for electronic communications needs to be ensured.

The national e-portal for services has been upgraded. The number of institutions connected to the interoperability platform was increased, but the platform is not being used by most of the state institutions because of the lack of communications software. To modernise and digitalise the public sector, more efforts and better cooperation among institutions are still required. The quality of data in the population register needs to be improved and continuously verified with other registers. The number of digital services offered through the governmental e-portal remains modest, 392, mainly consisting of services that are rarely requested and used. State institutions need to ensure better cooperation in advancing the digitalisation of the government 96.940 users were registered on the national e-portal.

With regard to **e-commerce**, online shopping increased. On statistical performance and digital competitiveness, the collection of data based on the Digital Economy and Society Index (DESI) indicators needs to be improved.

On **audio-visual policy**, the Parliament failed to appoint new members of the media regulator and the public broadcaster councils, despite this being a precondition for accelerating media reforms. The Public Service Broadcaster received additional funding, thus slightly increasing its percentage. (*See also the section: freedom of expression*). In July 2023, the Law on audio and audio-visual media services was amended to align with the 2018 EU Directive on Audiovisual Media Services.

During the reporting period, the Agency for Audio and Audio-visual Media Services continued to fulfil its legal obligations on the promotion of media literacy, to analyse gender equality in the media and to supervise the broadcasters. The media regulator publicly condemned the pressure and threats on journalists and media outlets. The national strategy

and action plan on building resilience and confronting hybrid threats (2021-2025) includes measures to address disinformation and hybrid threats. However, efforts to combat disinformation are limited. The audio-visual sector continued to benefit from the country's participation in the MEDIA and cross-sectoral strands of the Creative Europe programme.

Chapter 16: Taxation

EU rules on taxation cover value-added tax, excise duties and aspects of corporate taxation. They also cover cooperation between tax administrations, including the exchange of information to prevent tax evasion.

North Macedonia is **moderately prepared** in the area of taxation. **Some progress** was made specifically in amending its preferential tax regime in the technological and industrial development zones. As a result, North Macedonia was removed from the Annex II list of the non-cooperative jurisdictions for tax purposes. The country has yet to start the automatic exchange of financial account information as per the Organisation for Economic Co-operation and Development (OECD) standard.

As some of last year's recommendations were not fully implemented, they remain valid. In the coming year, North Macedonia should in particular:

- develop a new integrated IT tax system for the Public Revenue Office (PRO), improve its compliance risk management and the strategic reform process of the PRO;
- start preparations for putting in place a mechanism to implement the automatic exchange of financial account information with EU Member States effectively, in line with the OECD global standard.

On **indirect taxation**, the VAT exemptions and preferential rates for essential products were removed at the end of 2022. A preferential VAT rate of 10 % was applied for some energy products to alleviate the effects of high international energy prices. The preferential VAT rate of 10% for electricity for households was applied until 30 June 2023. Delays still remain in the VAT refund process, as only 45% of the requests submitted in 2022 were refunded within the legal deadline of 30 days.

There were some changes to **direct taxation**. A personal income tax flat rate of 10% was complemented with a rate of 15% for income stemming from games of chance. Exemption from taxation on interest on savings and from taxation on capital gains on securities was abolished with the amendments to the Law on personal income tax, as of 1 January 2023. The country still needs to align its legislation with the Merger Directive.

On **administrative cooperation and mutual assistance**, North Macedonia has signed 49 double taxation agreements, including with all EU Member States except Cyprus, Malta, Portugal and Greece, with whom negotiations are ongoing. The country has not yet committed on a date to start the automatic exchange of financial account information as per the OECD standard. The country remains dedicated to implementing the Inclusive Framework on Base Erosion and Profit Shifting (BEPS) minimum standards. In January 2023, North Macedonia amended its preferential tax regime in the free economic zones, thus meeting the Forum on Harmful Tax Practices and the EU's requirements to promote good governance in the area of taxation.

Regarding **operational capacity and computerisation**, the PRO still has to improve its business processes, implement a new integrated IT tax system replacing the current fragmented IT system, develop compliance risk management and continue to expand e-services. Work on the 2021-2025 tax system reform strategy continues. During the reporting

period, the Law on PRO was amended to allow for a more dynamic organisational structure to correspond with the ongoing IT modernisation process. A stronger monetary incentive for customers to request invoices on their purchases was introduced, with the aim of combating the informal economy. The PRO took part in joint inspections with other national bodies to identify unpaid tax liabilities and unregistered taxpayers in order to improve tax collection. The PRO and the State Commission for the Prevention of Corruption signed an Agreement on data exchange and cooperation. The PRO is obliged to provide data from the unique register of taxpayers to the SCPC, in accordance with the Law on prevention of corruption and conflict of interest.

Chapter 17: Economic and monetary policy

EU rules require the independence of central banks and prohibit them from directly financing the public sector. EU Member States coordinate their economic policies and are subject to fiscal, economic and financial surveillance.

The country is **in between a moderate and a good level of preparation** in the area of economic and monetary policy and **some progress** was made. A new Organic Budget Law was adopted by Parliament in September 2022 and the drafting of implementing legislation was initiated. The three members of the new Fiscal Council were appointed by Parliament in September 2023. On monetary policy, alignment of the country's legal framework with the EU *acquis* remains at an advanced stage. On economic policy, the information provided in the fiscal strategy has been enhanced, but alignment with the EU fiscal framework is only partial and shortcomings on the monitoring of the fiscal risks persist.

In the coming year, North Macedonia should in particular:

- adopt implementing legislation to the Organic Budget Law with a view to fully applying fiscal rules, a strengthened medium-term budgetary framework and a prudent management of fiscal risks;
- take the necessary legislative and organisational steps to enable the Fiscal Council to take up operations and assess the 2024 budget and the new fiscal strategy;
- exclude the central bank from the scope of the Law on administrative servants, the Law on public sector employees and the Law on the payroll system.

On **monetary policy**, the alignment of the legal framework of North Macedonia with the EU *acquis* remains at an advanced stage. In line with the objectives of the European System of Central Banks, the central bank pursues price stability as its primary objective. The central bank also supports economic growth through its policies. A subordinate objective is to contribute to safeguarding a stable, competitive and market oriented financing system. Monetary policy has been appropriately tightened in response to rising inflation. Continued vigilance remains important, also in view of a wide, albeit narrowing inflation differential with the euro area. The functional and financial independence of the central bank is provided for in the Law on the National Bank. There is a need to maintain the central bank's independence in its key statutory tasks, including in staffing issues, in line with the Law. In that vein, the central bank needs to be excluded from the scope of laws which may affect its independence, including the law on administrative servants, the law on public sector employees as well as the newly proposed public sector payroll law. The central bank should be able to conduct internal organisations and employment plans without having to seek the approval of the government.

Regarding **economic policy**, North Macedonia began drafting implementing legislation for the 2022 Organic Budget Law (OBL) in line with the EU Budgetary Frameworks Directive.

The new Law provides for numerical fiscal rules for the general government deficit and debt , the establishment of an independent fiscal council, and improvements in the medium-term budgetary framework. The provisions of the new OBL should be swiftly implemented in full. The medium-term fiscal consolidation presented in the 2023-2027 Fiscal Strategy is reflected in the 2023 budget, supported by a rules-based budget framework under the new Organic Budget Law. Preparations have advanced on setting up an independent Fiscal Council to monitor compliance with the rules and verify macro-fiscal projections, and the medium-term fiscal framework was strengthened within the 2024-2028 fiscal strategy which was adopted in June 2023. Limited progress was made on strengthening the monitoring of fiscal risks related to state-owned enterprises, public-private partnerships and local government units. As envisaged by the OBL, there is a need to develop a comprehensive registry of state-owned enterprises and a methodology to assess related risks.

The 2023-2025 **Economic Reform Programme** (ERP) was submitted on 1 February 2023. The country has partially implemented the country-specific policy guidance jointly adopted by the EU and the Western Balkans and Türkiye at ministerial level in May 2022. The level of implementation of the policy guidance has improved compared to last year, notably due to progress in the macro-fiscal area. The ERP's macro-economic framework is coherent and consistent, while somewhat optimistic. For structural reforms, the focus is on addressing properly-identified key structural challenges, including the green transition. Implementation of the ERP's structural reforms measures needs to improve, as it has been affected by the limited capacity of public institutions and a focus on short-term measures to offset the energy crisis.

Chapter 19: Social policy and employment

EU rules in the social field include minimum standards for labour law, equality, health and safety at work and non-discrimination. They also promote social inclusion and social protection, and social dialogue at EU level.

The country remains **moderately prepared** in the area of social policy and employment. **Some progress** was made, notably on steadily reducing unemployment and increasing social assistance benefits. The Youth Guarantee scheme was implemented successfully throughout the country. The negative impact of the energy crisis was offset by the continuous application of social protection measures, ensuring that the poverty rate did not increase.

Last year's recommendations were partially implemented. In the coming year, the country should in particular:

- continue to implement the Youth Guarantee as well as activation measures for vulnerable groups, and set up systems to properly evaluate the measures;
- enhance the capacity of the State Labour Inspectorate to better address matters related to occupational safety and health; develop a system for tracking and monitoring injuries and fatalities at work; and continue to reinforce bipartite social dialogue focusing on collective bargaining and to strengthen the role and activity of social partners in the private sector;
- finalise the set-up of a monitoring system, ensure proper evaluation of social services and continue the social protection reform with emphasis on employment activation.

On labour law, extensive public consultations were held across the country on the yet-to-be-adopted new law on labour relations. As of March 2023, the minimum salary increased by approximately 12%. The capacity to implement labour policies and legislation did not

increase, and a reduction in the number of competent staff in public institutions was noted. The capacity of the State Labour Inspectorate (SLI) is as insufficient as last year. The annual plan for individual professional development and training of labour inspectors is under way but capacity needs to be increased further, in particular in the area of occupational safety and health. The SLI signed a memorandum for cooperation with the Public Revenue Office and the Ministry of Interior to improve efficiency and cooperation for preventing irregularities in labour law, the fight against human trafficking and labour exploitation.

On **health and safety at work**, the 2021-2025 strategy for occupational safety and health and 2021-2023 action plan remain valid. The main challenge remains the inadequate application of the provisions of the existing Law. Employers' and employees' knowledge of their respective rights and obligations on health and safety at work remains limited whereas the capacities of labour inspectorates need to be further increased. However, the national award on health and safety has raised awareness among employees. The SLI carried out 24 965 inspections (16 026 on labour relations and 8 939 on occupational safety and health). Shortcomings and irregularities were identified in 38% of the inspections, mainly resulting in warnings (3 202).

On **social dialogue**, social partners engaged in constructive tripartite social dialogue both at national and local level. The level of their involvement in policy development and policy change is inconsistent, representing a significant challenge. In July 2023, a new collective agreement for public sector employees was signed between unions and authorities. The bipartite social dialogue continues to face challenges due to poor adoption and enforcement of collective agreements affecting workers' rights and job security. Measures to encourage collective bargaining and strengthen the role of social partners in the private sector are insufficient. Overall implementation of the Law on the peaceful settlement of labour disputes remains poor, with only five recorded cases of successful amicable resolution in 2022. The capacity of social partners remains low, affecting the efficiency of social dialogue. Overall, more strengthening of social dialogue and promoting collective bargaining in both the public and private sectors is required including from the authorities.

On **employment policy**, the labour market forecasting model was extended to 11 additional descriptions, bringing the number of occupations covered to 85. The 2021-2027 national employment strategy and the 2021-2023 employment action plan remain valid. Measures to tackle undeclared work included in the 2018-2022 strategy for the formalisation of the informal economy continued. Authorities adopted the strategy for the formalisation of the informal economy 2023-2027 along with the Action Plan for the period 2023-2025 in September 2023. Active labour market measures and the reinforced Youth Guarantee scheme are currently not sufficiently monitored, evaluated and assessed. The Employment Service Agency is under-staffed.

The employment rate (aged 20-64) in Q4-2022 was 61.8% for the whole population. The unemployment rate decreased further to 13.7 % in Q4-2022. The female employment rate increased by 3.2% (51.8% of 15-64 year-olds). Youth (15-24 year-olds) employment remained at 18.3% and youth unemployment decreased to 31.8% in Q4-2022, compared to 34.9% in Q4-2021. The main measure addressing youth unemployment remains the Youth Guarantee scheme. A new plan for implementing the 2023-2026 Youth Guarantee was adopted by the authorities in March 2023. In 2022, more than 20 000 young people participated in the scheme, with 43% of them successfully finding employment or training opportunities. 969 Roma people participated in the scheme, out of which 148 found employment.

On participation in the **European Social Fund**, it is important to ensure that state bodies have the necessary capacity to manage the indirect management with the beneficiary country system. *(See also Chapter 22 - Regional policy and coordination of structural instruments).*

Progress was made on **social inclusion and protection** and on minimising the impact of the pandemic and energy crises. Additional subsidies were introduced, ensuring more comprehensive coverage for people in need. Guaranteed minimum assistance (GMA) was extended to reach 35 748 households. In addition, 31.7% of GMA recipients benefited from the child allowance and 21.2% from education allowances. Coordinators were appointed to facilitate communication between employment services and social work centres, and guidelines for supporting individual activation plans were developed. The 2022-2032 national programme for the development of social protection was adopted along with a roadmap for future improvements. The new 2023-2030 strategy for rights of persons with a disability and the 2023-2025 action document are yet to be adopted. The software for integrating cash benefits and social protection services needs to become operational. The decentralisation of social assistance remains at a moderate level. The accessibility of public services such as socio-health, employment, vocational education, and in particular specialised services for the people with disabilities and Roma, remained limited. The employment of Roma, the long-term and low-skilled unemployed, and people with disabilities is supported by the guaranteed minimum assistance scheme introduced by the Law on social protection.

As part of the national strategy on **de-institutionalisation** a total of 57 residential units were made functional by June 2023, providing living support to children and adults with disabilities. The number of children under the age of 18 in institutional care remained stable. The adoption of a methodology for licensing and calculating social service costs enabled services such as home care, personal assistance, supported living, and respite care to be set up and improved. A total of 85 civil society organisations and private providers of social service assistance are now available to serve the diverse needs of individuals.

On **non-discrimination in employment and social policy**, a comprehensive legislative framework is in place. However, the Law on promotion and protection against discrimination needs to fully align with EU anti-discrimination provisions. 53.5% of the cases on which the Commission for the Prevention and Protection against Discrimination worked referred to employment and labour relations. *(See also Chapter 23 - Judiciary and fundamental rights).*

On **equality between women and men in employment and social policy**, the gender gap in the labour market remains. In particular, the employment rate for men was 56.3% compared to 38.3% for women in 2021. Furthermore, 55.5% of women are inactive compared to 33.3% of men. Data on and a monitoring system for incidents of sexual harassment in the workplace are still not available. Some progress was made with the adoption of the 2023 programme for social security support for women in agriculture, entitling women with 'insured individual farmer' status to maternity benefits for the first time. Childcare and pre-school capacity increased during 2022 with the opening of seven new institutions and 10 facilities within public institutions. Childcare facilities increased, reaching a total of 36 125. Childcare capacity needs to be increased in urban areas in particular. The gender pay gap persists and authorities need to produce reliable data monitoring the gap. The 2022 Labour Force Survey indicated that the gap is a result of the fact that women are mostly concentrated in low-paying sectors and positions. The average net wage for men in 2021 was 2.6% higher than the average net wage, while the average net wage for women was 3.9% lower than the average net wage.

The work to prepare the Law on the prevention and protection against workplace harassment continued while the ILO convention 190 – 2019 Violence and Harassment was adopted in June 2023.

Chapter 20: Enterprise and industrial policy

EU industrial policy strengthens competitiveness, facilitates structural change and encourages a business-friendly environment that stimulates small and medium-sized enterprises (SMEs).

The country is **moderately prepared** in the area of enterprise and industrial policy. **Some progress** was made on last year's recommendations and entailed measures to increase the competitiveness of domestic companies. Recommendations from last year therefore remain largely valid and in the coming year, the country should, in particular:

- consolidate the institutional structure and mandates of public bodies and increase the effectiveness of industry and enterprise policy measures;
- adopt and start implementing the export promotion strategy;
- start implementing the new 2023-2027 strategy for formalising the informal economy, with an action plan, and ensure high-level political commitment.

Enterprise and industrial policy principles are incorporated in numerous strategic documents under the competence of different national authorities. Overall coherence and coordination is lacking in this area. Overlapping and conflicting mandates continue to make the institutional set-up complex and resources inefficient. To address this issue, the government adopted a plan to consolidate part of the administrative structure, with merging some institutions and integrating others into the Ministry of Economy. However, the plan is yet to be implemented (*see also the section on public administration reform*). Progress in implementing the 2022-2026 growth acceleration plan is slow.

The State Audit Office identified shortcomings in measures for tourism, for companies affected by COVID-19, the operation of the Fund for Innovations and Technological Development as well as in the Directorate for technological zones (*see also the section on Accountability of the administration and chapter 32 – Financial Control*).

The dialogue with chambers of commerce through the joint platform continued throughout the reporting period. The conduct of stakeholder consultations though is irregular (*see also sections on Economic Criteria and Public administration reform*). Legislation related to companies is frequently amended without an adjustment period for companies.

The business environment was negatively affected by several factors, such as an increase in the minimum wage and in some para-fiscal charges. There was some progress against informal business activities: a methodology to streamline para-fiscal charges was developed and taxation got somewhat less distortive. The 2023-2027 strategy for formalising the informal economy and an action plan 2023-2025 were adopted in September 2023. Cooperation of SMEs in innovation activities and ICT training by enterprises require more attention to reverse an unfavourable development over the past years. The export promotion strategy, targeting the internationalisation of domestic companies is still to be adopted.

On **policy instruments**, in April 2023, North Macedonia signed the Association Agreement for the participation in the EU Programme “Single Market Programme”.

Amendments to the Law on financial discipline to further align with the EU Late Payments Directive were adopted in June 2023. Nevertheless, still some key issues need to be clarified,

for example the criteria of calculation of the payment periods or the right to the flat fee compensation.

The Development Fund was established in 2022 and the mechanism for the functioning of the Hybrid Strategic Green Investment Fund has been put into operation for support to export of innovations and to European Green Deal practices. To mitigate the effects of the energy crisis and high inflation, the government introduced support measures that should be better targeted. Numerous policy measures based on grants to companies are in place, but as they have the potential to distort market competition and incentivise informal business while lacking transparency, they need to undergo an in-depth evaluation.

In terms of **sectoral policies**, as a first step towards developing a circular economy roadmap, the Ministry of Economy completed the mapping of the circular economy potential.

Chapter 25: Science and research

The EU provides significant support to research and innovation. All Member States can participate in the EU's research and innovation programmes and benefit from them, especially where there is scientific excellence and a solid investment in research and innovation.

The country has a **good level of preparation** in the area of science and research. **Some progress** was made on strengthening the research and innovation capacity of the public and private sector by increasing the budget for science, by developing the yet to be adopted smart specialisation strategy and through the country's continuous improvement in the Horizon Europe participation. Some of last year's recommendations remain valid.

In the coming year, the country should:

- increase investment in research in line with the new European Research Area priorities;
- develop dedicated measures aiming to promote and increase participation in Horizon Europe and other relevant EU financing instruments in this area;
- adopt the smart specialisation strategy and start developing measures for its implementation.

Some progress was made to align with European standards on **research and innovation**. The budget for science in 2022 and 2023 has been increased significantly compared to 2021 (to approximately EUR 3.5 million from EUR 1.3 million). However, investment in research and innovation continues to remain low, at 0.38% of GDP, while the participation of the private sector in the overall research is even lower, at 0.1% of GDP.

The country's participation in **Horizon Europe**, the EU's framework programme for research and innovation, has continued to increase, reaching for 2022 (according to data availability at publication date), 10 projects with EUR 4 million funding, surpassing the whole 2021 performance. Authorities need to strengthen their participation in the new European Research Area and in the new European Innovation Agenda. No progress is noted on the European Charter for researchers, the Code of Conduct for the recruitment of researchers and the number of HR Excellence in Research logos issued over the reporting period. The national technology transfer roadmap has not yet been developed.

On **innovation**, the European Innovation Scoreboard classifies for a second consecutive year North Macedonia as an 'emerging innovator' marking however an increase in its score performance from 45.6% in 2022 to 46.3% of the EU average in 2023. In 2022, the Fund for Innovation and Technological Development committed nearly EUR 16.5 million to support

innovation and research in 209 private companies. The Fund's efforts to intensify synergies between businesses and academia need to continue to increase prioritising the facilitation the green and digital transitions. The Fund needs to comply with the findings of the State Audit Office's compliance audit report, issued in December 2022. Authorities should further support the academia-business cooperation. The European Institute of Innovation and Technology (EIT) announced that in the 2023 EIT higher education initiative, two higher education institutions from North Macedonia were selected for funding as full partners of large consortia.

The **smart specialisation strategy**, the main policy document for innovation and research with clear sector-specific priorities, has not been adopted yet, providing a safeguarded framework for an efficient use of research and innovation funds.

Chapter 26: Education and culture

The EU supports cooperation in education and culture through funding programmes and the coordination of Member State policy through the 'open method of coordination'. The EU and the Member States must also prevent discrimination and ensure quality education for children of migrant workers, including those from disadvantaged backgrounds.

North Macedonia is **moderately prepared** in the area of education and culture. **Limited progress** was made in the reporting period with the adoption and introduction of guidelines and programmes to strengthen inclusiveness and promote green skills. The implementation of the 2018-2025 education strategy continued to be slow, as did the development of a proper monitoring system. The adoption of key legislation was further delayed.

The recommendations of last year's report remain valid. In the coming year, North Macedonia should in particular:

- finalise and adopt the Law on secondary education and the Law on vocational education and training and set up and operationalise the regional VET centres;
- adopt the Law for adult education;
- improve access to quality education for all, in particular children with disabilities and children from Roma communities; and increase pre-school enrolment and continue improving support for teachers' training and professional development.

The 2018-2025 strategy for education is the main document governing the education sector, but its monitoring mechanisms are not well defined. Targets and indicators need to be improved to allow a proper evaluation of the implementation of the reforms. Authorities need to strengthen coordination among institutions in developing legislation, ensuring a conducive institutional environment able to deliver its implementation.

The new law on VET which is essential for the VET reform is yet to be adopted. Its adoption is also needed to enforce the role of the country's five regional VET (RVET) centres. A cooperation scheme is in place between business companies, vocational high schools, the Chambers of Commerce and the Ministry of Education to support students' internships in private companies. Approximately 100 dual-education classes opened under this scheme, supported by public-private partnerships.

The Law for adult education has not yet been adopted. The Bureau for Development of Education continued its activities for the Concept for primary education by preparing curricula for primary grade 6, based on the national standards, including green skills provision.

In November 2022, the Ministry of Education and Science adopted the 'Concept for secondary adult education' to help improve quality of life for citizens and enable social development.

Public spending on **education and training** decreased slightly to 3.71% of GDP in 2022 (3.98% in 2021), which is still far below the EU average of 5%. Although some progress was made on pre-school education, the overall level of enrolment remained lower than the regional and EU standards, especially for Roma children. Whereas the EU education and training target on early childhood education and care attendance is set at 96%, only 42% of 3-6 years-olds were enrolled in licenced early childhood education institutions in 2022. In addition to expanding capacity to extend pre-school education to more children, the quality of pre-school education was increased.

96.63% of children were enrolled in primary education (of which 51.46% were boys, 48.54% were girls) and 85.59% in secondary education (of which 49% were girls, 51% were boys) in the 2021/2022 school year. In higher education, the overall enrolment remains low. The number of university students enrolled in the first year of studies has been declining in the last 3 years.

Although North Macedonia has taken steps toward the digital transformation of its education and training system and digital skills are addressed throughout primary and secondary either cross-subject or through the subject of informatics, authorities need to continue to strengthen efforts towards effective, coherent and inclusive digital transformation of the education and training systems in North Macedonia, including the capacity of the systems to develop digital skills.

The country had engaged in international assessments of the education system (TALIS 2022, PISA 2022) during the reporting period. North Macedonia is not taking part in ICILS (International Computer and Information Literacy Study). The country continued to participate in the European Education Area (EEA) Working Groups 2021 - 2025.

The National Agency for Erasmus organised and supported more than 100 activities and events targeted at young people. The number of participants in funded youth exchange projects was 465 in 2022 (compared to 294 in 2020).

North Macedonia continued to participate in Erasmus+ and the European Solidarity Corps and participated also in the call for proposals for the European universities initiative, with one university winning a grant as part of a successful alliance. North Macedonia is participating in the European Education Area working groups 2021-2025.

With regard to **inclusion**, a modified programme for students with complex needs was launched in October 2022. The Bureau for the Development of Education prepared guidelines for developing and implementing a modified curriculum for primary students with complex needs. The Bureau also developed two training modules for inclusive school teams, and courses were conducted online. The number of Roma educational mediators increased further to reach 40, up from 35 in 2021, making their services available to 28 municipalities, up from 26 in 2021. In higher education, authorities granted 135 scholarships to Roma students. During the reporting period 450 scholarships were granted to children in primary education to support inclusiveness

On **culture** and the protection of cultural heritage, a new national strategy for 2023-2027 on the development of culture needs to be developed by the Ministry of Culture, ensuring also the appropriate budget allocations. The annual budget allocations for culture have decreased steadily in the last 3 years. Reforms following the recommendations of the functional analysis

of the Ministry of Culture and specialised bodies were further delayed. The Ministry of Culture and other relevant institutions need to strengthen their capacity to create and manage cultural policies based on sound public administration principles. In September 2023 Skopje was recommended to become the European Capital of Culture for 2028.

Further efforts are needed to reinforce institutional response and interinstitutional cooperation to protect cultural heritage and prevent illegal constructions. This includes the protection of cultural heritage sites of ‘particular importance’, such as lake Ohrid and the Skopje Old Bazaar. The country’s cultural heritage is not sufficiently safeguarded.

North Macedonia continued to fully participate in the Creative Europe programme's media and cross-sectoral strands. Authorities amended the national legislation in order to align it with the 2018 Audio Visual Media Directive, which is a prerequisite for country’s continuous participation in the programme. The number of beneficiaries of the Creative Europe programme remains satisfactory.

In the reporting period authorities developed the national **youth** strategy for 2023-2027, which is yet to be adopted.

In October 2022, North Macedonia signed the Council of Europe’s Convention on the Manipulation of **Sports** Competitions (Macolin Convention), which calls on public authorities to cooperate with sports organisations, betting operators and competition organisers to prevent, detect and penalise the manipulation of sports competitions.

With regard to transparency, the State Educational Inspectorate in cooperation with the Bureau for the Development of Education, is responsible for the implementation of the national curricula and supervises the implementation of the relevant legislation in all educational institutions.

Chapter 29: Customs union

All Member States are part of the EU customs union and follow the same customs rules and procedures. This requires legislative alignment as well as adequate implementing and enforcement capacity and access to the common computerised customs systems.

North Macedonia has a **good level of preparation** in this area. **Limited progress** was made on consolidation, application and upgrade of IT systems while the Concept of authorised economic operators (AEO) was further promoted, including through regional cooperation initiatives among the customs administrations of the WB6 countries. The implementation of the New Computerised Transit System Phase (NCTS) Phase 5 is facing delays. North Macedonia has yet to ratify the Protocol on Elimination of Illicit Trade in Tobacco Products.

Last year’s recommendations were partially implemented. In the coming year, the country should, in particular:

- implement the New Computerised Transit System Phase 5;
- continue the consolidation and full application of its IT systems, including alignment with the Commission's Multiannual Strategic Plan (MASP) modules, ensure their continuous upgrade, and business continuity;
- ratify the Protocol on Elimination of Illicit Trade in Tobacco Products.

The **customs legislation** is highly aligned with the EU *acquis*. The 2023 customs tariff was adopted to reflect the latest changes in the EU Combined Nomenclature. The CEFTA Additional Protocol 5 on trade facilitation was implemented, and the authorised economic

operators (AEO) concept was further promoted. So far, 27 companies have been AEO-certified. North Macedonia is yet to ratify the Protocol on Elimination of Illicit Trade in Tobacco Products, signed in 2014.

On **administrative and operational capacity**, the standards of professional integrity and anti-corruption are consistently applied. A comprehensive intelligence system in support of investigation and enforcement is in place. Risk management is applied systematically with the percentage of physical controls at 5.9 % and documentary controls accounting for 15.7 % of all shipments in 2022.

Revenues collected by the Customs Administration increased by 15% compared to 2021, totalling close to EUR 2 billion. The one-stop control with Serbia was implemented and the one-stop system was also established at the main border crossing with Albania in August 2023. The digitalisation of customs procedures continued and a green customs declaration was introduced, enabling import and export procedures to be completed in one hour, fully paperless. The 2021-2025 strategy for ICT development, aimed at coordinating the alignment of national systems with those of the EU, was implemented. The implementation of NCTS Phase 5 is facing delays. The System for Electronic Exchange of Data (SEED+) is operational, ensuring harmonised work of the agencies present at the borders.

The number of seizures doubled compared to the previous year, with 114 seizures in 2022, including drugs, as well as foreign currency, gold and undeclared excise goods. Cooperation and exchange of intelligence with the customs agencies from the region and with international and regional organisations continued.

CLUSTER 4: THE GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

The cluster on Green Agenda and sustainable connectivity covers: transport policy (chapter 14); energy (chapter 15); trans-European networks (chapter 21); and environment and climate change (chapter 27).

North Macedonia has achieved a good level of preparation in trans-European networks and some level of preparation on environment and climate change. The country is moderately prepared on transport and energy policy with some progress made in the area of energy, particularly on regional gas interconnectors and on renewables. Substantial efforts are needed in areas where limited progress was achieved, such as transport, trans-European networks and environment. The country needs to accelerate the implementation of the Economic and Investment Plan and of the Green Agenda for the Western Balkans in the upcoming period.

Chapter 14: Transport policy

The EU has common rules for technical and safety standards, security, social standards, State aid and market liberalisation in road transport, railways, inland waterways, combined transport, aviation and maritime transport.

The country is **moderately prepared** in the area of transport. **Limited progress** was made in the reporting period in all transport modes though there was a partial alignment with the aviation safety legislation. The sector inspection bodies still lack administrative and operational capacity. Political commitment is still missing to deliver on necessary rail sectoral reforms.

As the previous year's recommendations were not implemented, they remain valid. In the coming year, North Macedonia should, in particular:

- ensure qualified operational and administrative capacity of the inspection bodies and develop their enforcement capacity to reduce deaths on the road and on rail infrastructure;
- implement the connectivity reform measures on rail reform and open the rail transport market, amend national law to remove breaches of provisions of the Transport Community Treaty on opening up the rail market, and finalise pending border-crossing agreements/protocols;
- adopt and implement legislation on intelligent transport systems (ITS).

On the **general transport** *acquis*, the key strategic documents for transport and its sub-sectors are in place. Limited progress has been made in developing the action plan to accompany the 2018-2030 national transport strategy. Preparation of the national ITS strategy has progressed but it has not yet approved and national laws are still not aligned with the ITS Directive.

The operational and administrative capacity for all modes of transport is still lacking and no effort has been made to strengthen them. The result of this situation is the ineffective implementation of the Green Agenda for the Western Balkans. The law on air and railway accident investigation has still not been fully implemented. The independent rail accident investigation body has still not been created. Larger cities should develop sustainable urban mobility plans, which respect environmental and social standards, following best EU practices. Further efforts are needed to align with the *acquis* on public passenger transport services by rail and by road.

Although North Macedonia is actively engaged in the work of the Transport Community, there was limited progress on the implementation of the Transport Community Treaty action plan and elements of the smart and sustainable mobility strategy for the Western Balkans.

The legal framework for **road transport** is broadly aligned with the EU *acquis* and no progress was made during the reporting period. The Law on dangerous goods is aligned with the EU *acquis*, but there is still no legal entity appointed to conduct a conformity assessment on the existing equipment for the transport of dangerous goods. The executive body for road traffic safety has still not been set up as the law has not been adopted. Further efforts are needed to align with the social and safety *acquis*. The national accident and investigation body still needs to be set up. Similarly, no action plans on road safety inspection and audit have been adopted and implemented. The scope and the quality of the road safety statistics have been improved though additional steps are required to align fully with the EU *acquis*. Enforcement and the technical capacity of the State Transport Inspectorate remain weak. Penalties for infringing the European agreement on the work of crews of vehicles engaged in international road transport (AETR) still lack harmonisation. The five-year road maintenance plan has not been published since 2017; road maintenance is still carried out inefficiently and needs to be improved. More efforts are needed to align with the EU *acquis* on road infrastructure safety management and minimum safety requirements for tunnels in the trans-European road network. Legislation on clean energy and energy efficient road transport vehicles is not aligned with the EU *acquis*.

On **rail transport**, the main requirements of the EU *acquis* are met in terms of the unbundling of the infrastructure manager and the national operator. Further alignment with large parts of the single European railway area *acquis* continue to be delayed. The rail market is yet to be opened at domestic level. Amended railway safety and interoperability legislation was adopted in 2016, but lacks proper enforcement. Preparations for strengthening the operational capacity of the Railway Safety Directorate have started. There has been no

progress in setting up an accident and investigation body. The agreement on cross-border railway cooperation with Greece is yet to be finalised.

In the area of **maritime transport**, North Macedonia, as a landlocked country, participates in all basic transport conventions of the International Maritime Organisation, including the European Maritime Safety Agency (EMSA).

On **inland waterway transport**, North Macedonia is aligned with most of the EU *acquis*, but not with the Regulation on the recognition of certification and transportation of goods and passengers. The country does not participate in the EU strategy for the development of the Danube Region but continues to contribute actively in the International Commission of the Sava River Basin. More efforts are needed in aligning the legislation with common rules applicable to the passengers by inland waterway.

In the area of **aviation**, the country has maintained a good level of alignment with the EU *acquis* and has partially aligned with the aviation safety legislation. Further efforts are still needed to facilitate European Aviation Safety Agency standardisation inspections.

On **combined transport**, progress was made and technical experts have started work on setting up a multimodal node near Skopje. The specific legislation is partially aligned with EU rules. Progress needs to be made on adopting relevant legislation and setting up systems for electronic freight transport information exchange.

North Macedonia should increase efforts to align with and implement **EU passenger rights** legislation.

Chapter 15: Energy

EU energy policy covers energy supply, infrastructure, the internal energy market, consumers, renewable energy, energy efficiency, nuclear energy and nuclear safety, radiation protection and nuclear safeguards.

North Macedonia is **moderately prepared** in the area of energy. **Some progress** was made in regional gas interconnectors and on renewable energy, with investments in solar power plants. As the energy crisis has demonstrated, North Macedonia needs to accelerate its transition towards green energy and reduce its dependence on gas and coal.

As last year's recommendations were not fully implemented, in the coming year the country should, in particular:

- ensure coherent energy policy, improve governance and institutional capacity in the energy sector and improve strategic investment programming and accelerate the transition towards green energy in accordance with the Green Agenda for the Western Balkans and the national energy strategy, as well as update and implement the national energy and climate plan-NECP), in line with the 2030 Energy Community climate and energy targets;
- adopt and implement the energy efficiency implementing legislation;
- complete the unbundling (certification) of the gas transmission systems operators and foster market development and regional market integration;

The government adopted a national energy action plan in December 2022, which includes measures to mitigate the socio-economic impact of the energy crisis in North Macedonia, as well as a review of the energy sector's strategic, institutional and legislative framework. The action plan formed the basis for a policy dialogue on the EU Energy Support Package (of EUR 80 million).

The need for a coherent and coordinated energy policy became even more evident with the energy crises. The government should increase its administrative capacity for dealing with energy policy, strategic planning and investments in the energy sector.

Concerning **security of supply**, the energy crises have demonstrated the country's dependence on coal and the need to accelerate the transition towards green energy. Both Bitola and Oslomej thermal power plants were operating on coal from limited domestic resources and imports. The lack of availability of coal for the Bitola thermal power plant still needs to be urgently addressed, by investment in new renewable resources. The Compulsory Oil Reserves Agency adopted a 2023-2025 action plan for the formation of mandatory reserves to release stocks in the case of an emergency. The oil stocks correspond to at least 53 days of average daily consumption.

The construction of a new 400kV electricity transmission interconnector line with Albania is under way. An electricity day ahead market has been established and the market coupling with Bulgaria is progressing while the establishment of the intra-day market is still pending. On gas interconnections, the government has finalised the initial design phase for the construction of an interconnection line with Greece and has drawn up feasibility studies for a line to Serbia and to Kosovo.

Concerning the **internal energy market**, the national framework legislation is in line with the EU's third energy package in gas and electricity, and the country's electricity and gas markets are open for competition. However, the transposition and implementation of the newly adopted electricity integration package is pending.

The electricity transmission and distribution network operators have been unbundled, in accordance with the EU *acquis*. The gas transmission system operator has not yet been certified as required by the third energy package. Amendments to the Energy Law were adopted, transposing the Regulation on wholesale energy market integrity and transparency (REMIT) and the TEN-E regulations.

Third-party access to the natural gas infrastructure is in line with the EU *acquis*, but transparency needs to be improved. Works to build the gas transmission pipeline between Skopje, Tetovo, and Gostivar are progressing. The tendering process for awarding a public-private partnership for gas distribution system is ongoing.

Wholesale gas prices are fully deregulated; however the market remains illiquid, without a virtual trading point. All contracts are concluded bilaterally, on a monthly and yearly basis.

The Energy Regulatory Commission is functional and has continued to demonstrate regulatory independence. The Commission for the Protection of Competition carried out an investigation concerning the sales of electricity to the universal supply company. The State Audit Office has conducted several audits in relation to the energy crises and the operators. The electricity transmission system operator must address the findings of the 2016 and 2023 audit reports and improve their operations.

In the area of **hydrocarbons**, the Law on mineral resources remains to be aligned with the Hydrocarbon-Licensing Directive.

On **renewable energy**, the Renewable Energy Directive (REDI) remains to be transposed. The amended Energy Law makes the adoption of the national energy climate plan (NECP) a legal obligation for the country, replacing the renewable energy sources (RES) action plan. The NECP sets the target for the share of renewable energy sources in gross final consumption of energy in 2030 at 38%, and the indicative target for 2023 at 26%. The share of RES in the gross final energy consumption for 2022 was 18.8%. Investments in

hydropower should be compliant with the relevant environmental *acquis*. Optimising balancing services and investments in energy transmission and energy storage should be promoted to improve the integration of renewable energy sources into the grid. An upgrade of the grid system is necessary.

The capacity cap per type of renewable energy technology has to be removed to enable the achievement of the 2025 renewable energy targets. An electronic system for issuing, transferring and cancelling guarantees of origin is not in place. Electricity prosumers are supported by the rulebook on renewables, and implementation should be enhanced. The procedures for the installation of photovoltaics on buildings is complicated and an obstacle to new investments.

The Government adopted a Just Transition roadmap and a coordination mechanism for governing and monitoring, in June 2023. The transition towards clean energy should include measures mitigating the negative social and economic impacts of the planned phase-out of coal-fired power plants in the concerned regions.

The Law on **energy efficiency** is aligned with the Directive on energy efficiency and the Directive on the energy performance of buildings. Following the latest amendments to the Energy Efficiency Directive, the update of the Law on energy efficiency is under way. The implementation of the current legislation has not improved. Energy performance certification requirements for buildings are not applied according to the legislation. The adoption of implementing legislation remains a challenge due to the limited human and technical capacity at the Energy Department of the Ministry of Economy and the Energy Efficiency Agency.

The structure of the energy efficiency fund is being set up. Municipalities are encouraged to take steps to fully respect their obligations to develop and implement energy efficiency programmes.

For **nuclear energy, nuclear safety and radiation protection**, North Macedonia has ratified the relevant international conventions and is a full member of the European Community Urgent Radiological Information Exchange system (ECURIE). There is still no long-term and safe radioactive waste storage facility in place. The capacity of the Radiation Safety Directorate needs to be strengthened.

On **nuclear safeguards**, upon accession, the existing systems of accountancy and control of nuclear materials in North Macedonia would need to be adapted to accommodate for the safeguard provisions (chapter 7) of the Euratom Treaty.

Chapter 21: Trans-European networks

The EU promotes trans-European networks (TENs) in the areas of transport, telecommunication and energy to strengthen the internal market and contribute to growth and employment.

North Macedonia has a **good level of preparation** in the area of trans-European networks. **Limited progress** was achieved during the reporting period. However, the required legislative process was not completed, in particular the action plans to implement the Transport Community Treaty.

As last year's recommendations were not fully implemented, they remain valid. In the coming year, the country should in particular:

→ further strengthen the operational and technical capacity of all management and stakeholder institutions dealing with the development of both Trans-European Transport

(TEN-T) and Trans-European Energy (TEN-E) networks, and harmonise the legal framework with the Trans-European Network Regulation;

- mobilise sufficient resources to implement the Transport Community Treaty and achieve the goals and deadlines set out in the action plans;
- implement the final provisions of the Railway Border-Crossing Protocol with Kosovo and urgently accelerate progress on completing rail Corridor VIII phase III (Kriva Palanka border with Bulgaria).

On **transport networks**, further efforts are needed to achieve the goals and deadlines.

Investments in the sector should be based on feasibility studies conducted in line with EU best practices, and should apply transparent procurement procedures. The staff retention policy by bodies involved in large investment projects remains limited, which considerably hampers the completion of strategic projects.

In May 2023, North Macedonia signed a high-level understanding with the European Commission updating the TEN-T maps. The amended maps for the new European Western Balkans Corridor will be part of the revised TEN-T Regulation, which is currently being discussed by co-legislators. Road Corridor X is functional, but works along Corridor X-d have accumulated additional delays. Contracts have been signed for the construction of four highway sections along Corridors VIII and X-d. The construction of the rail Corridor VIII towards Bulgaria started in November 2022 with two new contractors for phase I and II respectively, but the preparation of the tender documentation for phase III (Kriva Palanka border with Bulgaria) has accumulated significant delays. Additional and urgent efforts are needed to accelerate progress on rail Corridor VIII and other priority sections of the core network for both rail and road. Amendments to accelerate construction of four highway sections along Corridors VIII and X-d were adopted in May 2023 by using the ‘EU flag’ fast-track procedure, although this was not an appropriate use of the procedure. North Macedonia is expected to respect the obligations stemming from the Stabilisation and Association Agreement as well as to keep aligning with the EU *acquis* during the accession negotiation process.

To date, no agreement has been reached on establishing the Kremenica-Neos Kafkasos railway border-crossing with Greece. Finalising the mutual border agreement and ensuring the railway line becomes fully operational are key. Funding to build adequate infrastructure close to the Serbian border at the Tabanovce railway border station has still not been completely secured. No progress was made on adopting five-year road and rail maintenance plans.

On **energy networks**, the construction of a new 400kV electricity transmission interconnector line Bitola-Elbasan (Albania), is still under way. Technical assistance to strengthen the transmission network in the south-eastern region of North Macedonia is ongoing. Works are also ongoing to build the gas transmission pipeline between Negotino and Bitola, and Skopje, Tetovo and Gostivar. The development of a natural gas interconnector between North Macedonia and Greece, a flagship project in the Economic and Investment Plan (EIP) for the Western Balkans, is a priority to enable security of gas supply in North Macedonia and is progressing well.

Chapter 27: Environment and climate change

The EU promotes strong climate action, sustainable development and protection of the environment. EU law contains provisions addressing climate change, water and air quality,

waste management, nature protection, industrial pollution, chemicals, noise and civil protection.

North Macedonia has **some level of preparation** in this area. Overall, there was **limited progress** during the reporting period. In the waste management sector, the first national plan for waste prevention was adopted. On nature protection, the management plans for Shara Mountain and Osogovski Mountains were adopted. Implementation in all sectors needs to be strengthened to keep up with developments in the EU *acquis*. North Macedonia is encouraged to take further steps towards the green transition, notably under the Green Agenda for the Western Balkans.

Last year's recommendations were partially fulfilled. In the coming year, the country should in particular:

- implement concrete measures to reduce air pollution at local and national level and to reduce point and diffuse pollution of freshwater resources;
- make operational the regional waste management system in the eastern and north-eastern regions; implement the Paris Agreement, including by adopting a Climate Law, consistent with the EU 2030 framework, and by adopting the national adaptation plan.
- strengthen significantly the administrative and inspection capacities, and implement structural reforms in all the sectors covered under this Chapter.

Environment

On **horizontal legislation**, North Macedonia needs to intensify the work to achieve full alignment with the cornerstone Directives on Environmental Impact Assessment and Strategic Environmental Assessment. This negatively impacts all other environmental sectors, infrastructure investments and overall public participation and perception. The Law on the environment was amended in July 2022 to introduce a ban on the construction/reconstruction of new installations for heavy and polluting industries less than five kilometres from a settlement or a nature protected area. The country has not yet aligned with the Directive on environmental liability and the Directive on environmental crime. The lack of specialised staff and weak institutional and administrative capacity are undermining quality control and the performance of environmental impact assessments.

Whilst air pollution remains a major concern in large cities, limited progress was made on **air quality** monitoring and no legislative developments on air quality were made during the reporting period. The automatic monitoring network continued to be maintained and was upgraded with a new station operating in Ohrid. The cadastres for air emission for Kicevo, Kocani, Stip, Kavadarci, Gevgelija and Prilep were finalised in 2022 While the ones for Veles, Tetovo, Gostivar and Struga are still under development. Air quality plans have been approved for Gostivar Municipality in February 2023 and by the Municipality of Kumanovo in December 2022.

In the area of **waste management**, the first (2022-2028) national plan for waste prevention was adopted in September 2022, setting out regulatory, policy and practical measures to be taken by various stakeholders across the public and private sectors.

The process for closing non-standard landfills in the eastern regions is ongoing. The use of plastic bags has decreased by 80% since their ban by end-2021 was introduced. A system set up by collective operators for the extended producer responsibility (EPR) scheme comprising public utilities and licenced private operators for the separate collection of plastic, paper and glass from households and businesses is operational, but capacity is limited. Activities aimed

at further improving the EPR system have begun. Nevertheless, implementation remains a significant challenge in the waste management sector.

North Macedonia needs to continue efforts to align national legislation with the EU *acquis* on **water quality management**. In February 2023, the 2023 water management programme was adopted for the design and construction of new - and maintenance and improvement of existing - public facilities for water supply and regulation of watercourses. The legal and policy framework for integrated water management aligning with the water *acquis* is largely in place. However, the slow pace of implementation and enforcement is an overwhelming, systemic weakness. Some progress was made on increasing the very low level of funding. The contract for the major construction project of the Skopje wastewater treatment plant (WWTP) was signed in April 2023 and that of the major construction project of the Kichevo sewerage network was signed in January 2023. To tackle water pollution the Urban Wastewater Treatment Directive (UWWTD)-related legislation needs to be implemented. No progress was made on completing the implementing rules and regulations, including on the designation of areas sensitive to eutrophication.

On **nature protection**, the process of designating Studenchishko Blato, Matka Canyon, Lake Ohrid and Belchisko Blato as protected areas has yet to be concluded. The management plans for Shara Mountain (and the Osogovski Mountains have been adopted and aim to strengthen the protection of these areas. The Law on nature, designed to align with the requirements of the EU Habitat and Wild Bird Directives, needs to be adopted. The national funds available for nature protection have been increased but are still far from sufficient. The lack of sustainable financing and of administrative capacity to manage protected areas remain a major challenge.

Activities to identify potential Natura 2000 sites continued throughout the country. Initial steps were taken to digitalise the system for issuing permits, promoting information exchange and cooperation to facilitate the implementation of CITES. Progress was made on cross-border cooperation for the protection of Prespa Lake during meetings of the Prespa Park Management Committee and the Water Management Working Group.

The implementation of UNESCO recommendations on the natural and cultural heritage of the Ohrid region remains insufficient. The Secretariat of the Bern Convention carried out a mission in connection with the open file “Alleged negative impacts on Ohrid Lake and Galichica National Park - candidates for Emerald areas”, due to infrastructure development.

In July 2023 the EU and North Macedonia signed the agreement on the country's participation in the LIFE programme. Joining the LIFE programme will allow North Macedonia to participate in the various environmental protection activities, including support for nature and biodiversity and climate action.

On **industrial pollution and risk management**, the law on industrial emissions is yet to be adopted and there have been no developments on integrated permitting. North Macedonia should align with the Seveso III Directive, the EU Ecolabel Regulation and the EU Eco-Management and Audit System.

No significant developments have been made in the area of **chemicals** and of **noise pollution** in the reporting period.

On **civil protection**, the European emergency call number E 112 has been available to people across the country since February 2022. Furthermore, the fleet of firefighting planes was serviced and new firefighting equipment was acquired. North Macedonia signed the revision of the administrative arrangement with the Union Civil Protection Mechanism.

Despite its longstanding participation in the system, no progress has been made in linking the national emergency communication system to the European Commission's Common, Emergency, Communication and Information System (CECIS) or in better defining the role of the national coordinator for the National Platform on Disaster Risk Reduction. The new national protection and rescue strategy for 2022-2025 is yet to be adopted. The country needs to take concrete steps to introduce a mandatory training programme for all territorial, fire and rescue/civil protection staff.

Climate change

The national energy and climate plan (2021-2030) was adopted in June 2022 but the Law on climate action is yet to be adopted. The fourth National Communication to the UN Framework Convention on Climate Change was adopted in February 2023.

CLUSTER 5: RESOURCES, AGRICULTURE AND COHESION

Cluster 5 on resources, agriculture and cohesion covers: agriculture and rural development (chapter 11); food safety, veterinary and phytosanitary policy (chapter 12); fisheries and aquaculture (chapter 13); regional policy and coordination of structural instruments (chapter 22); financial and budgetary provisions (chapter 33).

North Macedonia is moderately prepared in most areas of Cluster 5. It has a good level of preparation in the area of food safety, veterinary and phytosanitary policy and is at an early stage of preparation in financial and budgetary provisions. Over the reporting period, some progress was made in agriculture and rural development, fisheries and aquaculture and in food safety, veterinary and phytosanitary policy. However, further efforts are needed, in particular in areas where limited or no progress was made, such as regional policy and the coordination of structural instruments and financial and budgetary provisions.

Chapter 11: Agriculture and rural development

The EU's common agricultural policy supports farmers and ensures Europe's food security. It helps tackle climate change and the sustainable management of national resources; maintains rural areas and landscapes across the EU; and keeps the rural economy alive by promoting jobs in farming, agri-food industries and associated sectors. This requires strong management and control systems. There are also common EU rules for marketing standards, quality policy and organic farming.

North Macedonia remains **moderately prepared** in the area of agriculture and rural development. **Some progress** was made during the reporting period, notably with the preparation of the 2021-2027 action plan for the national strategy for agriculture and rural development, including budgeting for support measures under the 2023-2027 national programme for the development of agriculture.

Some recommendations from last year's report were not fully implemented and remain valid. In the coming year, North Macedonia should in particular:

- ensure transfer of the farm register and the land parcel identification system (LPIS) to the paying agency;
- adopt a legislative framework to further align with the EU *acquis* on areas such as support payments, common market organisation and farm advisory services;

→ improve the administrative capacity in the instrument for pre-accession assistance for rural development (IPARD) operating structures to ensure robust implementation of the IPARD III programme.

On **horizontal issues**, an action plan for the 2021-2027 national strategy for agriculture and rural development (NSARD) was prepared. Its alignment with the action plan on the Green Agenda for the Western Balkans needs to be ensured. The financing of the NSARD has been budgeted under the 2023-2027 national programme for the development agriculture and rural development and nearly 80% of the funds are allocated to direct support measures. North Macedonia continued a policy of complex coupled schemes of direct support to farmers. A new e-application system for direct support has simplified the application process and control system. The new Law for agriculture and rural development has been prepared. North Macedonia needs to align its national support measures to the EU *acquis*. Solutions for long-term staffing and for the premises of the paying agency, remain to be found.

All elements of the integrated administration and control system (IACS) are in place and comply with the EU *acquis*. However, data transfers and the inter-operability of the various elements need to be improved. The area-based payments continue to be determined based on the land parcel identification system (LPIS). New orthophoto maps are to be acquired and updates to the LPIS completed in 2023. The legislative framework for transferring the farmers' register and LPIS to the Paying Agency is still pending. On the farm accountancy data network (FADN), a new plan for selecting representative agricultural holdings has been prepared ensuring the expansion of the sample for data collection. Additional human and financial resources are essential to ensure the sustainability of the FADN system. Efforts are underway to develop the farm advisory services in line with the EU *acquis*.

Little progress was made on further aligning with the **common market organisation (CMO)**. Legislation in this area remains to be adopted. Development of a school schemes for fruit and vegetables continued in 2023.

On **rural development**, good progress was made in absorbing EU funds under IPARD II. By the end of 2022, payments to recipients reached around EUR 42 million. It is critical that the IPARD authorities improve the disbursement of funds in 2023 to avoid the decommitment of the remaining IPARD II funds and to support the thorough implementation of the IPARD III funds for which entrustment was granted by the European Commission Overall, the capacity and staff retention of the IPARD authorities needs to be strengthened. No significant progress has been made in aligning national rural development policy with the EU *acquis*.

On **quality policy**, progress in implementing quality schemes has been limited but 2023 saw some developments in the registration process for a number of products. The legislative framework, including on spirit drinks remains to be fully aligned with the EU *acquis*. Administrative capacity remains insufficient, despite the sector's potential.

As regards **organic farming**, the legislation, competent authority, control bodies, and accreditation and certification system are in place. A new law on organics further aligning with EU *acquis* remains to be adopted and actions to enhance the monitoring and control of organic certification and traceability of organic products can be intensified. Efforts should be made to further develop the sector, making use of the support available under the IPARD III programme.

Chapter 12: Food safety, veterinary and phytosanitary policy

EU hygiene rules for foodstuff production ensure a high level of food safety. Animal health and welfare and the safety of food of animal origin are safeguarded together with quality of seeds, plant protection material, protection against harmful organisms and animal nutrition.

North Macedonia has a **good level of preparation** in the areas of food safety, and veterinary and phytosanitary policy. **Some progress** was made over the reporting period, particularly in fighting animal diseases, plant health control and implementing pest eradication measures based on phytosanitary monitoring programmes results.

The Commission's recommendations from last year were not met and therefore remain valid.

In the coming year, North Macedonia should in particular:

- adopt the draft laws on food safety, official controls and the new Law on animal health;
- strengthen capacity for data analysis in the Food Veterinary Agency;
- implement measures on the sustainable use of pesticides.

On **general food safety**, amendments to the Law on food safety and a new Law on official controls have been prepared but are yet to be adopted. The national rapid alert system for food and feed and the Food and Veterinary Agency's internal audit and training systems continued to operate efficiently. The Agency continued to perform its work in line with quality management standards and 566 consumer complaints were received and resolved in 2022.

On **veterinary policy**, a new Law on animal health, aimed at aligning with the new EU animal health legislation, is yet to be adopted. The Food and Veterinary Agency provides regular updates on safeguard measures for imports and import requirements for live animals and animal products.

Progress was made on control measures for animal diseases. The Agency has an active and passive surveillance programme in place for various diseases, but the collection, verification and analysis of data remains insufficient. The Agency continued implementing the monitoring programme on antimicrobial resistance. The 2023 national monitoring programme on control of residues of veterinary medicinal products and contaminants in live animals and foodstuffs of animal origin is in line with the EU *acquis* on bovine, ovine/caprine, porcine, poultry, aquaculture, milk, eggs, wild game and honey. The new Law on zoo-technics was adopted in April 2023. The capacity to align with and implement the EU *acquis* on zoo-technical issues remains to be improved.

Some progress was made in the **placing of food, feed and animal by-products on the market** with the adoption of implementing legislation, aiming at aligning with the EU *acquis*. The revised law on animal by-products has been adopted.

Some progress was also made on **food safety rules**. The legislation was amended in December 2022 to align with the EU *acquis* on specific requirements for microbiological criteria for food. The Agency continued implementing a programme to monitor food safety, but the data is to be further analysed.

Regarding **specific rules for feed**, the legislation was aligned with EU requirements for processed proteins, and with procedures for sampling and laboratory testing. The Agency continued to implement a programme to monitor feed safety and the Agency collected 90% of the 500 planned feed samples.

Some progress was made on **phytosanitary policy**. The Phytosanitary Directorate regularly updated the list of harmful organisms in line with the new EU *acquis* and the country's pest status. The phytosanitary monitoring programme for plant health was implemented, and the phytosanitary information system further developed. The Law on phyto-pharmacy is aligned with the EU *acquis*. However, measures on the sustainable use of pesticides have not been implemented. Substantial work is still necessary to collect reliable data on national pesticides use and its impact on human health. The phytosanitary inspection body continued to implement measures to eradicate pests identified through monitoring and control programmes.

The Law on **genetically modified organisms** was aligned with the EU *acquis*.

Chapter 13: Fisheries and aquaculture

The common fisheries policy lays down rules on fisheries management, protects living resources of the sea and limits the environmental impact of fisheries. This includes setting catch quotas, managing fleet capacity, rules on control and inspection, rules on markets and aquaculture and support for fisheries and coastal communities. Further, it promotes a sustainable aquaculture.

North Macedonia is **moderately prepared** in the area of fisheries and aquaculture. In the reporting period, **some progress** was made in aligning marketing standards, structural measures and State aid with the EU *acquis*.

Some recommendations from last year's report were not fully implemented. In the coming year, North Macedonia should in particular:

- adopt the Law on fisheries and aquaculture and the implementing legislation on marketing standards, consumer information, traceability and producer's organisations as well as a national strategy on aquaculture;
- improve the data collection system and reporting, such as establishing a data framework for collection of fisheries and aquaculture data, integration of all data sources and analysis;
- establish a multi-annual programming of structural measures.

As North Macedonia only has inland fishing in lakes and aquaculture, a large part of the EU *acquis* on fisheries is not applicable. Progress was made in aligning the national legal framework with the preparation of a new Law on fisheries and aquaculture. A new law on fisheries and aquaculture including relevant EU provisions on marketing standards, structural support and state aid, is yet to be adopted. The adoption of a multi-annual national strategy dedicated to aquaculture is pending.

The institutional framework for fisheries policy, inspections and control has been set up, but administrative capacity for **resource and fleet management**, and **inspections and control** remains insufficient although the *acquis* on catch quotas, inspection and control is only partially applicable due to lack of a coastline in the country. The Fisheries and Aquaculture Unit in the Ministry for Agriculture is understaffed. Some progress was made on capacity building, with intensive training courses organised. However, human resources for fisheries management and the control of IUU fishing need to be further improved in line with EU requirements.

North Macedonia should carry out activities to raise the public's awareness about illegal, unreported and unregulated fishing and its legal consequences. Specific attention should be given to preventing the illegal fishing of protected species and European eel.

The annual budget for **structural measures** is insufficient for developing aquaculture and restoring fish stocks. The government should increase structural support and prepare a multiannual financial and policy programme to address the sector's needs. The data collection system for fisheries and aquaculture needs to be further developed in line with the EU *acquis*. Interinstitutional coordination with the environment authorities needs to improve.

Alignment of the Market policy, structural support and State aid as well as alignment with the EU Eel Regulation is still outstanding due to the pending adoption of the new Law on fisheries and aquaculture.

No cooperation meetings on the **international agreements** for fisheries management of the transboundary lakes took place in 2022. Greece and North Macedonia applied a regular synchronised fishing ban at the Dojran lake each year. Cooperation meetings with Albania for the management of Ohrid lake fish stocks were held in June 2023.

Chapter 22: Regional policy and coordination of structural instruments

*Regional policy is the EU's main tool for reducing regional disparities and investing in sustainable and inclusive socio-economic growth. It is operating through "shared management" between the Commission and EU Member States. The implementation of cohesion policy programmes requires appropriate administrative capacity on programme and project level, the establishment of systems of sound financial management and control and also the fulfilment of other EU *acquis* elements such as environmental or public procurement legislation.*

North Macedonia is **moderately prepared** in the area of regional policy and coordination of structural instruments. **No progress** was made over the reporting period.

Therefore, last year's recommendations remain valid. In the coming year, the country should:

- upgrade its institutional, administrative and technical capacity to manage EU funds by adopting an overall staff retention policy, strengthening capacities, improving the implementation of EU and audit recommendations, aligning management and control systems with the Instrument for Pre-Accession Assistance (IPA) III requirements;
- strengthen investment policy as a matter of urgency by streamlining investment pipelines underpinned by sound, transparent and inclusive methodology, clear responsibilities of the stakeholders and a viable public-private partnership framework;
- enhance the decentralisation process through a credible financing framework for municipalities and strengthen policy dialogue on regional development.

No progress was made on the **legislative framework**, but basic principles remain broadly in line with EU *acquis* on public procurement, public finance management, regional and municipal development, equal opportunities and non-discrimination, environmental protection, transport connectivity and energy transition. The strategic framework was strengthened with the adoption of new strategies on public procurement and gender equality, and the national energy action plan. No significant progress was made on the decentralisation of services and reorganisation of competencies between the central and the subnational level.

The **institutional framework** for the management of EU funds under IPA III is being further aligned with IPA III requirements in view of its future role in EU cohesion policy. However, the performance of the existing and new institutional set-up for multiannual operational programmes is jeopardised by weak administrative capacity.

Weaknesses persist in the **administrative capacity** of key institutions managing EU funds. The lack of a national staff retention policy, shortcomings in human resources management and exceptionally high staff turnover across the IPA structures remain key concerns. Overall, the structures managing EU funds operated last year with 79% of the optimal staff levels and with key managerial positions vacant. Progress with the IPA training centre was modest, taking the form of new furniture, IT and media equipment. Training plans were developed and effective training of new IPA practitioners began. However, the training centre is understaffed and a roster of trainers has not been established. North Macedonia needs to implement the government's August 2022 decision on setting up a roster of trainers and developing a training methodology effectively.

The **financial management and control** systems are functioning, but are under pressure due to staffing challenges. This continued to negatively affect actions under indirect management by the beneficiary country. At the end of 2022, EU funds for a total of EUR 24.8 million were decommitted under the IPA II multiannual programme for environment and transport (2014-2020), while the risk of further substantial decommitment remains high. To address the critical shortcomings and to be able to operate in an *ex-post* control environment, North Macedonia has stepped up the reorganisation of the financial and control systems for the new operational programmes under IPA III. Further efforts are needed to address the EU and audit recommendations on staff management and retention policy, procurement and contract planning, internal audit function and quality assurance.

The Financial Framework Partnership Agreement on the implementation of IPA III entered into force. The **programming** of IPA 2022 and IPA 2023 was completed and advances were made in the programming of IPA 2024 and operational programmes for 2024-2027. The sector policy dialogue, which supports strategic planning and programming, weakened in the last year as reflected by the infrequent meetings of the sector working groups.

North Macedonia continues to gain experience in regional policy and territorial cooperation programming and implementation through its participation in cross-border, transnational, and interregional cooperation programmes, including the EU Strategy for the Adriatic Ionian region.

On **monitoring and evaluation**, North Macedonia actively participates in the IPA and sector monitoring committees, however only 30% of the jointly-agreed conclusions have been implemented. The lack of political steer, the weak interinstitutional coordination and the weak central reporting and monitoring function of the office of the national IPA coordinator negatively affects the timeliness and quality of IPA reports.

Internal and external **audit** functions are in place. However, internal audit needs to be strengthened to better support the functioning of the management and control systems. The delay in adopting the new Law on public internal financial control is concerning. The Audit Authority continues to perform well and follows sound audit methodology with good audit coverage. The new 2023-2025 audit strategy was adopted in November 2022. However, the operational and technical capacity of the Audit Authority is undermined by staffing challenges. The implementation of the audit findings by the auditees remains very low. Out of 96 findings from previous audits, 23 were closed in 2022, representing an implementation rate of 24%, which is a serious concern.

As regards anti-corruption, in line with the new Organic Budget Law, in December 2022, the government adopted the decree on setting up the anti-fraud coordination service (AFCOS) network, which is the backbone of the system for protecting EU's financial interests in North Macedonia. The AFCOS network is now fully operational. In addition, the institutions

managing EU funds implement a financial management and control system accredited by the Commission, which is under the scrutiny of an external audit body and Commission services.

Chapter 33: Financial and budgetary provisions

This chapter covers the rules governing the funding of the EU budget ('own resources'). These resources mainly consist of: (i) contributions based on the gross national income of each Member State; (ii) customs duties; (iii) the non-recycled plastic resource and (iv) a resource based on value-added tax. Member States must have the appropriate administrative capacity to adequately coordinate and ensure the correct calculation, collection, payment and control of own resources.

The country is at an **early stage** of preparation in this chapter. **Limited progress** was made during the reporting period. North Macedonia reports national accounts data according to the ESA 2010 (European System of Accounts) methodology, however further improvements regarding the complete and timely transmission of annual national accounts are needed. The institutional set-up for the efficient functioning of the own resources system is yet to be established.

Since the recommendations from last year's report were not fully implemented, in the coming year, the country should:

- further improve the legal basis for the own resources system in the areas of taxation (VAT), customs union, financial control and statistics;
- strengthen administrative capacity and coordination mechanisms among key stakeholders in the own resources system.

North Macedonia made limited progress on the administrative conditions for own resources laid down in the relevant Regulations, on reducing the administrative burden for taxpayers and on the VAT refund process. Measures to fight and reduce tax evasion, fraud and the informal economy, as well as to improve internal control in public sector are yet to be efficiently applied. North Macedonia continued its efforts to align its legislation with ESA 2010 standards but further efforts are needed to improve compliance with the ESA 2010 methodology. All customs declarations and excise documents are processed electronically and progress continued in the reporting period on consolidation, application and upgrade of IT systems (*for further information, see chapter 16 - taxation, chapter 18 - statistics, chapter 29 - customs union and chapter 32 - financial control*).

On **traditional own resources**, progress was made on consolidation, application and upgrading IT systems. The Customs Administration is fully paperless, processing customs declarations and excise documents electronically. The digitalisation of customs procedures continued with the introduction of a 'green' customs declaration, with import and export procedures being completed in 1 hour.

Concerning **VAT**, the 2021-2025 tax system reform strategy is still ongoing. In April 2023, the Public Revenue Office published the strategic plan for 2023-2025. On indirect taxation, the VAT exemptions and preferential rates for essential products were removed at the end of 2022. A preferential VAT rate was introduced for some energy products to alleviate the effects of the significant global increase in energy prices. The preferential VAT rate for electricity for households ceased to be applied on 30 June 2023. Delays remain in the VAT refund process. (*See chapter 16 - taxation*).

With regard to the **administrative infrastructure**, further efforts are needed to ensure the timely and efficient calculation, collection, payment and control of own resources as well as

to improve reporting and coordination mechanisms among all bodies involved. This is needed upon accession to the EU.

CLUSTER 6: EXTERNAL RELATIONS

Cluster 6 covers external relations (chapter 30) and foreign, security and defence policy (chapter 31).

North Macedonia is moderately prepared in the area of external relations and has reached a good level of preparation on the common foreign and security policy. The country made some progress during the reporting period on common commercial policy. It has made good progress by maintaining full alignment with EU common foreign and security policy. By doing so, North Macedonia has shown itself to be a reliable partner, including at international level.

Chapter 30: External relations

The EU has a common commercial policy towards third countries, based on multilateral and bilateral agreements, and autonomous measures. There are also EU rules in the field of humanitarian aid and development policy.

North Macedonia is **moderately prepared** in the area of external relations and made **some progress** in the reporting period. The country continued to cooperate closely with the EU, including within the World Trade Organization (WTO), and to implement CEFTA protocols. Trade restrictions on certain products were removed or expired by the end of 2022. Its institutional capacity to fully participate in EU commercial, development and humanitarian policies is still insufficient. Last year's recommendations were partially implemented. In the coming year, the country should in particular:

- further implement CEFTA Additional Protocol 6 on trade in services, and conclude and adopt Additional Protocol 7 on dispute settlement;
- set up a legal framework covering international cooperation and development policy and humanitarian aid towards non-EU countries in line with EU policies and principles.

On **common commercial policy**, North Macedonia continued to coordinate its positions and align its policies with those of the EU, including within the WTO, and is supporting the WTO reform. The country completed the certification process for the Services Domestic Regulation in the WTO framework. The provisions of the Trade Facilitation Agreement are fully applied and the National Committee on Trade Facilitation met twice in 2022. On 7 June 2023 the WTO Government Procurement Agreement (GPA) members decided to accept North Macedonia to the GPA.

The administrative capacity of the Ministry of Economy, the Ministry in charge of trade policy, should be further strengthened. Quantitative restrictions on the export of certain products, introduced in March 2022, were either removed or expired by the end of 2022.

North Macedonia continued to participate actively in CEFTA and has committed to implement the 2021-2024 Common Regional Market (CRM). Three agreements related to CRM implementation - freedom of movement with identity cards, recognition of professional qualifications and recognition of academic qualifications - were ratified by the Parliament in April 2023. The implementation of Additional Protocol 6 on services is under way.

The system for export control of **dual-use goods** and technologies is operational. In June 2023, the government adopted an updated list of dual-use products in order to align with the

EU Regulation on control of exports, transfer, brokering and transit of dual-use goods and technologies.

North Macedonia has 38 **bilateral investment treaties with third countries** (BITs) in force, of which 18 are with EU Member States. The country is updating the existing model agreement for BITs. The amended free trade agreement between North Macedonia and Ukraine was ratified in April 2023, further liberalising trade in food and agricultural products.

No progress was made on **development policy** and **humanitarian aid**. The country is encouraged to set up a policy framework on development, international cooperation and humanitarian aid, in line with EU policies and standards.

Chapter 31: Foreign, security and defence policy

Member States must be able to conduct political dialogues in the framework of foreign, security and defence policy, align with EU statements, take part in EU action, and apply agreed sanctions and restrictive measures.

North Macedonia has **a good level of preparation** in the area of common foreign, security and defence policy. **Good progress** was made during the reporting period, as the country maintained full alignment with EU common foreign and security policy, including with the EU restrictive measures following Russia's war of aggression against Ukraine. North Macedonia continued to participate in EU crisis management missions and operations under the common security and defence policy.

In the coming year, the country should in particular:

- maintain full alignment with EU common foreign and security policy.
- make further efforts to close space for foreign interference and information manipulation, including disinformation, and take actions towards building societal resilience against it and other forms of hybrid threats.

Political dialogue on foreign and security policy continued between North Macedonia and the EU, including through regular dialogues on foreign and security policy at all levels. In April 2023, North Macedonia participated in the ninth EU-Western Balkans meeting of Political Directors. In March 2023, North Macedonia participated at ministerial level at the first Schuman Security and Defence Forum and in May 2023 in the working lunch with members of the Foreign Affairs Council. The institutional framework enabling the country's participation in the common foreign and security policy and the common security and defence policy is in place. The country subscribes to the global strategy for EU's foreign and security policy and the Strategic Compass for Security and Defence.

On **common foreign and security policy (CFSP)**, the country's alignment rate with relevant High Representative statements on behalf of the EU and relevant Council Decisions has remained at 100%. This included all EU restrictive measures targeting following Russia's war of aggression against Ukraine. This is a strong signal of the country's strategic commitment to its EU path. North Macedonia also aligned with all EU statements submitted at international organisations, including co-sponsoring the resolution adopted at the UN General Assembly Emergency Special Session on Ukraine on 23 February 2023. The country continues to implement the EU *restrictive measures*, with the Law on restrictive measures providing the legal framework for introducing and monitoring the restrictive measures, including economic ones. The authorities should continue to strengthen their capacity to implement and enforce the sanctions in place. As there is no direct legal effect of aligning

with EU restrictive measures, a new legal act must be adopted by government decision for every new measure or amendment, creating a time gap between alignment and implementation.

Reflecting the strained relations with Russia, the visa agreement between the two countries was terminated taking effect in January 2023 and the license to work of the Honorary Consul of Russia in Bitola was withdrawn.

North Macedonia maintains a bilateral immunity agreement with the United States, granting US citizens exemptions from the jurisdiction of the **International Criminal Court**. In doing so, the country does not comply with the EU common positions on the integrity of the Rome Statute or with the related EU guiding principles on bilateral immunity agreements. Alignment with the EU position is needed.

On conflict prevention, North Macedonia took over as OSCE Chair in January 2023 for the duration of one year. In his capacity as OSCE Chairperson-in-Office, the Minister of Foreign Affairs of North Macedonia visited Georgia, Azerbaijan and Armenia in April 2023 and Serbia and Kosovo in May 2023. In March 2023, North Macedonia provided a venue for a High-level Dialogue meeting in Ohrid between the President of Serbia and the Prime Minister of Kosovo, convened by HRVP Borrell. North Macedonia continued supporting EU measures and documents on conflict prevention.

On non-proliferation, North Macedonia continued to implement the 2018 regional roadmap for a sustainable solution to the illegal possession, misuse and trafficking of **small arms and light weapons** and their ammunition in the Western Balkans, and adopted a 2022-2024 national strategy and action plan for the control of small arms and light weapons in October 2022.

North Macedonia participates in some, but not all, international export control arrangements and instruments. It participates in the Proliferation Security Initiative and the Hague Code of Conduct. The country is committed to meeting the requirements to join the Wassenaar Arrangement. The Law on the prohibition of the development, production, storage and use of chemical weapons implements the obligations of the Chemicals Weapons Convention and provides for the establishment of the cross-sector Committee charged with its administrative implementation.

North Macedonia continued its active **cooperation with international organisations**. Its priorities in the UN are in line with important EU priorities, including on security, protection of human rights and the climate, countering violent extremism, implementing the resolution on women, peace and security, promoting the role and participation of women and strengthening the role of youth. The second national action plan on the implementation of UNSC 1325 is monitored by a working group which published its second report in April 2023. In January 2023, the country assumed the position of Chair of the Organisation for Security and Co-operation in Europe (OSCE) with a focus on human security. Since then, it has been actively promoting European standards and values and seeking to meet the threats arising from Russia's war of aggression against Ukraine. In 2023, North Macedonia assumed the chairmanship of the US-Adriatic Charter. In March 2023, Albania, North Macedonia, Kosovo and Montenegro launched the informal 'Western Balkan QUAD – 100% alignment with EU CFSP' a platform aimed at facilitating their full alignment with the EU's CFSP.

On security measures, the Law on classified information, based on the 2013 Council Decision, is in force. Implementing legislation is in place on the inspection and supervision of work involving classified information and on personnel security. North Macedonia continued

to implement its security of information agreement with the EU on procedures regarding exchange of classified information.

Regarding the **common security and defence policy** (CSDP), the country continued to actively participate and contribute substantially to EU crisis management operations, notably EUFOR ALTHEA in Bosnia and Herzegovina. North Macedonia participates in the military training mission in the Central African Republic (EUTM RCA) and in the EU Battle Group HELBROC BG with one platoon. North Macedonia takes part in the EPF Balkan Medical Task Force assistance measure. North Macedonia participated in the Dynamic Employment of Forces to Europe for NATO Deterrence and Enhanced Readiness 2023 Exercise and maintained a presence in NATO-led missions 'KFOR' in Kosovo, NATO Mission Iraq (NMI) and in the Enhanced Forward Presence in the Baltic (eFP). The country continues to participate in the UN Interim Force in Lebanon operation with three army personnel. During the reporting period, North Macedonia provided significant military equipment to Ukraine.

North Macedonia takes part in the European Peace Facility Balkan Medical Task Force assistance measure and is a beneficiary of an assistance measure for the army of North Macedonia.

The country has begun the procedure to join the European Centre of Excellence for Countering **Hybrid Threats**, located in Helsinki. The country was the target of a sustained campaign of hoax bomb threats to schools and critical infrastructure for 5 months starting in October 2022. The authorities classified these events as a hybrid threats. As a result of the attacks, the Council for the Coordination of the Security-Intelligence Community set up an operational team for cybersecurity and hybrid threats, which is managed by the Public Security Bureau of the Ministry of Interior. North Macedonia completed the EU's hybrid risk survey with the objective of identifying systemic vulnerabilities and streamlining the assistance provided by the EU in this field.

ANNEX I – RELATIONS BETWEEN THE EU AND NORTH MACEDONIA

North Macedonia is a candidate country since 2005. On 26 March 2020, the European Council endorsed the Council's decision to open accession negotiations with North Macedonia. The first Intergovernmental Conference took place on 19 July 2022, following the approval by the Council of the negotiating framework. The Commission launched the screening process on the same day.

North Macedonia has been participating in **the Stabilisation and Association process** since 1999. The Stabilisation and Association Agreement (SAA) with the EU, signed in 2001 and in force since 2004, sets the framework for relations with the EU, including political, economic and technical dialogues. Experts met in seven sub-committees and one special group, according to schedule. The Stabilisation and Association Council took place in March 2023 in Skopje.

Visa liberalisation for citizens of North Macedonia travelling to the Schengen area has been in force since December 2009. A readmission agreement has been in force since 2008. The Commission's fifth report under the visa suspension mechanism concluded that North Macedonia continues to meet the visa liberalisation benchmarks.

North Macedonia has maintained its full alignment with **EU common foreign and security policy** over the reporting period. Substantial participation in EU crisis management missions and operations continued.

Under the **Instrument for Pre-accession Assistance 2021 – 2027 (IPA III)**¹⁷, the first financing decision of EUR 90.45 million, adopted at the end of 2021, provides support for EU accession and post-COVID-19 recovery and enhancing the country's reforms in the areas of rule of law, fight against corruption and organised crime, protection of environment, sustainable economic development and facilitating trade with the EU. The second financing decision of EUR 72.5 million was adopted at the end of 2022, providing support for the country's reforms in the areas of border and migration management, public administration, environment, health, social protection and gender equality and to back-up the EU accession process. At the EU-WB Summit in Tirana in December 2022, the Commission put forward an **Energy Support Package** of EUR 1 billion for the Western Balkans to address immediate, short-term, and medium-term needs in the region in the context of the energy crisis and of the Russian war of aggression against Ukraine. Following this announcement, a EUR 80 million budget support programme for North Macedonia was adopted at the end of 2022 to cushion the energy price increase to SMEs and vulnerable households and to accelerate the energy diversification.

These programmes, complemented by a significant package of multi-country programmes and the EUR 97 million rural development programme (IPARD III), provide a significant contribution to the implementation of the **Economic and Investment Plan for the Western Balkans and the Green Agenda**. North Macedonia benefits from complementary support for civil society and migration management. North Macedonia participates also in cross-border cooperation programmes, transnational cooperation programmes and Union Programmes.

The new activities complement the on-going programmes under **IPA II (2014-2020)**. Progress was achieved on the implementation of IPA II, which is still providing significant support for the social and economic development of the country and contribute to key

¹⁷ OJ L 330, 20.9.2021

structural reforms. On the fundamentals, the ongoing EU assistance continued to back up the reforms in the areas of rule of law, public administration and public finance and advanced the fight against corruption. With EU assistance, the reorganisation of state institutions at central level was launched and the digital transformation of the country advanced, with 230 fully automated public e-services for citizens and businesses put in place. The EU-supported Youth Guarantee benefitted over 9 400 young people in the regions facing the highest youth unemployment and schooling was improved for Roma children and children with disabilities. Significant EU financial assistance has been allocated to North Macedonia for protecting the environment and boosting the connectivity with the EU transport systems, including State Road A2 Kumanovo-Stracin (Corridor VIII) and the new expressway section Gradsko-Drenovo (Corridor X). Media, civil society and private sector continue to benefit of important EU assistance providing opportunities to grow and develop in a favourable environment. The EU support for the private sector benefitted over 5 000 companies, created over 1 300 new jobs and secured over 15 000 jobs in risk, 70% of which in eco-friendly business.

The **Western Balkans Investment Framework** (WBIF) has supported North Macedonia in the amount of EUR 296.7 million provided as IPA III grants for flagship projects in the area of clean energy, environment and climate, and sustainable transport.

On 12 July 2023, in view of the country's large financing needs in 2023 and 2024, and following a request from the government, the Council and the European Parliament endorsed a Commission proposal for **macro-financial assistance** to North Macedonia of up to EUR 100 million. Payments can follow, provided conditions attached to this assistance have been adequately respected.

The Council of the European Union adopted an assistance measure under the **European Peace Facility** worth EUR 9 million to the benefit of the army of North Macedonia, which will help its capacity to maintain and enhance operating standards to participate in EU military CSDP missions. The proposed support will include logistics, medical equipment, communication and information systems, intelligence capacities, chemical, biological, radiological and nuclear (CBRN), engineering and training equipment.

The EU provides support via IPA and the Foreign Policy Instrument to strengthen Western Balkans partners' resilience to face hybrid threats including cyber and foreign information manipulation and interference.

STATISTICAL DATA (as of 31/08/2023)
North Macedonia

Basic data	Note	2010	2017	2018	2019	2020	2021
Population (thousand)		2 053 s	2 074 s	2 075 s	2 077 s	2 076 s	2 069 s
Total area of the country (km ²)	1)	25 436 w	25 436 w	25 436 w	25 436 w	25 436 w	25 436 w

National accounts	Note	2010	2017	2018	2019	2020	2021
Gross domestic product (GDP) (million national currency)		437 296	618 106	660 878	692 683	669 280	720 414 p
Gross domestic product (GDP) (million euro)		7 108	10 038	10 744	11 262	10 852	11 688 p
GDP (euro per capita)		3 460 e	4 840 e	5 170 e	5 420 e	5 240 e	5 672 sw
GDP per capita (in purchasing power standards (PPS))		8 597 e	10 787 e	11 389 e	11 881 e	11 349 e	:
GDP per capita (in PPS), relative to the EU average (EU-27 = 100)		34.5	36.8	37.6	38.0	37.8	:
Real GDP growth rate: change on previous year of GDP volume (%)		3.4	1.1	2.9	3.9	- 4.7	3.9 p
Employment growth (national accounts data), relative to the previous year (%)		- 4	3	0	2	- 7	:
Labour productivity growth: growth in GDP (in volume) per person employed, relative to the previous year (%)		7	- 2	3	2	2	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2015 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		46	43	45	44	47	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		11.7	9.1	9.8	9.4	9.8	8.4 p
Industry (%)		17.9	20.5	21.5	20.8	19.8	19.6 p
Construction (%)		6.5	7.5	6.2	6.5	6.0	6.3 p
Services (%)		63.9 s	62.9 s	62.6 s	63.4 s	64.3 s	65.8 ps
Final consumption expenditure, as a share of GDP (%)		93.8	81.6	80.1	79.5	82.8	83.7 p
Gross fixed capital formation, as a share of GDP (%)		23.1	22.5	20.0	21.0	21.6	22.5 p
Changes in inventories, as a share of GDP (%)		1.3	9.7	12.2	13.2	8.3	9.7 p
Exports of goods and services, relative to GDP (%)		39.8	55.1	60.4	62.4	57.8	66.2 p
Imports of goods and services, relative to GDP (%)		58.1	69.0	72.8	76.2	70.5	82.3 p
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

Business	Note	2010	2017	2018	2019	2020	2021
Industrial production volume index (2015 = 100)		84.7	103.6	109.2	113.2	102.4	103.9
Number of active enterprises (number)		56 740 w	55 359 w	58 231 w	58 765 w	58 570 w	59 122 pw
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		16.1 w	9.2	8.4 b	8.5	8.0	:
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		12.9	7.7	7.6 b	8.4 p	7.3 p	:

People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)		77.8 sw	74.3 sw	74.1 sw	73.7 sw	73.9 sw	75.0 psw
Value added by SMEs (in the non-financial business economy) (EUR million)		2 399 sw	2 698 sw	2 895 sw	3 215 s	3 154 sw	3 528 psw
Total value added (in the non-financial business economy) (EUR million)		3 641 w	4 252	4 579	4 878	4 643 w	5 089 pw

Inflation rate and house prices	Note	2010	2017	2018	2019	2020	2021
Consumer price index (CPI), change relative to the previous year (%)		1.1 d	2.1 d	2.3 d	0.7 d	1.2 d	3.4 d
**Annual change in the deflated house price index (2015 = 100)		:	:	:	:	:	:

Balance of payments	Note	2010	2017	2018	2019	2020	2021
Balance of payments: current account total (million euro)		:	- 78.3	22.4	- 334.7	- 318.0	- 366.4
Balance of payments current account: trade balance (million euro)		:	- 1 787.3	- 1 736.2	- 1 948.8	- 1 803.6	- 2 370.3
Balance of payments current account: net services (million euro)		:	374.7	370.9	335.7	423.7	495.9
Balance of payments current account: net balance for primary income (million euro)		:	- 397.5	- 450.7	- 519.6	- 411.5	- 521.3
Balance of payments current account: net balance for secondary income (million euro)		:	1 731.8	1 838.4	1 798.0	1 473.4	2 029.4
Net balance for primary and secondary income: of which government transfers (million euro)		:	112.8	109.1	43.2	110.0	138.5
**3 year backward moving average of the current account balance relative to GDP (%)		:	- 1.7	- 1.1	- 1.2	- 1.9	- 3.0
**Five year change in share of world exports of goods and services (%)		:	41.9	51.6	38.5	38.0	25.4
Net balance (inward - outward) of foreign direct investment (FDI) (million euro)		156.9 w	180.0 w	603.7 w	363.3 w	154.7 w	387.5 w
Foreign direct investment (FDI) abroad (million euro)		3.6 w	1.8 w	10.4 w	35.5 w	46.7 w	83.0 w
of which FDI of the reporting economy in the EU-27 countries (million euro)		:	7.2 w	0.4	27.2	31.3 w	59.7
Foreign direct investment (FDI) in the reporting economy (million euro)		160.5 w	181.7 w	614.1 w	398.8 w	201.4 w	470.5 w
of which FDI of the EU-27 countries in the reporting economy (million euro)		103.9 w	87.3 w	291.2 w	220.2	42.3 w	449.7
**Net international investment position, relative to GDP (%)		- 51.1 w	- 58.0 w	- 56.2 w	- 57.3 w	- 63.6 w	- 62.0 pw
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)		2.8 sw	1.9 sw	1.9 sw	:	:	:

Public finance	Note	2010	2017	2018	2019	2020	2021
General government deficit / surplus, relative to GDP (%)		- 2.4 w	- 2.7 w	- 1.8 w	- 2.0 w	- 8.1 w	:
General government gross debt relative to GDP (%)		24.1 w	39.4 w	40.4 w	40.7 w	51.2 w	:
Total government revenues, as a percentage of GDP (%)		30.2 w	29.1 w	28.6 w	29.2 w	28.5 w	:
Total government expenditure, as a percentage of GDP (%)		32.6 w	31.8 w	30.4 w	31.2 w	36.7 w	:

Financial indicators	Note	2010	2017	2018	2019	2020	2021
Gross external debt of the whole economy, relative to GDP (%)		57.8 sw	73.4 s	73.0 s	72.4 s	78.7 s	81.9 ps
Gross external debt of the whole economy, relative to total exports (%)		150.5 w	133.8 w	121.4 w	117.0 w	136.3 w	123.7 pw
Money supply: M1 (banknotes, coins, overnight deposits, million euro)		973.4 w	2 053.3 w	2 436.7 w	2 857.4 w	3 314.2 w	3 605.5 w
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)		3 318.2 w	4 564.2 w	5 103.4 w	5 609.3 w	6 215.5 w	6 864.0 w
Money supply: M3 (M2 plus marketable instruments, million euro)		3 659.6 w	5 480.3 w	6 072.6 w	6 571.1 w	7 070.9 w	7 703.7 w

Total credit by monetary financial institutions to residents (consolidated) (million euro)		3 148.7 w	4 883.0 w	5 237.6 w	5 552.3 w	5 791.4 w	6 277.8 w
**Annual change in financial sector liabilities (%)		:	1.9 w	7.6 w	12.2 w	6.1 w	12.9 w
**Private credit flow, consolidated, relative to GDP (%)		:	:	:	:	:	:
**Private debt, consolidated, relative to GDP (%)		:	:	:	:	:	:
Interest rates: day-to-day money rate, per annum (%)	2)	3.78 w	1.01 w	0.99 w	1.00 w	1.00 w	0.88 w
Lending interest rate (one year), per annum (%)	3)	5.50 w	3.75 w	3.00 w	2.75 w	2.00 w	1.75 w
Deposit interest rate (one year), per annum (%)	3)	:	0.25 w	0.15 w	0.15 w	0.15 w	0.15 w
Euro exchange rates: average of period (1 euro = ... national currency)		61.519	61.575	61.512	61.506	61.675	61.636
Trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2015 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)	3)	1 714.5 w	2 336.3 w	2 867.1 w	3 262.6 w	3 359.9 w	3 643.3 w

External trade in goods	Note	2010	2017	2018	2019	2020	2021
Value of imports: all goods, all partners (million euro)		4 137	6 825	7 676	8 463	7 599	9 647
Value of exports: all goods, all partners (million euro)		2 535	5 007	5 873	6 424	5 781	6 969
Trade balance: all goods, all partners (million euro)		- 1 602	- 1 818	- 1 804	- 2 040	- 1 818	- 2 678
Terms of trade (export price index / import price index * 100) (number)	4)	98.6 sw	95.3 sw	94.9 sw	95.3 sw	102.4 sw	:
Share of exports to EU-27 countries in value of total exports (%)		63.7 s	79.7 s	80.3 s	78.5 s	77.5 s	77.1 s
Share of imports from EU-27 countries in value of total imports (%)		50.0 s	52.8 s	52.9 s	50.8 s	46.3 s	46.2 s

Demography	Note	2010	2017	2018	2019	2020	2021
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		2.5	0.7	0.8	- 0.3	- 3.2	- 5.1
Infant mortality rate deaths of children under one year of age (per thousand live births)		7.6	9.2	5.7	5.6	5.7	4.6
Life expectancy at birth: male (years)		72.9	74.1	74.6	74.7	72.2	71.1 b
Life expectancy at birth: female (years)		77.2	77.9	78.8	78.6	76.7	75.5 b

Labour market	Note	2010	2017	2018	2019	2020	2021
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)	5)	70.3	70.3	70.4	71.5	70.5	70.5 w
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)	5)	48.1	54.8	56.1	59.2	59.1	59.5 w
Male employment rate for persons aged 20–64 (%)	5)	58.4	65.6	66.6	69.7	68.9	69.5 w
Female employment rate for persons aged 20–64 (%)	5)	37.5	43.7	45.2	48.4	49.0	49.2 w
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)	5)	34.2	41.4	42.7	45.1	45.7	44.9 w
Employment by main sectors							
Agriculture, forestry and fisheries (%)	5)	:	16.2 s	15.7 s	13.9 s	12.0 s	11.5 w
Industry (%)	5)	:	23.3 s	23.9 s	24.1 s	23.9 s	23.9 w

Construction (%)	5)	:	7.2 s	7.4 s	7.0 s	6.9 s	6.8 w
Services (%)	5)	:	53.2 s	52.9 s	55.0 s	57.1 s	57.7 w
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	6) 5)	27.0 w	23.2 w	23.1 w	23.2 w	24.4 w	25.6 w
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	5)	73.0 w	76.8 w	76.9 w	76.8 w	75.6 w	74.4 w
Unemployment rate: proportion of the labour force that is unemployed (%)	5)	32.0	22.4	20.8	17.3	16.4	15.7 w
Male unemployment rate (%)	5)	31.9	22.8	21.3	16.5	16.7	16.4 w
Female unemployment rate (%)	5)	32.3	21.8	19.9	18.4	15.9	14.6 w
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)	5)	53.7	46.7	45.4	35.6	35.7	36.4 w
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)	5)	26.6	17.4	15.5	12.4	12.4	12.5 w
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED levels 0-2) (%)	5)	37.9	25.6	23.1	23.7	21.4	22.8 w
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED levels 5-8) (%)	5)	19.3	17.1	16.6	13.3	12.9	11.3 w

Social cohesion	Note	2010	2017	2018	2019	2020	2021
Average nominal monthly wages and salaries (national currency)		20 553 w	22 928 w	24 276 w	25 213 w	27 182 w	28 718 w
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2016 = 100)		101 w	101 w	106 w	109 w	116 w	119 w
GINI coefficient		:	32	32	31	31	:
Poverty gap		:	37.3	37.7	32.0	34.9	:
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)	5)	15.5	8.5	7.1	7.1	5.7	4.6 w

Standard of living	Note	2010	2017	2018	2019	2020	2021
Number of passenger cars relative to population size (number per thousand population)		151.0	194.0	200.0	205.0	207.0	260.0
Number of mobile phone subscriptions relative to population size (number per thousand population)	7)	1 098.2 w	968.3 w	935.9 w	924.8 w	896.8 w	902.7 w
Mobile broadband penetration (per 100 inhabitants)	7)	:	61.1 w	60.9 w	65.1 w	66.1 w	67.6 w
Fixed broadband penetration (per 100 inhabitants)	7)	:	19 w	19 w	22 w	23 w	23 w

Infrastructure	Note	2010	2017	2018	2019	2020	2021
Density of railway network (lines in operation per thousand km ²)	1)	27.5 sw	26.9 s	26.9 s	26.9 s	26.9 s	26.9 s
Length of motorways (kilometres)		251	259	287	335	335	335

Innovation and research	Note	2010	2017	2018	2019	2020	2021
Public expenditure on education relative to GDP (%)		:	:	:	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)	8)	0.22 sw	0.35	0.36	0.37	0.37	:

Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	:	:
Percentage of households who have internet access at home (%)		46.1	73.6	79.3	81.6	79.4	83.7

Environment	Note	2010	2017	2018	2019	2020	2021
*Index of greenhouse gas emissions, CO ₂ equivalent (1990 = 100)	9)	99.8 w	113.0 w	79.5 w	118.7 w	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2015 constant prices)		358.4	293.0	267.1	283.8	270.1	268.2
Electricity generated from renewable sources relative to gross electricity consumption (%)		15.8	24.8	24.8	23.8	23.5	21.5
Road share of inland freight transport (based on tonne-km) (%)		89.0 w	96.4 w	97.2 w	96.7 w	96.9 w	96.8 w

Energy	Note	2010	2017	2018	2019	2020	2021
Primary production of all energy products (thousand TOE)		1 607	1 166	1 148	1 160	992	877
Primary production of crude oil (thousand TOE)		0	0	0	0	0	0
Primary production of solid fuels (thousand TOE)		1 194	849	800	860	685	552
Primary production of gas (thousand TOE)		0	0	0	0	0	0
Net imports of all energy products (thousand TOE)		1 268 s	1 553 s	1 513 s	1 664 s	1 648 s	1 822 s
Gross inland energy consumption (thousand TOE)		2 881	2 763	2 592	2 862	2 596	2 678
Gross electricity generation (GWh)		7 260	5 600	5 607	5 870	5 347	5 506

Agriculture	Note	2010	2017	2018	2019	2020	2021
Agricultural production volume index of goods and services (at producer prices) (2010 = 100)		100.0 w	99.9 w	111.8 w	105.4 w	108.8 w	:
Utilised agricultural area (thousand hectares)		1 120.6	1 266.0	1 264.1	1 264.6	1 270.5	1 268.8
Livestock numbers: live bovine animals (thousand heads, end of period)		:	255.0	256.0	219.0	222.0	178.0
Livestock numbers: live swine (thousand heads, end of period)		:	202.0	196.0	136.0	164.0	186.0
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	832.0 s	844.0 s	771.0 s	726.0 s	709.0 s
Raw milk available on farms (thousand tonnes)		:	462.2	478.5	456.1	461.1	389.2
Harvested crop production: cereals (including rice) (thousand tonnes)		547.8	452.9	605.3	569.6	585.5	568.9
Harvested crop production: sugar beet (thousand tonnes)		0.0	0.0	0.0	0.0	0.0	0.0
Harvested crop production: vegetables (thousand tonnes)		741.7	769.6	792.9	772.7	794.2	798.0 p

Source: Eurostat and/or the statistical authorities in North Macedonia

: = not available

b = break in series

d = definition differs

e = estimated value

p = provisional

s = Eurostat estimate

w= data supplied by and under the responsibility of the national statistical authority and published on an "as is" basis and without any assurance as regards their quality and adherence to EU statistical methodology

* = Europe 2020 indicator

** = Macroeconomic Imbalance Procedure (MIP) indicator

Footnotes:

- 1) Data is harmonised with the surface area in the Register of territorial units that is maintained by Agency for Real Estate Cadastre, as the official source of the surface areas of the territorial units in the country.
- 2) Data cover bilateral over-night transactions. The interest rates are calculated as weighted averages.
- 3) End of year (31 December).
- 4) Laspeyres unit value index. 2015 = 100.
- 5) The new IESS regulation has not been implemented
- 6) In the public sector are included data: Other (mixed, collective, state, undefined)
- 7) Source: Agency for electronic communications (AEC).
- 8) Total expenditures for R&D as published in statistical reviews for R&D activity.
- 9) Part of the greenhouse gas inventory prepared in the context of the Fourth National Communication (UNFCCC).