



12th meeting, Brussels, 18 December 2018

JOINT DECLARATION

The EU-Montenegro Civil Society Joint Consultative Committee (JCC) is one of the bodies set up under the Stabilisation and Association Agreement between the European Union and Montenegro. It enables civil society organisations from both sides to monitor Montenegro's progress towards joining the European Union and to adopt recommendations for the attention of the Montenegrin government and the EU institutions.

The JCC is made up of twelve members, six from each side, representing the EESC and Montenegrin civil society. It is co-chaired during its current term (2018–2020) by **Lidija Pavić-Rogošić**, member of the EESC from Croatia and director of ODRAZ-Sustainable Community Development, and **Pavle D. Radovanović**, secretary-general of the Chamber of Economy of Montenegro.

The members of the JCC discussed the state of play in Montenegro's EU accession negotiations: right of establishment and freedom to provide services; justice, freedom and security, with a special focus on migration; and the situation of civil society in Montenegro.

1. Negotiations on Montenegro's accession to the European Union

- 1.1 The JCC welcomes the recent opening of chapter 27 (environment). This brings the number of open chapters to 32, with three chapters provisionally closed. The JCC calls for increased efforts from the Montenegrin government towards opening the single remaining chapter (chapter 8: competition), as well as meeting the benchmarks set for closing the chapters opened. It takes note of the progress made in implementing the interim benchmarks in the rule of law chapters (23 and 24), and points to the considerable remaining challenges in this area.
- 1.2 The members of the JCC are pleased that economic growth in Montenegro accelerated in 2018 and that unemployment is falling. They also express satisfaction that the country moved up two places in the World Economic Forum's Global Competitiveness Report, reaching 71st place among the 140 countries listed. The JCC stresses the importance of creating a favourable business environment in order to foster entrepreneurship and business creation, and to help SMEs grow, thus enabling economic diversification and further reduction in unemployment. It points out that this can be successfully achieved only by ensuring respect for the rule of law and by effectively

addressing corruption (both at local and national level), organised crime and the informal economy.

- 1.3 The JCC expresses its readiness to support implementation of the actions set out in the Action Plan in Support of the Transformation of the Western Balkans for 2018-2020. It therefore welcomes the Commission's *Proposal for a Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (IPA III)*, published on 14 June 2018, which seeks to provide the financial means to maximise this transformation. The JCC calls on the EU institutions to provide Montenegro with sufficient funding, including through Pre-accession Assistance, to help it meet the criteria for EU accession.
- 1.4 The JCC agrees with the Commission's and European Parliament's assessment that the political scene in Montenegro remains fragmented, polarised and marked by lack of political dialogue, which could prove detrimental to the country's further progress in the EU accession process. It calls on all political actors and institutions to respect the constitution of Montenegro, as well as democratic principles, and to engage in constructive dialogue. The JCC reiterates the request that Montenegrin authorities take concrete action to tackle all cases of discrimination against trade unions activists. It also calls them once again to revise the country's legal framework so as to enable free access to information for citizens, without unnecessary restrictions.

2. Right of establishment and freedom to provide services

- 2.1 The JCC considers that Montenegro has made significant progress in aligning its national legislation with EU legislation and in meeting the closing benchmarks. The JCC welcomes the adoption of the list of regulated professions and supports Montenegro's efforts to implement the Services Directive in the internal market.
- 2.2 The JCC encourages the competent authorities to step up activities relating to the preparation of the Point of Single Contact regulation, which will establish a single contact point for services in order to provide easier, faster and more efficient information on service provision and establishment. It also urges the relevant bodies to complete the changes to the legal framework that will abolish citizenship requirements for access and exercising the freedom to provide services.
- 2.3 The JCC points out that the services package published by the Commission on 10 January 2017 contains various new legislative proposals (for a services e-card, a services notification procedure, and a proportionality test before adoption of new regulation of professions) intended to make the EU's internal market more effective. It recommends that Montenegrin authorities, as well as relevant CSOs, closely follow developments in the adoption of this package of legislation.
- 2.4 The JCC believes that in order to guarantee fair competition between enterprises discriminatory measures should be prohibited and working conditions laid down by laws and collective agreements in the host country. Consumer rights and health and safety regulations should also be respected. It is necessary to further underpin the delicate balance between freedom to provide cross-border services and the need for effective instruments to monitor and enforce labour standards. This requires a coordinated approach, cooperation between EU Member States, genuine good governance, and a further strengthening of dialogue between social partners and

public authorities. Montenegrin authorities are urged to pay attention to the ongoing discussions within the EU.

- 2.5 The JCC stresses that the proportionality test, which focuses on professional requirements, will require close cooperation between EU Member State authorities and professional organisations responsible for quality assurance of the regulated profession in question. Consultation of the social partners and consumer protection organisations should also be provided for so as to ensure full compliance with workers' and consumers' rights. Montenegrin authorities and CSOs would be advised to pay attention to the ongoing discussions within the EU.

3. **Justice, freedom and security, with a special focus on migration**

- 3.1 The JCC considers that policies on freedom, security and justice should be informed by the protection of fundamental rights guaranteed by the European Convention on Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union, as well as respect for international law, in particular the 1951 Geneva Convention relating to the Status of Refugees.
- 3.2 The JCC is concerned about the rising intolerance, racism and xenophobia towards migrants and refugees in Europe. A different narrative should be adopted about migration, where it is seen as a normal social and economic phenomenon, and efforts to educate society on the issue and thereby counter hate-based narratives should be facilitated. Equal treatment and anti-discrimination policies are the pillars of European policy, including policies relating to the integration of third-country nationals.
- 3.3 The JCC supports the need for well-thought-out and comprehensive coordination between migration and development, in order to create situations that are beneficial for all those involved. In this context, it supports the UN's Global Compact for Safe, Orderly and Regular Migration, recently signed in Marrakech, and commends Montenegro for adopting it.
- 3.4 The JCC welcomes the results achieved by Montenegro in aligning its national legislation with the *acquis communautaire* in the area of legal and irregular migration and asylum. It supports Montenegrin efforts, including close cooperation with its neighbours, in relation to preventive action in case of a massive inflow of irregular migrants, and measures taken to strengthen accommodation capacities of migrants and asylum seekers. However, Montenegro must continue to strengthen its migration management capacity so as to avoid overstressing of systems, constraints on national resources, and the challenges of managing migration flows in compliance with international standards and protection of human rights in the event of a sudden influx of migrants.
- 3.5 The members of the JCC call on the Montenegrin authorities to:
- strengthen the mechanism for offering assisted voluntary return and reintegration to irregular migrants in cooperation with the International Organization for Migration (IOM); continue to increase reception capacities to accommodate first-entry migrants and migrants willing to lodge an asylum request, and provide adequate accommodation for unaccompanied children;

- provide full support to the inter-agency task force established to address the smuggling of migrants and trafficking, with a multidisciplinary approach that will enable efficient identification (e.g. electronic finger-print registration system at the border), comprehensive and qualitative investigation of all crimes and their perpetrators, and solid verdicts and effective sanctions for all perpetrators;
- increase the capacity of first responders to identify victims, as well as of judges, prosecutors, and law enforcement officials in respect of trafficking investigations and prosecutions;
- establish formal identification of victims of trafficking and prosecution of perpetrators as two separate processes;
- prepare a brochure on the rights and obligations of beneficiaries of international protection, as well as language and culture course modules for refugees;
- build capacity and train staff in the public bodies dealing with various aspects of asylum legislation in order to foster integration of refugees enjoying international protection (linguistic and socio-economic integration, access to health and social protection).

3.6 The JCC urges the EU institutions and Montenegrin authorities to cooperate in order to improve mechanisms for managing Montenegro's border and the exchange of information, without forgetting how important it is to ensure that the human rights of persons in transit are upheld. Members of the JCC ask the Montenegrin authorities to pay special attention to vulnerable persons in transit, especially unaccompanied minors. It would be useful here to develop an IT system to track migratory trends.

3.7 The JCC recommends that Montenegrin national and local authorities devise action plans and provide for sufficient funding to deliver services and support to migrants and asylum-seekers. It stresses the need to work closely with CSOs active in this field; their role needs to be legally defined, their financing increased and their capacity strengthened. A good example of cooperation would be the existing multidisciplinary operational teams for persons in need.

4. **Situation of the media and CSOs in Montenegro**

4.1 The JCC reiterates its concerns relating to media freedom in Montenegro, especially when it comes to the instances of political interference in the work of national public broadcaster RTCG. The JCC stresses the importance of guaranteeing the independence of the Agency for Electronic Media (AEM), particularly when it comes to appointing the members of its governing bodies.

4.2 The JCC points to the lack of progress in dealing with both old and recent cases of violence against journalists, such as the shooting of *Vijesti* journalist Olivera Lakić. It urges the Montenegrin authorities to effectively investigate these cases so as to identify and prosecute the material perpetrators and those that are behind the attacks, and to facilitate the work of the *ad hoc* commission monitoring cases of violence against the media, including by providing it with timely access to relevant information on the ongoing investigations. The JCC calls once again on the EU institutions to closely follow the progress of these investigations when assessing the rule of law in Montenegro.

4.3 The JCC raises concerns over the recurring non-transparent allocation of public funds to media in Montenegro and recommends to the Montenegrin authorities to adopt legislation and develop

mechanisms in order to support sustainability and diversity of media, which will not raise concerns over the influence on media market and editorial policies.

- 4.4 The JCC welcomes the establishment of the council for cooperation between government institutions and NGOs, and hopes that this will contribute to the functional and non-discriminatory inclusion of CSOs in consultation processes. It calls upon the council to support adoption of the decision on the criteria and procedure for allocating public facilities and property to CSOs, which will regulate models of non-financial support for CSOs at both national and local level. The JCC urges on the Council to engage in effective dialogue with critical CSOs and government bodies so as to reduce existing tensions and re-establish trust.
- 4.5 The JCC is pleased to note that implementation of the Law on NGOs seems to be proceeding satisfactorily, with most or all of the secondary legislation now adopted. The JCC regrets that the process of allocation of public funds to NGOs under this law has been considerably delayed in 2018, endangering the functioning of a large number of NGOs, especially service providers. The JCC undertakes to closely monitor progress made towards full implementation of the Law on NGOs and its secondary legislation.
- 4.6 The JCC strongly emphasises the importance of independent CSOs being effectively involved in all aspects of policy-making and in EU accession negotiations, and it highlights the role of CSOs when it comes to improving the overall democratic environment in Montenegro. The JCC is concerned about the negative environment in which certain CSOs critical regards the policies in the area of rule of law operate and smear campaigns directed against them and their leaders, as well as about the dismissal of their representatives from bodies such as RTCG council and the council of the Anti-corruption Agency. The JCC once again welcomes the efforts of the office of the Chief Negotiator to open consultations with civil society representatives, bearing in mind the complexity of the negotiation process. It emphasises that these consultations should be genuine and not limited to *pro forma* participation of CSOs in working groups.
- 4.7 The JCC instructs its co-chairs to forward this joint declaration to the EU-Montenegro Stabilisation and Association Council, the EU-Montenegro Stabilisation and Association Parliamentary Committee (SAPC), the European External Action Service (EEAS), the European Commission, and the Government of Montenegro.

The next JCC meeting, to be held in 2019 in Montenegro, will discuss chapter 27 (Environment) and the Sustainable Development Goals (SDGs).