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This document corrects document COM(2022) 715 final of 5.12.2022.
Concerns English version only.

All sections concerning visa policy alignment have been adapted.

Kosovo (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) has been deleted in the chapters on North Macedonia, section IV.1.1. b), and Montenegro, section III.1.1. b).

The text shall read as follows:

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

FIFTH REPORT UNDER THE VISA SUSPENSION MECHANISM

{SWD(2022) 405 final}

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Introduction

Visa liberalisation continues to be a powerful tool to facilitate people-to-people contacts and to support reforms in the Western Balkans and in the Eastern Partnership countries in the areas of justice, security and fundamental freedoms.

Article 8(4) of the Visa Regulation¹ requires the Commission to ensure an appropriate monitoring of the continuous fulfilment of the visa exemption requirements by those countries whose nationals obtained visa-free access to the EU following the successful completion of a visa liberalisation dialogue. To this end, since 2017 the Commission has adopted four reports under the Visa Suspension Mechanism², covering the visa-free countries in the Western Balkans (Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia) and in the Eastern Partnership (Georgia, Moldova, and Ukraine).

For the visa-free partners in the Western Balkans and Moldova, whose nationals have not needed a visa to travel (visa-exempt) for more than 7 years, this report focuses on the follow-up to the recommendations in the previous Commission reports and no longer provides the full details on the continuous fulfilment of the visa liberalisation benchmarks. Aspects related to the benchmarks for the visa-free Western Balkan countries continue to be assessed as part of the enlargement process, under Chapter 23, Judiciary and Fundamental Rights, and Chapter 24, Justice and Home Affairs, and are reported in the Commission's annual enlargement package³. For Georgia and Ukraine, which have had visa-free travel for less than 7 years, the report also assesses the continuous fulfilment of the visa liberalisation benchmarks.

This fifth report assesses action taken in 2021 (in migration, asylum, readmission, judicial cooperation, public order, and security), with updates for 2022, where deemed relevant to have a significant impact on the recommendations. It also reports on operational cooperation with the EU and with Member States⁴, and it includes an overview of migration trends⁵ reflecting Eurostat data for the 2021 statistical year, including changes compared with 2020.

The report draws on contributions from all the countries covered, the European External Action Service, the relevant EU justice and home affairs agencies⁶ and Member States. It is also

¹ Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, OJ L 303, 28.11.2018, p. 39.

² COM(2017) 815 final (first report); COM(2018) 856 final (second report); COM(2020) 325 final (third report); COM(2021) 602 final (fourth report).

³ The 2022 package was adopted on 12 October 2022.

⁴ For this report, the term 'Member States' refers to Member States applying Regulation (EU) 2018/1806 ('the Visa Regulation'), i.e. all current Member States (except Ireland) and Schengen Associated Countries.

⁵ While the visa liberalisation benchmarks relating to migration are limited to managing migration policies of the third countries concerned, the section on migration trends reflects irregular migration to Member States, refusals of entry issued by Member States, and applications for international protection lodged in Member States by nationals of the countries covered in the report.

⁶ The European Union Agency for Asylum (EUAA), the European Border and Coast Guard Agency (Frontex), the European Union Agency for Criminal Justice Cooperation (Eurojust), and the European Union Agency for Law Enforcement Cooperation (Europol). The contribution of Europol is based on input provided by Member States and partner countries to Europol's 2021 publication *European Union serious and organised crime threat assessment, A corrupting influence: the infiltration and undermining of Europe's economy and society by organised crime*, Publications Office of the European Union, Luxembourg.

accompanied by a Commission staff working document, which provides additional information on action taken by the partner countries in cooperation with the EU and bilaterally with Member States.

I. Albania

1. Migration, asylum and readmission

1.1. Action taken in the area of migration, asylum and cooperation in readmission

In 2021, Albania continued to take action on border and migration management and asylum. Member States report good cooperation in general with Albania on migration and border management, as well as on returns and compliance under the terms of the EU Readmission Agreement. This good cooperation was also stated at the Joint Readmission Committee held in February 2022.

In 2021, Albania cooperated with the following Member States on migration and border management: Belgium, Germany, France, Croatia, and the Netherlands. Albania maintains close cooperation with the European Border and Coast Guard Agency and, in 2021, was the first country to participate in a Frontex-led return operation. A Frontex Liaison Officer is present in the country. A roadmap for cooperation with the European Union Asylum Agency⁷ continues to be implemented until the end of 2022.

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

a) *Continue cooperating with the Member States most affected by unfounded asylum applications by Albanian nationals.*

Albania has continued to take action to address the issue of unfounded asylum applications made by its citizens by strengthening its cooperation and exchange of information with Member States, especially those most affected by this issue. This included cooperating on the implementation of awareness campaigns to prevent abuses of the visa-free regime and intensifying return operations with Frontex and Member States, such as France, Germany, Belgium and Italy. Additionally, implementation of two action plans is ongoing to address the issue of unaccompanied Albanian minors in Italy and Albanian asylum seekers in France.

The Albanian State Police has continued to implement measures to strengthen exit controls and checks on minors travelling abroad, and leaflets have been distributed to border crossing points for this purpose.

b) *Step up participation in activities of the European Multidisciplinary Platform Against Criminal Threats' (EMPACT) facilitation of illegal immigration operational action plan.*

In 2021, Albania participated in several joint action day activities organised by the EMPACT programme that focused on irregular migration, in particular: (i) irregular migration at border crossing points; (ii) green and blue borders; (iii) facilitation of irregular migration, trafficking in human beings and forgery of documents; (iv) using INTERPOL databases to identify irregular migrants suspected of being foreign terrorist fighters and to combat trafficking in human beings for

⁷ European Asylum Support Office (EASO) at the time of signature.

the purpose of sexual exploitation, begging and involvement in crime. A national EMPACT coordinator was also appointed in April 2020.

c) Tailor information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), and those making unfounded asylum claims.

The Ministry of Interior of Albania worked closely with EU agencies such as Frontex and Europol, Member States and their national development agencies, and international organisations such as IOM, UNHCR, and OSCE, on implementing awareness campaigns, promoting voluntary return, and supporting Albanian returnees in the reintegration process.

d) Ensure further aligning Albania's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.⁸

Albania has taken no action to further align its visa policy with the EU's list of visa-required third countries⁹. On the contrary, in 2021 and early 2022, Albania moved further away from the recommended alignment.

Before 2021, nationals from several third countries, including Armenia, Azerbaijan, Belarus, China, Guyana, Kazakhstan, Kuwait and Turkey, were visa-exempt for Albania. Albania lifted visa requirements seasonally (from May to September) for nationals of Bahrain, Oman, Qatar, Russia, Saudi Arabia and Thailand. Nationals of all these countries must hold a valid visa to enter the EU. Seasonal lifting of visa requirements is not in line with EU visa policy. In 2021, Albania added Egypt and India to the list of countries benefiting from seasonal visa-free travel. On 2 December 2022, Albania informed the Commission that the seasonal visa exemption for Egyptian nationals travelling for touristic purposes expired on 30 September, and will not be renewed to ensure alignment with the EU visa policy. The country also took the decision to grant a permanent visa exemption to foreign citizens who have a valid permit of stay in the United Arab Emirates. While this decision has been amended to impose restrictive conditions (e.g. a residence permit must be for 10 years), the exemption has not been revoked. Such an extension is not in line with EU visa policy and has been subject to abuse as some foreign nationals with a UAE residence permit did not return to the UAE and instead absconded with the likely intention of entering the EU. Furthermore, in April 2022, the seasonal visa-free travel period for Bahrain, India, Oman, Qatar, Saudi Arabia and Thailand was extended until the end of the year. On 2 December 2022, Albania informed the Commission that the seasonal visa exemption for Indian nationals travelling for touristic purposes, which expires on 31 December, will not be renewed.

Any further deviation from the EU's list of visa-required countries should be avoided. Albania should ensure progress in aligning its policy with the EU's list, in particular with regard to those third countries presenting irregular migration or security risks. This will be an important theme of continued dialogue between the EU and Albania. In the context of the visa suspension mechanism

⁸ For the purposes of this Report, due account must be given to the fact that for some third countries which are visa-required for the EU, there is ongoing engagement on visa policy matters, including proposals for visa exemption, Visa Liberalisation Dialogues and Visa Facilitation Agreements.

⁹ Annex I of Regulation (EU) 2018/1806.

and in accordance with Article 8 of the Visa Regulation, the Commission will continuously monitor and assess the action of Albania towards EU visa alignment.

1.2. Monitoring trends in irregular migration, applications for international protection, returns and readmission

The number of applications for international protection (or asylum applications)¹⁰ lodged in Member States by Albanian nationals increased by 63% between 2020 and 2021, with 11 300 applications lodged in 2021. The recognition rate¹¹ rose from 5% in 2020 to 9% in 2021.

In 2021, Member States reported 1 160 irregular border crossings, 19% less than in 2020 (1 429), while the number of Albanian nationals found to be irregularly staying in Member States increased by 21% compared with 2020 (from 30 870 in 2020 to 37 305 in 2021). The number of refusals of entry for Albanian nationals in Member States rose by 39% in 2021 (from 13 315 in 2020 to 18 565 in 2021).

The number of return decisions issued in 2020 (23 150) fell slightly (by 5%) in 2021 (22 025). In 2021, 9 415 returns of Albanian nationals were reported, compared with 10 190 in 2020 (a decrease of 8%).

2. Judicial cooperation, public order and security

In 2021, efforts continued on judicial cooperation, public order and security. In general, Member States report good cooperation with Albania in the field of security. Albania continued cooperating with Europol, Eurojust and Member States, including Czechia, Germany, France, the Netherlands and Sweden. Following the entry into force of the Cooperation Agreement with Eurojust in 2019, an Albanian Liaison Prosecutor at Eurojust took up duty in January 2021, and the Office of the Liaison Prosecutor for Albania at Eurojust was inaugurated in October. In 2021, Albania signed five new joint investigation teams' agreements in cases supported by Eurojust.

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

a) Further progress towards establishing a solid track record of corruption cases and seizure, confiscation and recovery of criminal assets resulting from corruption offences.

Albania has made progress in fighting organised crime and corruption as well as in combating illicit trafficking. In 2021, Albania reported an increase (18%) in the number of police operations compared with 2020. Additionally, in 2021, there was an increase in the number of criminal groups dismantled and criminal assets seized, whose value more than doubled compared with 2020. Seizures of narcotics also increased overall in 2021 compared with 2020.

Efforts continued on improving the track record of investigations, prosecutions and convictions in fighting corruption. However, more political will and more structured and consistent effort, including

¹⁰ For a definition, see https://home-affairs.ec.europa.eu/pages/glossary/application-international-protection_en

¹¹ For this report, the recognition rate is calculated as the share of positive decisions at first instance (including Geneva protection, subsidiary protection, and humanitarian status) in the total number of decisions at first instance. For a definition, see https://home-affairs.ec.europa.eu/pages/glossary/recognition-rate-procedures-international-protection_en

on adequate resources, tools and skills, remain necessary. The number of corruption cases sent to court was 440 in 2021, including 31 by the Special Prosecution Office. Final convictions of individuals charged with corruption offences amounted to 235 in first instance and 99 in appeal and final court level. The overall number of cases referred to the prosecution in 2021 was 3 351.

Albania continued its efforts to build a track record of fighting organised crime. In 2021, there were 41 new cases referred to prosecution (compared with 22 in 2020), 14 indictments for a structured criminal group (compared with 15 in 2020), and 19 cases were closed with 75 individuals with final convictions at appeal level (compared with 13 in 2020).

In the fight against illicit trafficking, there was an increase in the number of police operations carried out. Albania also carried out seven operations with international partners, including under the EMPACT joint action days.

In the fight against money laundering, Albania has reported on cases of referrals, investigations, prosecution, seizure and confiscation of assets, social media monitoring of citizens returning from countries in conflict, and progress of the Central Investigation Directorate, under the Financial Action Task Force action plan. However, Albania did not finish implementing this action plan by the February 2022 deadline.

Amendments to the law on anti-money laundering aimed at aligning with the EU's fourth and fifth anti-money laundering directives were adopted in Parliament in December 2021. Additionally, in 2021, Albania adopted a law on the central register of bank accounts as part of its action to prevent money laundering and financing terrorism. Moreover, a law setting up a beneficial ownership register was adopted in 2020. Work to populate the register started in February 2021 with information on obliged entities, and is now largely populated.

b) Continue developing the systematic use of parallel financial investigations and increasing participation in coordinated or joint investigations and prosecutions with countries in the region and Member States.

Albania has continued to cooperate with countries in the region and Member States. This has happened mainly with the exchange of police and judicial information when investigating criminal offences related to narcotics, illicit trafficking, money laundering, economic and financial crime, cybercrime and serious crime. Information was exchanged mostly through INTERPOL, Europol, Eurojust and the CARIN Network. Compared with 2020, Albania reported an increase in police operations, criminal proceedings and joint investigation teams in cooperation with international partners fighting organised crime.

In 2021, there were 8 joint investigation teams involving Albanian partners (4 in 2020), resulting in 30 joint operational meetings. Albania has a police liaison officer in Europol and is planning to deploy a second one. The country continued to participate actively in EMPACT joint action days promoting cooperation to tackle firearms trafficking, smuggling migrants, drugs trafficking, motor vehicle crime, trafficking in human beings, and document fraud. In 2021, the Albanian Liaison Office to Eurojust registered 21 cases at the request of the Albanian authorities, 16 of which have been completed. At the request of Member State competent authorities, 30 new cases have been opened with the Albanian Liaison Office. Five new agreements for setting up joint investigation teams were concluded. Amendments to the law on judicial cooperation in criminal matters with foreign jurisdictions, adopted in July 2021, have proved useful in helping set up joint investigation

teams, but further efforts will be needed to align national legislation with the EU *acquis*. The government put forward for public consultation a draft law on fiscal and criminal amnesty of subjects that make the voluntary declaration of assets. This matter is covered in the Commission's Albania Report 2022.

Criminal proceedings and parallel financial investigations were conducted by the Special Prosecution Office for Corruption and Organised Crime in several high-profile cases involving politicians, members of Albanian institutions, the judiciary, local authorities and the business sector.

c) Continue progress in implementing the Joint Action Plan on Counter-Terrorism for the Western Balkans.

In the fight against terrorism, Albania continued to make good progress in implementing the five objectives set out in the 2018 joint action plan in the fight against terrorism for the Western Balkans and the measures included in the bilateral arrangement signed with the Commission in 2019. As of June 2021, all terrorism and financing-related offences were brought under the responsibility of the Special Prosecution Office for Corruption and Organised Crime. International cooperation and exchange of information on returnees remains satisfactory.

There is also good cooperation with the Financial Intelligence Unit in implementing the action plan measures in line with the recommendations of the Financial Action Task Force and the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval).

The Financing of Terrorism Investigation Unit attended six training courses in 2021 organised by OCSE, UNODC, and CEPOL, among others.

d) Refrain from adopting an investor citizenship scheme on the basis of the new Law on Citizenship.

In spite of the Commission's concerns expressed in 2019¹², since July 2020, Albania has had legislation in place allowing to set up a 'citizenship by investment scheme ('golden passports'). The Agency of Special Citizenship Programs has established a joint working group to conduct a feasibility study for its future implementation. In 2022, the Government adopted a decision which introduces a legal basis for the Ministry of Interior to launch a Public Private Partnership procedure for the implementation of the citizenship programs.

Setting up an investor citizenship scheme would be contrary to the recommendations made in the *Fourth Report under the Visa Suspension Mechanism* and the 2021 enlargement package¹³. An investor citizenship scheme may be used to bypass the EU short-stay visa procedure and the in-depth assessment of individual migratory and security risks this procedure entails, including a possible evasion of measures to prevent money laundering and financing of terrorism. This is of great concern

¹² Ahead of the Albanian Parliament's examination of the draft Law on Citizenship, the *Third Report under the Visa Suspension Mechanism* recalled that in October 2019 the Commission had addressed a letter to the Albanian government asking for clarification in this regard and alerting it about the inherent risks and possible consequences of introducing such a scheme.

¹³ SWD(2021) 289 final.

for the EU in the context of its visa-free agreement with Albania¹⁴. The Commission takes the view that, if such schemes are deemed to constitute an increased risk to the internal security and public policy of the Member States, the visa-free regime may be suspended¹⁵.

3. Recommendations for Albania

Albania has taken action to address most of the Commission's previous recommendations. However, the country has also taken measures that are contrary to two recommendations, concerning visa alignment and investor citizenship scheme. Therefore, further progress is needed, and the following issues need to be addressed.

- a) Align, as a matter of priority, Albania's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.
- b) Refrain from implementing an investor citizenship scheme and repeal the legal basis for such a scheme by amending the Law on Citizenship.
- c) Continue cooperating with the Member States most affected by unfounded asylum applications by Albanian nationals and implementing information campaigns on the visa-free regime, tailoring them to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), those ordered to return, and those making unfounded asylum claims.
- d) Continue strengthening the prevention of and fight against corruption, organised crime, illicit trafficking, terrorism and money laundering by: (i) stepping up Albania's participation in EMPACT; (ii) further progressing towards building a solid track record of corruption and organised crime cases, as well as the seizure, confiscation and recovery of criminal assets resulting from such offences; (iii) addressing all remaining items in the Financial Action Task Force action plan.
- e) Make further progress in implementing the bilateral arrangement under the Joint Action Plan on Counter-Terrorism for the Western Balkans.

II. Bosnia and Herzegovina

1. Migration, asylum and readmission

1.1. Action taken in the area of migration, asylum and cooperation in readmission

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

¹⁴ These risks were also highlighted in the Commission Recommendation of 28 March 2022 on immediate steps in the context of the Russian invasion of Ukraine in relation to investor citizenship schemes and investor residence schemes (C(2022) 2028). In addition, in a resolution of 9 March 2022, the European Parliament proposed that ending investor citizenship schemes be included in EU membership criteria (2021/2026(INL)).

¹⁵ See, in this respect, Council Decision (EU) 2022/366 of 3 March 2022 on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (OJ L 69, 4.3.2022, p. 105).

a) Improve coordination, at all levels, of border management and migration management capacity, notably by ensuring the functioning of the asylum system and providing adequate reception capacity for migrants; take the necessary steps to sign the status agreement with Frontex.

Bosnia and Herzegovina is implementing a 2019-2023 strategy and action plan on integrated border management. A strategy and action plan on migration and asylum for 2021-2025 is pending adoption.

Member States and Frontex report good cooperation in readmission with Bosnia and Herzegovina and a satisfactory implementation of the EU Readmission Agreement, as also stated at the Joint Readmission Committee in December 2021. Several Member States (Austria, Croatia, France, Germany, Italy and the Netherlands) reported cooperation in border and migration management as they provided equipment to and training of the relevant authorities in Bosnia and Herzegovina. The country is also implementing the 2020-2023 strategy for reintegration of returnees, despite limited resources.

Efforts were made to improve coordination through the strategy mentioned above, the 2019-2023 action plan for integrated border management, and regular meetings of a task force established under the Ministry of Security. However, concrete results were limited. The Ministry of Security continued to step up efforts to improve migration management, and relations with local authorities generally improved. Bosnia and Herzegovina still needs to take full ownership of migration management and all reception centres. There should be fairer burden sharing among all entities and cantons, and full ownership of State authorities in migration management. Only limited public funding is available to manage migration, which also impacts the State's effectiveness in formulating policy. Bosnia and Herzegovina remains an important transit country in the Western Balkans route for irregular flows and migrant smuggling to the EU.

As reported in the 2021 and 2022 enlargement packages, serious obstacles remain to ensure effective access to asylum procedures. Asylum legislation needs to be better implemented, in particular to ensure systematic respect of procedural guarantees for asylum seekers. The access to asylum procedures should be strengthened to ensure faster and effective processing of claims. In December 2020, Bosnia and Herzegovina adopted a 2020-2021 roadmap for cooperation with the European Asylum Support Office (now the EU Agency for Asylum (EUAA)) on strengthening the asylum and reception systems in line with the Common European Asylum System and EU standards. Cooperation with EUAA should continue and intensify. Adopting and implementing the 2021-2025 strategy and action plan on migration and asylum should significantly contribute to improving asylum policy. More needs to be done to ensure efficient access to asylum, efficient procedures and inter-agency cooperation and coordination.

In 2021, the number of people irregularly entering Bosnia and Herzegovina (15 812) was comparable to 2020 and much lower than in 2018 and 2019¹⁶. A reception centre was opened in Lipa, near Bihać (Una-Sana Canton), in November 2021, with a capacity to host 1 500 people. By end 2021, about a third of available places in the national reception system were occupied (2 162 out of 6 050).

¹⁶ Though official data for 2022 are not yet available, there are signals that in the first six months of 2022 there was an increase in numbers of people irregularly entering Bosnia and Herzegovina.

Accommodation capacity remained concentrated in the Una-Sana and Sarajevo Cantons, with no fair sharing among entities and cantons

Bosnia and Herzegovina has not yet signed the status agreement with the EU that would allow the European Border and Coast Guard Agency to deploy its standing corps at the country's border with the EU, to carry out operational activities together with the Border Police.

b) Ensure further aligning Bosnia and Herzegovina's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.

Bosnia and Herzegovina has not taken action in 2021 to further align the country's visa policy with the EU's. Nationals from several third countries, including Azerbaijan, Bahrain, China, Kuwait, Oman, Qatar, Russia and Turkey are visa-exempt for Bosnia and Herzegovina. Nationals of all these countries must hold a valid visa to enter the EU. Any further deviation from the EU's list of visa-required countries should be avoided. Bosnia and Herzegovina should ensure progress in aligning its policy with the EU's list, in particular with regard to those third countries presenting irregular migration or security risks to the EU. This will be an important theme of continued dialogue between the EU and Bosnia and Herzegovina. In the context of the visa suspension mechanism and in accordance with Article 8 of the Visa Regulation, the Commission will continuously monitor and assess the action of Bosnia and Herzegovina towards EU visa alignment.

1.2. Monitoring trends in irregular migration, applications for international protection, returns and readmission

In 2021, 2 695 applications for international protection were submitted by nationals of Bosnia and Herzegovina in Member States, 78% more than in 2020 (1 510). The recognition rate increased from 4% in 2020 to 5% in 2021.

In 2021, Member States reported 17 irregular border crossings by nationals of Bosnia and Herzegovina at the EU's external borders, an increase of 42% compared with 2020 (12). In 2021, the number of nationals from Bosnia and Herzegovina found to be irregularly staying in Member States rose by 17%, with 4 200 irregular stays in 2021 compared with 3 595 in 2020. The number of refusals of entry decreased by 39%, from 8 145 cases in 2020 to 4 995 in 2021.

Both the number of return decisions issued to nationals of Bosnia and Herzegovina (2 740 in 2021 against 2 710 in 2020, a decrease of 1%) and the number of people returned (900 in 2021 against 1 010 in 2020, a drop of 11%) stayed relatively stable in 2021 compared with 2020.

2. Judicial cooperation, public order and security

As reported in the 2021 Enlargement Package, the lack of commitment towards justice reforms from political actors and the poor functioning of the judicial system continue to undermine citizens' enjoyment of rights and the fight against corruption and organised crime. Corruption indicators remain high and this issue affects the daily life of citizens and foreign investors. The track record on prevention and repression of corruption (including at high-level) remains insignificant, due to operational inefficiency and political interference. The lack of an efficient system of declaration of assets by judges and prosecutors is a particular source of concern

In the area of public order and security, conflicting competences and lack of cooperation affect negatively the efficiency of law enforcement agencies. The professionalism and accountability of

law enforcement agencies need to be improved. No progress was achieved in ensuring transparent appointments and promotions based on merit, free of political interference.

The legislation on drugs, trafficking in human beings and cybercrime needs significant improvement. Bosnia and Herzegovina needs to establish a firearms focal point and harmonise criminal codes with the UN Firearms Protocol. Legal mechanisms to freeze, manage and confiscate criminal assets are not sufficiently effective. The country should step up the fight against transnational organised crime networks in collaboration with Europol and by increasing its participation in EMPACT activities.

Anti-terrorism legislation is largely aligned with the EU *acquis* and relevant international law. However, the strategy and a framework action plan for the prevention of and fight against terrorism have both come to an end in 2020. A follow-up strategy for 2021 to 2026 is being drafted but not yet adopted.

Member States report good cooperation overall with Bosnia and Herzegovina in the field of security. In 2021, Bosnia and Herzegovina engaged in joint activities with several Member States, including Czechia, Germany, Latvia, the Netherlands and Sweden.

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

a) Continue progress in the fight against corruption, including at high level, by adopting and implementing efficient legislation on conflicts of interest, public procurement and whistle-blowers' protection, and ensuring the effective functioning and coordination of anti-corruption bodies.

The recommendation was not implemented in 2021¹⁷. Draft laws were prepared on conflicts of interest and public procurement, in line with international standards and European best practices, but none was adopted in 2021. A draft law on whistle-blowers' protection, in line with the EU *acquis*, is yet to be developed.

The functioning and coordination of corruption prevention bodies among themselves and with the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) continued to be ineffective. The independence of corruption prevention bodies set up at the entities and cantonal level needs to be significantly strengthened. As reported in the 2021 enlargement package, the anti-corruption office of the Sarajevo Canton continued to make good progress, also mapping corruption risks and monitoring public procurement, and remains a good example among cantonal bodies. In May 2021 the Tuzla Canton adopted legislation to establish an anti-corruption office, and in December 2021 a Law on reporting and verification of asset declarations of public officials, following the model of the Sarajevo Canton. Country-wide coordination continues to be lacking.

b) Strengthen efforts tackling organised crime, particularly by ensuring effective cooperation among law enforcement bodies and with prosecutors' offices as well as building a track record of proactive investigations, confirmed indictments, prosecutions and final convictions against organised crime.

¹⁷ Amendments to the law on public procurement were finally adopted in August 2022.

This recommendation was not implemented. As reported in the 2021 enlargement package, the limited cooperation of law enforcement agencies with the prosecutors' offices and lack of effective checks by the prosecutors on the police continued to seriously hamper the effectiveness of investigations. Systemic shortcomings in the operational cooperation of law enforcement agencies and a very limited exchange of intelligence are persistent challenges. In the few high-level corruption cases reported, selective judicial follow-up, legal mistakes, negligence, abuse of procedures, political pressure, questionable court decisions and verbal attacks on the prosecution continued to be observed.

c) *Set up a Europol contact point and continue progress in implementing the Joint Action Plan on Counter-Terrorism for the Western Balkans*

This recommendation has not been implemented. As reported in the 2021 enlargement package, while the authorities have taken some preparatory steps, there is no operational cooperation with Europol. The March 2017 agreement on operational and strategic cooperation with Europol has yet to be implemented as the contact point for Europol has not been fully set up. Bosnia and Herzegovina authorities recently appointed the liaison officer to The Hague, but the official cannot be posted to Europol headquarters as long as the national contact point in Sarajevo is not operational. The country's cooperation with Europol remains limited. Exchange of information is still taking place through a unit within the Directorate for Coordination of Police Bodies of Bosnia and Herzegovina, whose mandate has expired and with which the *Republika Srpska* entity has suspended operational cooperation.

In September 2021, Bosnia and Herzegovina's third report on implementation of the 2019 arrangement to the 2018 Joint Action Plan on Counter-Terrorism for the Western Balkans only showed limited progress. Policy discussions on counterterrorism between the EU and Bosnia and Herzegovina take place regularly. The capacity and effectiveness of the counterterrorism task force and the counterterrorism section of the state prosecutor's office needs to be strengthened significantly. Bosnia and Herzegovina is working on adopting a national strategy on counterterrorism and prevention of violent extremism. The country has not yet adopted new anti-money-laundering and terrorism-financing legislation in line with international standards and *EU acquis*.

3. Recommendations for Bosnia and Herzegovina

Bosnia and Herzegovina needs to make further efforts on fighting corruption and organised crime and managing migration and asylum. In particular, the following issues need to be further addressed.

- a) Align, as a matter of priority, Bosnia and Herzegovina's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.
- b) Continue efforts to ensure effective coordination of border management and migration management, including the fair distribution of reception capacity among all entities and cantons, guarantee more efficient access to asylum procedures, and adopt and implement a strategy and action plan on migration.
- c) Sign and ratify the EBCGA status agreement with the EU.
- d) Make the joint national contact point with Europol operational.

- e) Adopt and implement the national strategy for preventing and combating terrorism and violent extremism and continue implementing the bilateral arrangement under the Joint Action Plan on Counter-Terrorism for the Western Balkans.
- f) Demonstrate progress in fighting corruption and organised crime, including at high level, by: adopting and implementing efficient legislation on conflicts of interest, implementing the new law on public procurement, protecting whistle-blowers, and ensuring that anti-corruption bodies work effectively and coordinate with each other.
- g) Establish or designate an asset recovery office in charge of the identification and tracing of criminal assets in order to enhance cooperation with Member States.
- h) Adopt an updated national risk assessment and legislation on anti-money laundering and countering terrorism financing in line with international standards and EU *acquis*.

III. Montenegro

1. Migration, asylum and readmission

1.1. Action taken in the area of migration, asylum and cooperation in readmission

In 2021, Montenegro continued to increase its capacity in border management and asylum and implement the relevant strategies. The strategy on migration and reintegration of returnees for 2021-2025 was adopted in September 2021. In June 2022, Montenegro joined the European Migration Network, an EU network of migration and asylum experts, as a non-voting observer member.

In December 2021, Montenegro signed a cooperation roadmap with the European Asylum Support Office (now the EU Agency for Asylum), aimed at strengthening Montenegro's asylum system, including the status determination procedure, reception conditions, and developing contingency planning.

The constructive cooperation with Frontex under Montenegro's Status Agreement with the EU continued to yield results and strengthen the capacity of Montenegro's border police.

Member States also reported good cooperation with Montenegro in migration and border management (in particular Germany, France, Croatia, and the Netherlands), returns, and implementation of the EU Readmission Agreement, as also expressed at the Joint Readmission Committee held in November 2021.

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

- a) Tailor information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), and those making unfounded asylum applications.***

In 2021, Montenegro did not consider it necessary to organise information campaigns due to the continuing travel restrictions linked to the COVID-19.

- b) Ensure further aligning Montenegro's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.***

Montenegro has taken no action to align its visa policy with the EU's list of visa-required countries. On the contrary, in 2021 and early 2022, Montenegro moved further from the recommended policy.

Nationals from several third countries, including Armenia, Kazakhstan, Russia, Azerbaijan, Belarus, Cuba, Ecuador, Turkey and Qatar are visa-exempt for Montenegro. For some nationalities, exemptions are seasonal and, for others, they are valid all year.

In March 2021, Montenegro extended the visa exemption to foreign citizens who have a valid permit to stay in the United Arab Emirates (UAE). Such an extension is not in line with EU visa policy and has been subject to abuse as some foreign nationals with a UAE residence permit did not return to the UAE and instead absconded with the likely intention of entering the EU.

On 26 May 2022, Montenegro adopted a decision granting a temporary visa exemption for Saudi Arabian citizens from 1 June to 30 September 2022, which aimed to mitigate the decrease in the number of tourists coming from Russia and Ukraine.

Any further deviation from the EU's list of visa-required countries should be avoided. Montenegro should ensure progress in aligning its policy with the EU's list, in particular with regard to those third countries presenting irregular migration or security risks. This will be an important theme of continued dialogue between the EU and Montenegro. In the context of the visa suspension mechanism and in accordance with Article 8 of the Visa Regulation, the Commission will continuously monitor and assess the action of Montenegro towards EU visa alignment.

1.2. Monitoring trends in irregular migration, applications for international protection, returns and readmission

The number of applications for international protection lodged in Member States by Montenegrin nationals rose by 65% between 2020 and 2021, with 420 applications lodged in 2021 compared with 255 in 2020. The recognition rate increased from 2% in 2020 to 5% in 2021.

Member States reported two irregular border crossings in 2021 by Montenegrin nationals after 2 years with no irregular border crossings. The number of Montenegrin nationals found to be irregularly staying in 2021 increased by 10% (from 925 in 2020 to 1 020 in 2021). In 2021, the number of refusals of entry for nationals of Montenegro in Member States was 515, 6% more than in 2020 (485).

The number of return decisions issued to the country's nationals decreased by of 1% (490 in 2021 against 495 in 2020), while the number of people returned dropped by 12% (260 in 2021 against 295 in 2020).

2. Judicial cooperation, public order and security

In 2021, Montenegro continued taking action against organised crime (including trafficking in human beings) and terrorism. In December 2021, the government adopted the 2022-2025 strategy for the prevention and suppression of terrorism, money laundering and terrorism financing and the 2022-2023 action plan.

Member States report good overall cooperation with Montenegro in the field of security. In 2021, Montenegro continued to cooperate bilaterally with a number of Member States in the area of public order and security, including Germany and Sweden. Montenegro also kept up its cooperation with

Europol and Eurojust. Furthermore, the Montenegrin police continued to share information with INTERPOL to identify active terrorist groups and contribute to fighting terrorist threats.

Cooperation with the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) is lagging behind. Montenegro should take steps towards renewing technical cooperation with the agency to improve cooperation on drugs information and launch discussions on signing a working arrangement.

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

a) Consolidate the track record of final convictions and confiscation of assets.

The existing judicial information system (PRIS) should be improved by implementing the 2021-2023 judiciary ICT development programme. The programme aims to ensure fully digitalising and producing complete records of all final court decisions and make it possible to generate accurate and reliable statistics. Full implementation of the system in all courts is expected by mid-2023.

Montenegro continues to develop its track record of investigations, prosecutions, and final convictions in high-level corruption cases, but this can be further improved.

In 2021, the Special State Prosecutor's Office opened investigations into criminal offences of high-level corruption in 15 cases against 70 individuals and 19 legal entities (compared with 8 cases against 35 individuals and 8 legal entities in 2020).

Montenegro needs to substantially improve its legal approach to and track record of financial investigations and confiscation of assets for criminal offences of high-level corruption. In 2021, assets were temporarily frozen in three cases. There has been some initial progress in using extended confiscation in corruption cases, with a final confiscation in one case, and there is a better understanding about the importance of launching parallel financial investigations.

The need for a more deterrent and consistent sanctioning policy has yet to be addressed to improve the criminal justice response to corruption and high-level corruption. The use of plea bargain agreements must be exercised with extreme care, for the right purposes, and observing all necessary safeguards.

The track record of preventing corruption continued to improve. Both the Agency for Prevention of Corruption and its council were proactive in their work and increased outreach activities with the public, media, and civil society.

Significant progress was achieved in the number of verified asset declarations and in applying in-depth verification procedures by the agency. In 2021, the number of administrative and misdemeanour proceedings initiated doubled compared with 2020. Despite the proactive approach of the agency in investigating and sanctioning breaches of the law preventing corruption in assets declarations and threats to the public interest, there is still a significant backlog from the previous years, particularly when it comes to high-profile cases.

In the fight against organised crime, Montenegro continued to make criminal investigations more effective. The full use of special investigative measures was restored. Legislative changes introduced safeguards against political influence in the appointment or dismissal of the Police Director. A register of beneficial ownership was also created. The administrative framework for firearms was

improved. On trafficking in human beings, more cases were pending at courts and more final convictions pronounced.

Some key figures of organised crime groups were arrested, and another record number of drug seizures took place. The first joint investigation team was launched, and the number of final convictions in organised crime cases is on the rise.

However, the country needs to improve its track record of court decisions on tobacco smuggling and money laundering, the use of financial investigations and the capacity to confiscate the proceeds of crime. Montenegro has yet to address some horizontal systemic deficiencies in its criminal justice system, including the way organised crime cases are handled in courts. This will require a more deterrent sentencing policy and revising the use of plea bargains in organised and serious crime cases.

b) Strengthen the capacity to prosecute and judge money-laundering cases.

On anti-money laundering, Montenegro has yet to align its legislation with the fifth EU Anti-Money Laundering Directive¹⁸ and solve some implementation issues on beneficial ownership and supervision. The law on games of chance has yet to be aligned with the EU *acquis* and international standards. The current law leaves substantial loopholes and increases the risk of money laundering and terrorist financing in this high-risk area as legal safeguards against the influence of organised crime in the ownership structure of games of chance are insufficient.

A register of beneficial ownership was created in February 2022, providing the authorities with information on natural persons ultimately owning or controlling the shares of companies or organisations registered in Montenegro. The Central Bank of Montenegro has a central register of resident accounts but does not have a register of non-resident accounts, which is a crucial tool for investigations involving non-residents. The problem of an incomplete land register has not been addressed, and this hampers the efficiency of financial investigations and asset confiscations.

The initial track record of investigations into money laundering continued to improve but the number of cases remains limited. In 2021, two court verdicts were brought against three individuals, all based on plea bargain agreements.

c) Achieve better results in response to organised crime, including by addressing the frequent use of plea bargains.

In organised crime cases, the number of court judgments and convictions continued to rise in 2021, reflecting the constant increase in the number of investigations in the last 2 years.

The Ministry of Justice received support from the Council of Europe Programme Office in Podgorica to analyse how plea-bargaining agreements are applied, setting out recommendations for possible amendments needed to the law. This will be used by the working group, which the Ministry has set up, to prepare a proposal of amendments to the Criminal Procedure Code.

d) Continue making progress implementing the Joint Action Plan on Counter-Terrorism for the Western Balkans.

¹⁸ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, OJ L 141, 5.6.2015, p. 73–117.

Montenegro has continued implementing the bilateral arrangement under the Joint Action Plan on Counter-Terrorism for the Western Balkans. In June 2021, the National Security Council established a bureau for the operational coordination of the institutions comprising the Security Intelligence Sector. The country also adopted a decision to appoint a national coordinator and the members of the national inter-departmental team to end violent extremism, terrorism, money laundering and terrorism financing.

In April 2021, Montenegro adopted implementing regulations to the law on the designation and protection of critical infrastructures. In December 2021, the new strategy for the prevention and suppression of terrorism, money laundering and terrorist financing was adopted. The government also proposed a law that month on processing air transport passenger name record data, aiming to prevent and detect terrorist offences and serious crime. This regulates the passenger name record system in Montenegro for the first time.

Montenegro continued to cooperate with Europol, and the counterterrorism unit continues to exchange information with Member States, other Western Balkan countries, and other non-EU countries that are operational partners of Europol through the Secure Information Exchange Network Application (SIENA) communication channel.

e) Effectively phase out the investor citizenship scheme as soon as possible.

Montenegro has not phased out its investor citizenship scheme yet despite the previously announced decision to end it in 2021. On the contrary, in December 2021 the Montenegrin government decided to extend the scheme until the end of 2022.

In 2021, Montenegro received 241 applications for 807 individuals. As of December 2021, 264 Montenegrin passports had been issued on that basis.

The Commission regrets the decision to extend the investor citizenship scheme and continues to urge Montenegro to end it as soon as possible. The decision to extend the scheme is of great concern for the EU in the context of its visa-free agreement with Montenegro¹⁹. The Commission will continue monitoring the scheme as long as it is operational and applications continue being processed. This monitoring is necessary because investor citizenship schemes may be used to bypass the EU short-stay visa procedure and the in-depth assessment of individual migratory and security risks this procedure entails. The Commission takes the view that, if such schemes are deemed to constitute an increased risk to the internal security and public policy of the Member States, the visa-free regime may be suspended²⁰.

3. Recommendations for Montenegro

Montenegro has taken action to address some of the Commission's previous recommendations, especially on anti-money laundering and counterterrorism and in the fight against corruption and organised crime. However, Montenegro has also taken steps contrary to the recommendations with

¹⁹ These risks were also highlighted in the Commission Recommendation of 28 March 2022 on immediate steps in the context of the Russian invasion of Ukraine in relation to investor citizenship schemes and investor residence schemes (C(2022) 2028). In addition, in a resolution of 9 March 2022, the European Parliament proposed that ending investor citizenship schemes be included in EU membership criteria ((2021/2026(INL)).

²⁰ See, in this respect, Council Decision (EU) 2022/366 of 3 March 2022 on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (OJ L 69, 4.3.2022, p. 105).

regards to its visa policy and investor citizenship scheme. Further efforts are needed across all home affairs area, and the following issues need to be addressed.

- a) Align, as a matter of priority, Montenegro's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.
- b) End the investor citizenship scheme without delay.
- c) Tailor the information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), and those making unfounded asylum applications.
- d) Continue progress in preventing and fighting organised crime, corruption and terrorism by: (i) stepping up Montenegro's participation in EMPACT; (ii) further progressing towards building a solid track record of corruption and organised crime cases, as well as the seizure, confiscation and recovery of criminal assets resulting from such offences; (iii) strengthening the capacity to prosecute and adjudicate money-laundering cases and adopting a new law on the prevention of money laundering and terrorism financing; and (iv) continuing progress on implementing the Joint Action Plan on Counter-Terrorism for the Western Balkans.
- e) Take the necessary steps to renew technical cooperation with the European Monitoring Centre for Drugs and Drug Addiction.

IV. North Macedonia

1. Migration, asylum and readmission

1.1. Action taken in the area of migration, asylum and cooperation in readmission

In 2021, North Macedonia continued taking action in border and migration management and asylum, including improving reception conditions for asylum applicants.

Member States reported good cooperation on border management, migration and asylum. In particular, North Macedonia continued bilateral cooperation with Member States, including Germany, France, Croatia, the Netherlands, and Poland. Member States also report very good cooperation with North Macedonia on returns and readmissions, as also expressed at the Joint Readmission Committee held in June 2022. Cooperation with the EU Agency for Asylum continued under the agreed roadmap to strengthen capacity in asylum and reception. Cooperation with Frontex also kept up.

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

- a) *Further improve the registration of migrants in a more systematic manner; tailor information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), and those making unfounded asylum applications.*

North Macedonia continued to take action to address migration challenges and improve the registration of migrants. North Macedonia continued to develop national migrant registration systems and improve identifying and registering mixed migrant flows. The EU Readmission Agreement is being implemented in a satisfactory manner.

Access to the asylum procedure continued to be ensured. However, the entire asylum procedure can last several years, and this is not efficient and increases the risks of onward movements. North Macedonia still needs to address, among other things, credibility assessments, the legal reasoning of decisions, and the individual assessment of the personal circumstances of applicants, correctly assessing relevant and updated country of origin information, and prioritising manifestly founded cases. Although guaranteed by law, no favourable procedure has been implemented for people with special needs. Implementation of the asylum procedure is not yet in line with the EU *acquis*. In the Gazi Baba municipality, people apprehended in irregular movements continue to be arbitrarily detained in the reception centre for foreigners, to ensure that they testify as witnesses in court cases against smugglers. However, this practice is not in line with international standards. There are still no effective judicial checks on detention practices, and migrants in detention do not benefit from legal counselling and assistance to have effective access to justice and legal remedies.

b) Ensure further aligning North Macedonia's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks for the EU.

North Macedonia has not taken action in 2021 to further align the country's visa policy with the EU's. Nationals of several third countries, who are visa required for the EU, are visa-exempt for North Macedonia, including Azerbaijan, Botswana, Cuba, El Salvador and Turkey. Any further deviation from the EU's list of visa-required countries should be avoided. North Macedonia should ensure progress in aligning its policy with the EU's list, in particular with regard to those third countries presenting irregular migration or security risks to the EU. This will be an important theme of continued dialogue between the EU and North Macedonia. In the context of the visa suspension mechanism and in accordance with Article 8 of the Visa Regulation, the Commission will continuously monitor and assess the action of North Macedonia towards EU visa alignment.

1.2. Monitoring trends in irregular migration, applications for international protection, returns and readmission

In 2021, the number of applications for international protection in Member States by nationals of North Macedonia rose almost fourfold (an increase of 293%), with 5 345 applications lodged in 2021 compared with 1 360 in 2020. The recognition rate slightly decreased from 1.8% in 2020 to 1.2% in 2021.

In 2021, 12 irregular border crossings by North Macedonian nationals were reported at EU level, against 18 in 2020. In 2021, the number of North Macedonian nationals found to be irregularly staying remained relatively stable compared with the previous year, with 6 305 irregular stays in 2021 against 6 270 in 2020 (an increase of less than 1%). The number of refusals of entry increased by 20%, from 2 415 refusals in 2020 to 2 905 in 2021.

Last year marked a decreasing trend in the number of: (i) return decisions issued to North Macedonian nationals (2 200 in 2021 against 2 360 in 2020, a 7% decrease); and (ii) people returned

(1 040 in 2021 against 1 510 in 2020, a 31% decrease). Member States, nevertheless, report good cooperation on return and readmission.

2. Judicial cooperation, public order and security

North Macedonia continued to take action fighting organised crime (including drug trafficking and trafficking in human beings), corruption and money laundering. The country also continued the fight against terrorism and financing of terrorism and the prevention of radicalisation, following-up implementation of the Joint Action Plan on Counter-Terrorism for the Western Balkans.

Member States, Europol and Eurojust report good overall cooperation with North Macedonia in the field of security. In 2021, North Macedonia continued to cooperate bilaterally with Member States, including Czechia, Germany, France and the Netherlands.

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

a) Improve the track record of final convictions in high-level corruption cases, including by confiscating more criminal assets.

North Macedonia continued implementing reforms in the fight against corruption, including at high level. More criminal assets should be confiscated in criminal proceedings: there were only four cases of confiscation of property in 2021. The confiscation of criminal assets should become a strategic priority in the fight against organised crime, terrorism and high-level corruption in the country.

b) Further improve the track record of investigations, prosecutions and convictions in organised crime and money laundering.

North Macedonia has made progress in consolidating its track record of investigations, prosecutions and convictions in organised crime and money laundering. For money laundering, in 2021, indictments were filed against 9 individuals, first instance verdicts were reached for 7 individuals and second instance verdicts were reached for 2 individuals. For organised crime, in 2021, 17 investigations were launched against 119 individuals. There were also indictments brought against 55 individuals. Financial investigations were conducted in 3 cases. Confiscation of criminal assets is not sufficiently used, (only 10 cases with first instance decisions to confiscate assets mostly of minor value, e.g. cars, money and mobile phones).

With regard to the fight against money laundering, North Macedonia adopted a new national risk assessment in June 2021, as well as an action plan to be implemented by 2024. A beneficial owners' register has also been set up, while a comprehensive bank account register remains to be established.

c) Increase participation in coordinated or joint investigations and prosecutions with countries in the region and with Member States.

North Macedonia increased its strategic and operational cooperation with international partners by participating in joint projects with INTERPOL, Europol, SELEC, CEPOL, Frontex and the OSCE. With EMPACT, the country also participated in more bilateral and multilateral operations (joint action days) and other activities to intensify the exchange of operational information with INTERPOL, Europol, SELEC and Member States.

The country continued carrying out a national plan to reintegrate, re-socialise and rehabilitate returning foreign terrorist fighters and their families. However, further progress is needed to develop a single and comprehensive approach dealing with this issue.

d) Make full use of the National Coordination Centre for the Fight against Organised Crime.

The National Coordination Centre for Fight against Organised and Serious Crime is operational, but it needs to improve its operational capacity as not all authorities have posted members to the Centre, and this is limiting its efficiency. It contributed to providing data and facilitating the exchange of information between the participating institutions, thus supporting their efforts to combat organised and serious crime.

e) Continue progress in implementing the Joint Action Plan on Counter-Terrorism for the Western Balkans.

North Macedonia has made significant progress in implementing the bilateral arrangement under the Joint Action Plan on Counter-Terrorism for the Western Balkans, and the parties agreed to update the arrangement. North Macedonia submitted the fourth interim report in March 2022. Further efforts are required to implement the remaining activities set out in the arrangement.

The National Committee for Countering Violent Extremism and Countering Terrorism participated in projects and workshops to boost regional security cooperation and capacity building to address the challenges in reintegrating foreign terrorist fighters and preventing radicalisation and violent extremism. North Macedonia also established an inter-agency working group and set up a national action team to counter terrorism. The country cooperated and exchanged information effectively with Europol on counterterrorism and completed implementing measures on anti-money laundering and terrorism financing.

f) Fully implement the new module on suspicious transactions reported by the Financial Intelligence Unit (FIU) and establish a track record in its use by the prosecution offices.

The IT case management system has been implemented by the FIU. The competent authorities (such as the Ministry of Interior, the Public Prosecutor's Office, the Public Revenue Office, the Financial Police Office, and the Customs Administration) submit reports on suspicious transactions to the FIU electronically. If the processing and analysis of such data reveals suspicions of money laundering, financing of terrorism or other crimes, the FIU submits a report or notice to the competent authorities.

In January 2021, the FIU set up an electronic system for monitoring the outcome of the steps taken by the competent institutions following the FIU's submission of a report or notice. In addition, to get a complete picture of the system's efficiency and effectiveness, the FIU entered every report or notice submitted to the competent authorities from the beginning of 2017 into the case monitoring system.

g) Refrain from enabling systematic acquisition of citizenship for special economic interest.

The Law on Citizenship of North Macedonia allows for the acquisition of citizenship for special economic interest without any previous residence requirements. As of October 2021, 115 individuals had acquired citizenship for economic interest, representing an increase compared to 2020 (until December 2020, 103 individuals had obtained citizenship for economic interest). In view of the fact that the Law on Citizenship of North Macedonia allows for the acquisition of citizenship for special economic interest without any previous residence requirements, as well as of the numbers of total and successful applicants, the migratory and security risks this could pose to the EU are being closely monitored. The Commission has brought these risks to the attention of North Macedonia. The systematic granting of citizenship in return for investment is of great concern to the EU and can have an impact on the visa-free regime as it may be used to bypass the short-stay visa procedure and the

in-depth assessment of individual migratory and security risks it entails. The Commission takes the view that, if the implementation of this law is deemed to constitute an increased risk to the internal security and public policy of the Member States, the visa-free regime may be suspended²¹.

3. Recommendations for North Macedonia

North Macedonia has taken action to address the Commission's previous recommendations. However, further efforts are needed on migration management, anti-money laundering, counterterrorism, the fight against corruption and organised crime, and the acquisition of citizenship for special economic interest. In particular, the following issues need to be further addressed.

- a) Align, as a matter of priority, North Macedonia's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.
- b) Tailor information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), and those making unfounded asylum applications.
- c) Refrain from enabling systematic acquisition of citizenship for special economic interest.
- d) Adopt updated strategies for countering terrorism and preventing and countering violent extremism and continue progressing on the implementation of the Joint Action Plan on Counter Terrorism for the Western Balkans.
- e) Continue efforts preventing and fighting corruption and organised crime by: (i) improving the track record of final convictions in high-level corruption cases, including by confiscating criminal assets; (ii) improving the track record of investigations, prosecutions and convictions for organised crime and money laundering; (iii) participating in more coordinated or joint investigations and prosecutions with countries in the region and Member States; and (iv) making full use of the National Coordination Centre for the Fight against Organised and Serious Crime.

V. Serbia

1. Migration, asylum and readmission

1.1 Action taken in the area of migration, asylum and cooperation in readmission

In 2021, Serbia continued to take action on border and migration management and asylum. Member States in general reported good cooperation with Serbia on migration and border management, as well as on return and readmission. The legal framework for border control is largely harmonised with the EU *acquis*. Serbia continued to effectively implement the integrated border management strategy and its action plan, while remaining under serious migration pressure like other Western Balkans countries. It continued to implement the roadmap to strengthen asylum and reception as agreed with the EU Agency for Asylum.

²¹ See, in this respect, Council Decision (EU) 2022/366 of 3 March 2022 on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (OJ L 69, 4.3.2022, p. 105).

There was regular cooperation with Europol at many levels to fight migrant smuggling. Serbia participated in several international operations combating irregular migration and trafficking in human beings. The country is also implementing a strategy to prevent and end trafficking in human beings for 2017-2022, which focuses on protecting women and children. Serbian authorities continued to strengthen their capacity for accommodating and caring for migrants in the specific context of the COVID-19 pandemic.

The Status Agreement between Frontex and Serbia²² entered into force on 1 May 2021. A Frontex Liaison Officer is stationed in Belgrade (with a regional mandate covering Serbia, Bosnia and Herzegovina, and Montenegro). The joint operation of Frontex and Serbia was launched on 16 June 2021 aiming to control irregular immigration, tackle cross-border crime and strengthen law enforcement cooperation. The 2022 joint operation is ongoing.

One Member State signalled a significant readmission issue due to a difference in interpreting a bilateral agreement; the negotiations to resolve this are ongoing. Another Member State communicated on cooperation to fight the use of false/forged travel documents. Furthermore, yet another Member State reported that three Serbian illegal immigration networks were dismantled.

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

a) Adopt the Schengen action plan and ensure all relevant government institutions are sufficiently involved.

Implementation of the twinning project ‘Development of the Schengen action plan’ (IPA 2014) began in October 2018; Hungary and Lithuania were the external partners of the Serbian Ministry of Interior. The project evaluated Serbia’s legal framework and its compliance with the Schengen *acquis*, and contributed to aligning national legislation with the Schengen *acquis*. The result was a document that can be used to finalise the draft action plan to join the Schengen area. The project ended in December 2021.

b) Develop and adopt a new integrated border management (IBM) strategy and action plan in line with new IBM concepts.

On 19 August 2021, a special working group was set up and tasked with drafting the 2022-2027 integrated border management strategy in the Republic of Serbia. The adoption of the strategy and action plan is under way.

c) Tailor information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), and those making unfounded asylum applications.

In 2021, 34 programmes were funded to raise awareness of refugees, internally displaced persons and returnees about the visa-free regime, as well as their social integration and available mechanisms for exercising their rights. The government financed local authorities to address the needs of returnees. The Ministry of the Interior is implementing the strategy for reintegration of returnees and the strategy for social inclusion of Roma men and women in the Republic of Serbia for 2016-2025.

²² Status Agreement between the European Union and the Republic of Serbia on actions carried out by the European Border and Coast Guard Agency in the Republic of Serbia.

d) Ensure further aligning Serbia's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.

Serbia's visa policy is not aligned with the list of third countries whose nationals are subject to a visa for short stays in the EU. The nationals of the following countries that are on the EU visa-required list are visa-exempt for Serbia: Armenia, Azerbaijan, Bahrain, Belarus, Bolivia, China, Cuba, Guinea Bissau, India, Indonesia, Jamaica, Kyrgyzstan, Kuwait, Kazakhstan, Mongolia, Oman, Qatar, Russia, Suriname, and Turkey.

The lack of alignment with the EU's visa policy has increasingly triggered irregular flows on the Western Balkans route, showing a negative impact on the implementation of Serbia's migration and border management system, and should be addressed as a matter of priority. Evidence from the first months of 2022 indicates in particular that nationals of Burundi, Tunisia, India, Cuba and Turkey were moving from Serbia to continue irregular journeys towards Member States along the Western Balkans migration route. Visa policies of third countries can have a significant influence on irregular migration movements towards the EU. Visa policy alignment with the EU therefore contributes to the good functioning of the visa-free regime of these partners with the EU. On 20 October 2022, Serbia informed the Commission to have adopted a decision establishing a visa requirement for nationals of Burundi²³ and Tunisia²⁴, in line with Serbia's commitments at the highest political level to the Commission. Serbia has committed to further align with the list of third countries whose nationals are subject to a visa for short stays in the EU, in particular by establishing visa requirement for nationals of India by the end of 2022. The Commission expects further visa alignment in line with these commitments and looks forward to further detail from Serbia on the steps to be taken and their effective implementation. In the context of the visa suspension mechanism and in accordance with Article 8 of the Visa Regulation, the Commission will continuously monitor and assess the action of Serbia towards EU visa alignment.

1.2 Monitoring trends in irregular migration, applications, for international protection returns and readmission

In 2021, 3 390 applications for international protection were submitted by Serbian nationals in Member States, an increase of 22% compared with 2020 (2 780). The recognition rate increased from 4% in 2020 to 6% in 2021.

Irregular crossings of the EU external borders by Serbian nationals rose by 28% from 21 in 2020 to 37 in 2021. The number of Serbian nationals found to be staying irregularly in Member States fell by 12%, with 14 430 people in 2021 compared with 16 355 in 2020. However, in 2021, after the steady decrease registered since 2018, the number of Serbian nationals refused entry rose by 15% (8 265 in 2021 against 7 210 in 2020).

Both the number of return decisions issued to Serbian nationals (5 650 in 2021 against 6 265 in 2020) and the number of people returned (3 020 in 2021 against 3 540 in 2020) decreased respectively by 10% and 15% in 2021 compared with 2020. Frontex reports a good overall experience in return-related activities carried out in Serbia.

²³ The decision entered into force on 22 October 2022.

²⁴ The decision entered into force on 20 November 2022.

2. Judicial cooperation, public order and security

Serbia continued its action on fighting organised crime (including trafficking in drugs and in human beings), fighting terrorism, preventing corruption, and strengthening judicial cooperation in criminal matters. Member States report good overall cooperation with Serbia in the field of security. Serbia continued cooperating with Europol and Eurojust and engaged in joint activities with several Member States. The secure communication channel SIENA is operational and regularly used. Cooperation between Serbia and CEPOL is well-established.

The first stage of the constitutional reform aimed at strengthening the independence of the judiciary was successfully completed in February 2021 by the promulgation of the constitutional amendments in Parliament. The implementing legislation, which is scheduled to be adopted by February 2023, will be important for strengthening the guarantees against potential political influence over the judiciary.

In 2021, Serbia intensified operations against organised crime after a reduction in activities in 2020 as a result of the COVID-19 pandemic. A particular effort was devoted to fight drugs smuggling and the illicit manufacturing and trade of weapons. Many operational activities were carried out in cooperation with Europol; Serbian police also took part in many analytical EMPACT projects. Serbia reported particularly close collaboration with one Member State to improve international cooperation in confiscating criminal assets. In the second half of 2021, preliminary work began to amend the Criminal Code, with the focus on organised crime, in particular preventing the illegal manufacturing and smuggling of weapons.

However, a number of significant challenges remain. Criminal networks originating from, or with links to, Serbia, remain active in the EU. Their criminal activities are diverse and include organised property crime (burglaries, motor vehicle crime, robberies), migrant smuggling, cyber-dependent crime, non-cash payment fraud, production and trafficking of illicit tobacco smuggling, and drugs trafficking (especially cocaine and heroin trafficking)²⁵. Serbia is a major transit country for smuggling migrants along the Western Balkans route, so Serbian smugglers are actively involved in transporting irregular migrants across the region. In several Member States, Serbian trafficking networks exploit victims, including minors, especially in labour exploitation and forced criminality. In the fight against terrorism, Serbia considers the return of foreign terrorist fighters as its biggest security issue.

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

a) Improving the track record of investigations, indictments and final convictions in high-level corruption cases, including the seizure and confiscation of criminal assets.

Serbia has made changes to improve measuring its track record of investigations, prosecution and final convictions in high-level corruption cases, including the seizure and confiscation of criminal assets.

In high-level corruption cases, there was a slight increase in the number of indictments and final convictions in 2021 compared with 2020.

²⁵ Member States' contributions to the EU Serious and Organised Crime Threat Assessment 2021.

Based on indictments from the Prosecutor's Office for Organised Crime, the courts delivered first instance judgments against 10 individuals in 2021 (compared with 22 in 2020). There were final convictions against 19 individuals (compared with 11 in 2020). The Prosecutor's Office for Organised Crime ordered investigations against 22 individuals and issued 22 indictments (compared with 19 in 2020). As in 2020, there were no cases with a final confiscation of assets (compared with 3 in 2019). Serbia still needs to build a convincing track record of confiscating assets in corruption cases.

In 2021, the special departments for combating corruption in the higher prosecution offices received 3 035 criminal complaints (compared with 2 936 in 2020). They ordered 270 investigations and initiated parallel financial investigations against 67 individuals (compared with 23 in 2020). A total of 540 indictments were issued (470 in 2020). The courts delivered judgments against 271 individuals at first instance based on indictments from these departments (230 in 2020). There were final convictions against 255 individuals (compared with 195 in 2020).

In 2021, prosecutions of general jurisdiction (not specialised departments) issued 29 orders to investigate corruption and economic crime offences (22 in 2020) and filed less indictments than in 2020 due to the gradual shift of cases to the specialised departments (63 indictments in 2021 against to 136 in 2020). The courts convicted 132 individuals at first instance and 80 individuals at final instance. A final confiscation of assets only took place in 1 case (against 3 in 2020).

b) Adopting a new anti-corruption strategy underpinned by a credible and realistic action plan and an effective coordination mechanism.

Given that the national anti-corruption strategy for 2013-2018 has expired, Serbia needs to adopt and start implementing a new strategy underpinned by a realistic action plan and an effective coordination mechanism. However, the development of this new strategy and action plan is still in progress.

For sectors particularly vulnerable to corruption, Serbia adopted the operational plan for the prevention of corruption in areas of special risk in September 2021.

Lastly, the Ministry of Education adopted a specific operational plan for fighting corruption in education in October 2021, and the Ministry of Health adopted a plan against corruption in the health sector in December 2021. Both plans are to be implemented in 2022.

c) Continuing progress implementing the Joint Action Plan on Counter-Terrorism for the Western Balkans.

Under Objective 1 of the Joint Action Plan, in December 2021, the government appointed the Minister of Interior as the National Coordinator for Prevention and Combating Terrorism. A National Coordination Body exists, tasked with the coordination of preventing and combating terrorism.

Under Objective 2, the government continued carrying out the action plan to identify returning terrorist fighters with Serbian citizenship when they cross the state border.

d) Increase efforts to prevent all forms of radicalisation leading to violent extremism and terrorism, including violent right-wing extremism.

Serbia continues efforts in this field. In 2021, the SIENA platform was used intensively. Between April and May 2021, Serbia, together with Europol, targeted extremist content online. Czechia

signalled cooperation with Serbia to fight fake news to strengthen the capacity of journalists and election monitors confronting disinformation and propaganda.

3. Recommendations for Serbia

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. In particular, the following issues need to be further addressed.

- a) Adopt a new integrated border management (IBM) strategy and action plan in line with new IBM concepts.
- b) Follow up on the commitments at the highest political level and align, as a matter of priority, Serbia's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.
- c) Adopt a new anti-corruption strategy followed by a credible and realistic action plan.
- d) Improve the track record in fighting organised crime, including drug trafficking, money laundering, confiscation of criminal assets and exploiting migrants in Member States.
- e) Continue implementing the bilateral arrangement under the Joint Action Plan on Counter-Terrorism for the Western Balkans, especially concerning the fight against terrorism financing (Objective 4) and protection of critical infrastructures (Objective 5); adopt the new strategy and action plan on counterterrorism and prevention of violent extremism, covering all forms of radicalisation and violent extremism (irrespective of their political, religious or ethno-nationalist root causes) in line with EU policies.

VI. Georgia

1. Migration, asylum and readmission

1.1. Action taken to ensure the continuous fulfilment of the visa liberalisation benchmarks

Member States confirmed continued good cooperation on return and readmission with the Georgian authorities. The well-established Readmission Case Management System proved particularly useful during the pandemic. Efforts to facilitate the professional and social reintegration of returnees continued through the state's reintegration programme.

A revised working arrangement between Frontex and Georgia was signed on 11 February 2021²⁶. Through advanced cooperation with Frontex, Georgia participates in joint operations and collecting return operations. More Frontex officers have been deployed to Georgian international airports, and Georgian police officers have been deployed to airports in those Member States concerned.

²⁶ <https://frontex.europa.eu/media-centre/news/news-release/frontex-renews-working-arrangement-with-georgia-e02I2v#:~:text=Under%20the%20revised%20arrangement%2C%20Frontex.of%20border%20management%20and%20return.>

Georgia is applying the new migration strategy for 2021-2030 and the related action plan for 2022. In 2021, the country became an observer in the European Migration Network. In August 2021, a new action plan to reduce statelessness was adopted.

The latest integrated border management strategy and respective action plan expired in 2018. The new ones have not been approved yet: the new expected approval date is autumn 2022. Efforts to strengthen border safety and security with new infrastructure and additional equipment continued, with reinforcement of land, air and sea capacity.

Georgia regularly cooperates, both operationally and analytically, with Europol, including on migrant smuggling. To target criminal networks involved in this activity, the country cooperates bilaterally with Member States, including via an extensive network of police attachés.

Georgia reported that it was exchanging information with INTERPOL on lost and stolen passports. Non-biometric passports will be fully phased out by 31 December 2024 when all non-biometric documents expire. By 1 January 2022, the remaining number of valid non-biometric passports totalled 12 371.

One Member State reported cooperation with Georgia on fighting document fraud. A bilateral agreement to fight illegal immigration was signed with another Member State.

1.2. Action taken to address the recommendations in the *Fourth Report under the Visa Suspension Mechanism on migration*

a) Continue to proactively address the issue of unfounded asylum applications in Member States; tailor information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), and unfounded asylum applications.

Georgia made a significant effort to address unfounded asylum applications in Member States. Since 1 January 2021, 2 202 citizens have been prevented from leaving the country based on legislation allowing the authorities to prevent departures to Member States if basic conditions (means of subsistence, etc.) are not fulfilled. People helping Georgian citizens staying abroad illegally can be prosecuted although authorities recognise that those procedures are not easy to implement.

Georgia also conducted targeted information/awareness raising campaigns on travel and residence conditions in the EU.

b) Ensure further aligning Georgia's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.

Georgia's visa policy is not aligned with the list of third countries whose nationals are subject to a visa for short stays in the EU. The following countries that are on the EU visa-required list are visa-exempt for Georgia: El Salvador, Ecuador, Iran, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lebanon, Oman, Qatar, Russia, Saudi Arabia, South Africa, Tajikistan, Thailand, Turkey, Turkmenistan and Uzbekistan. Georgia made no progress on this point in 2021.

1.3. Monitoring trends in irregular migration, applications for international protection, returns and readmission

In 2021, the number of applications for international protection in Member States increased by 69% compared with 2020, with 14 600 applications lodged in 2021 and 8 650 in 2020. The recognition rate slightly decreased from 4.3% in 2020 to 4.9% in 2021.

In 2021, there were 30 irregular crossings of borders of Member States by Georgians, identical to the number in 2020. In 2021, the number of Georgian nationals found to be irregularly staying in Member States rose by 28%, with 13 000 people in 2021 against 10 165 in 2020. Following the same growing trend, the number of refusals of entry issued to Georgian nationals increased by 50% from 2 065 in 2020 to 3 105 in 2021.

In 2021, the number of return decisions issued to nationals of Georgia fell by 13% (10 595 in 2021 compared with 12 120 in 2020) as did the number of people returned (5 495 in 2021 compared with 6 330 in 2020). However, Frontex reports a satisfactory implementation of the EU Readmission Agreement in 2021. Several Member States report good cooperation with Georgia, in particular on the use of return flights.

2. Judicial cooperation, public order and security

2.1. Action taken to ensure the continuous fulfilment of the benchmarks

Member States report good overall cooperation with Georgia in the field of security. Georgia continued cooperating with Europol and Eurojust and engaged in joint activities with several Member States. The country cooperated regularly with EU asset recovery offices, executing requests on time.

Georgia continued fighting corruption: in 2021, 197 individuals were prosecuted, and 117 were convicted, including 7 high-ranking officials. A considerable effort was made to train specialised prosecutors and financial investigators, with a focus on asset-tracking techniques and freezing and confiscation procedures. On 16 March 2021, the responsibility to coordinate anti-corruption was transferred from the Ministry of Justice to the government, with the Prime Minister becoming the direct supervisor of the whole policy. In April 2021, the Group of States Against Corruption of Council of Europe (GRECO) published a report confirming that Georgia had largely implemented its recommendations on combating corruption issued in 2017.

Georgia continued to fight organised crime as part of the 2021-2024 national strategy on combating organised crime and the corresponding 2021-2022 action plan. Efforts were made in particular to fight cybercrime, drug trafficking and money-laundering schemes used by organised crime; those activities included frequent international cooperation. Georgia finalised the application of the previous national strategy on harmful drug use and its 2021-2022 action plan. The new 2022-2026 strategy and the 2022-2023 action plan are scheduled to be adopted in 2022. The 2021-2026 national strategy for the prevention of drug abuse is currently being implemented. The intelligence-led policing strategy for 2021-2025 was adopted on 11 July 2021. Capacity building to train additional specialists in fighting money laundering continued in 2021.

Georgia actively participates in the ‘Fighting organised crime in the Eastern Partnership region’ project implemented by Europol. Cooperation with CEPOL continued to be intensive, especially on stepping up the exchange programme: many Georgian security and police officers benefited from internships in relevant Member State institutions.

Georgia is implementing a national strategy and action plan on the fight against terrorism. The country is involved in international efforts against terrorism and is an active member of the Global Coalition against Daesh. Georgia has a comprehensive legal framework in place to criminalise terrorism financing.

Georgian organised crime networks continue, nevertheless, to be among the most active in organised property crimes across the EU, including burglaries, theft of vehicles and vehicle parts, and organised shoplifting. Georgian criminal networks also continue to be involved in smuggling irregular migrants from Turkey to the EU.

On 30 December 2021, Parliament adopted a legislative package through a rushed procedure that dismantled the State Inspector's Service, which benefitted from EU support. The State Inspector was dismissed without following the standard procedure. This raised concerns about maintaining the independence of Georgia's data protection authority, which is a benchmark under visa liberalisation. Two separate institutions have been established in place of the State Inspector's Service and the position of State Inspector: the Special Investigation Service and the Personal Data Protection Service.

2.2. Action taken to address the recommendations in the Fourth Report under the Visa Suspension Mechanism

a) Improve the efficiency of anti-corruption institutions and law enforcement agencies to better address cases of high corruption; ensure that all such cases are investigated.

On 16 March 2021, anti-corruption coordination was transferred from the Ministry of Justice to the administration office of the government (AOG), answering directly to the Prime Minister. On 9 June 2021, the Anti-Corruption Secretariat was established within the AOG to exercise the functions of the Secretariat of the Anti-Corruption Council, develop the new anti-corruption strategy and its action plans, and monitor their implementation.

In 2021, 218 investigations were launched, 197 individuals were prosecuted and 117 individuals were convicted in connection to corruption. Out of the 2021 prosecutions and convictions, 14 high-ranking officials, including the deputy minister, a deputy district prosecutor, the head and deputy head of the public law legal entity, governors, deputy governors, a deputy mayor and members of local councils (at the time of committing the crime) were prosecuted and 7 were convicted for corruption. However, more needs to be done to tackle high-level corruption, in particular the role of large-scale vested interests and their influence in the economic and political spheres²⁷.

b) Finalise the reform of the Supreme Court by bringing the selection procedure for judges fully in line with the Venice Commission recommendations and European standards; finalise prosecution reform, including the separation of power of investigators and prosecutors.

Between 2019 and 2021, 28 judges were appointed to the Supreme Court with a lifetime term of office. These appointments, made before the existing shortcomings in the nomination process were addressed, are not in line with the recommendations of the OSCE/Office for Democratic Institutions and Human Rights and the Council of Europe's Venice Commission. The EU had expressed repeated

²⁷ See Commission Opinion on Georgia's application for membership of the European Union, COM(2022) 405 final.

concerns²⁸ over this procedure, which undermined judicial independence and public trust in the Georgian justice system.

On 30 September 2020 and 1 April 2021, Parliament adopted amendments to the selection process of Supreme Court judges. A number of Venice Commission recommendations, however, remained unaddressed, and further work is needed to fully align the procedure for appointing Supreme Court judges with those recommendations.

The second instalment of EUR 75 million of macro-financial assistance to Georgia was cancelled by the Commission in its decision of 7 October 2021, in particular due to the failure to fulfil the condition related to the judiciary, i.e. to increase the independence, accountability and quality of the judicial system. The selection of Supreme Court judges proceeded in the absence of the legislative changes needed to ensure full compliance with all Venice Commission recommendations. The process also failed to guarantee the equal treatment of all candidates. Furthermore, several further amendments aiming to increase the transparency of the judicial system were not adopted.

Amendments laying down a clear separation between a prosecutor and an investigator's powers during an investigation were submitted to Parliament on 24 November 2021; the legislative procedure is ongoing.

a) Finalise the operational development of the Financial Intelligence Unit (FIU) by ensuring that it: (i) is able to obtain any required information from reporting entities; and (ii) has full timely access to the necessary financial, administrative and law enforcement information to carry out its work properly.

According to information provided by Georgia and confirmed by the latest MONEYVAL report²⁹, the operational development of the FIU has been finalised. However, due to other shortcomings, the same report rates the overall performance of Georgia's FIU as only partially compliant with its recommendations.

b) Continue efforts to prevent and fight organised crime, in particular profit-laundering from illegal activities.

Georgia continued to fight organised crime as part of its national strategy in this area and its corresponding action plans. The Georgian Liaison Office at Europol cooperates closely with the teams in the European Serious Organised Crime Centre. Bilateral cooperation was also strengthened, including action via bilateral arrangements and the network of police attachés to 11 Member States, with a particular focus on anti-money laundering.

In 2021, the Georgian Liaison Prosecutor at Eurojust registered 2 new cases, while 21 new cases were registered by Eurojust national members towards Georgia. These cases mainly relate to corruption, migrant smuggling, swindling and fraud, and money laundering. In 2021, Georgia signed a new joint investigation team agreement in a case supported by Eurojust.

Despite the measures mentioned above, criminal networks originating from, or with links to, Georgia, remain active in the EU. Their criminal activities are diverse and include organised property

²⁸ https://www.eeas.europa.eu/eeas/georgia-statement-spokesperson-appointment-supreme-court-judges_en

²⁹ <https://rm.coe.int/moneyval-2020-20-5th-round-mer-georgia/1680a03271>

crime (burglaries, motor vehicle crime, robberies), migrant smuggling, and drugs trafficking (especially heroin trafficking)³⁰.

c) Continue efforts to fully align national legislation with the EU acquis on anti-money laundering and counterterrorism financing.

In 2021, Georgia made an effort to better align its money-laundering and terrorism-financing legislation with the EU's. This made it possible for the Georgian authorities to act on United Nations Sanctions Committee listings as soon as they were published. Another legislative change will authorise FMS (Georgian FIU) to submit more confidential information to more national institutions (including the ministry of finance) than before for money-laundering and terrorism-financing crimes. The legislative procedure to approve these amendments is ongoing.

3. Recommendations for Georgia

Overall, Georgia continues to fulfil the visa liberalisation benchmarks and has taken action to address the Commission's previous recommendations. However, further efforts are needed in visa policy and fighting money laundering and organised crime. In particular, the following issues need to be further addressed.

- a) Align Georgia's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.
- b) Continue to address unfounded asylum applications in Member States; tailor information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), and those making unfounded asylum applications.
- c) Increase efforts to tackle corruption, in particular the role of large-scale vested interests and their influence in the economic and political spheres, in particular by strengthening the independence and coordination of anti-corruption institutions as well as providing them with necessary resources.
- d) Finalise efforts to fully align national legislation with the EU *acquis* on anti-money laundering and counterterrorism financing.
- e) Step up efforts against organised crime, especially the networks connected to operations in the EU.
- f) Fully align the procedure for appointing Supreme Court judges with the Venice Commission's recommendations, and adopt and implement legislation evaluating the integrity and performance of Supreme Court judges.
- g) Ensure the independence of the data protection authority.

VII. Republic of Moldova

1. Migration, asylum and readmission

In 2021, Member States reported good overall cooperation with the Republic of Moldova (further 'Moldova') on migration and border management, including readmission. Some issues were

³⁰ Member States' contributions to the EU Serious and Organised Crime Threat Assessment 2021.

signalled on the return of third-country nationals, especially those married to Moldovan citizens, but these concerned a very limited number of cases. Some administrative delays were also signalled in treating readmission requests by Moldova. Four Member States (France, Germany, Latvia and Lithuania) reported bilateral operational activities and projects with the country on migration and border management.

Moldova continued efforts to improve border management and migration systems by investing in infrastructure, software and training. The country is also a beneficiary of a cooperation plan between Frontex and the Moldovan Border Police. In December 2021, the plan was renewed for 2022-2024.

The EU Border Assistance Mission to Moldova and Ukraine (EUBAM) reoriented its work immediately from 24 February 2022 to assist managing displaced persons from Ukraine. Measures include advising on streamlining flows, assisting vulnerable migrants, providing information on basic border control procedures to be followed for entry, and assisting in customs clearance of humanitarian aid. On 2 June, a new Memorandum of Understanding was signed between the Commission, Ukraine and Moldova³¹ providing the possibility of EUBAM using executive powers in border control if requested by one of the countries. EUBAM operates in full cooperation with Frontex staff to cover the key crossing points.

As regards document security, Moldova now only delivers biometric ICAO-compliant passports. Phasing non-ICAO-compliant passports out was completed on 1 January 2021. Moldova continued intensive training for those staff dealing with passports. The cooperation with INTERPOL on lost and stolen passports is regular and systematic.

In 2021, Moldova became an observer in the European Migration Network.

1.1. Action taken to address the recommendations in the *Fourth Report under the Visa Suspension Mechanism in migration*

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

a) *Continue tailoring information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays) and those making unfounded asylum applications.*

The topic of visa-free travel to the EU is regularly addressed in information campaigns on general European integration issues. A more targeted action in 2021 was the publication of a revised edition of the guide on freedom of movement in the EU for Moldovan citizens. Tailor-made campaigns are carried out among vulnerable minorities via community mediators.

b) *Ensure further aligning Moldova's visa policy with the EU's lists of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.*

Moldova's visa policy is not aligned with the list of third countries whose nationals are subject to a visa for short stays in the EU. The following countries that are on the EU visa-required list are visa-exempt for Moldova: Armenia, Azerbaijan, Belarus, Cuba, El Salvador, Ecuador, Kazakhstan,

³¹ <https://eubam.org/newsroom/the-eu-steps-up-support-to-border-management-on-the-moldova-ukraine-border/>

Kyrgyzstan, Russia, Tajikistan, Turkey and Uzbekistan. There were no significant developments in 2021.

1.2. Monitoring trends in irregular migration, applications for international protection, returns and readmission

The number of applications for international protection by Moldovan nationals in Member States increased by 63% between 2020 and 2021, with 4 830 applications lodged in 2020 against 7 885 applications in 2021. The recognition rate was 1.0% in 2021, unchanged from 2020.

In 2021, attempts by Moldovan nationals to cross the EU's external borders irregularly remained very low (21) and lower than in 2020 (34). The number of Moldovan nationals found to be irregularly staying rose from 24 610 in 2020 to 42 150 in 2021 (an increase of 71%). In 2021, the number of Moldovan nationals being refused entry in Member States was 9 065, which is 11% less than in 2020, the year in which the highest number on record for this nationality was reached (10 150).

In 2021, the number of return orders issued to Moldovan nationals increased by 17% (7 935 in 2021 compared with 6 765 in 2020). However, the number of returns was 14% less than in 2020 (2 785 in 2021 compared to 3 240 in 2020). Nevertheless, Member States report good cooperation on readmission of own nationals, and Frontex reports a smooth implementation of return operations.

2. Judicial cooperation, public order and security

In 2021, Moldova continued cooperating with several Member States in the field of security.

Moldova continued to implement the 2020-2027 national anti-drug strategy, the 2020-2025 anti-money laundering/counter-terrorism financing strategy and the 2018-2023 national strategy for preventing and combating trafficking in human beings. The latter strategy aims to improve services for victims of trafficking and vulnerable groups (including migrants and asylum seekers) and the systematic training of investigators, prosecutors and judges to deal with human trafficking cases. However, the national strategy on combating organised crime expired in 2019; the new strategy and its accompanying action plan have still not been adopted.

The fight against corruption continued to be executed by the National Anti-corruption Centre in cooperation with the Anti-corruption Prosecutor Office (a specialised section of the Prosecutor General Office).

Moldova has invested substantially in policy reform measures to combat organised crime and illicit financial flows. In 2021, 18 organised criminal groups were investigated and 44 group members were arrested. Moldova is considered to be a reliable partner in efforts against organised crime, especially in fighting cybercrime (e.g. investigating online payment fraud/extortion, stamping out child sexual exploitation online). The government and Parliament prepared a set of legislative amendments on freezing, recovering and confiscating criminal assets, in order to improve the efficiency of the Criminal Assets Recovery Agency (a specialised autonomous subdivision operating in the National Anticorruption Centre since 2018). However, the legislative process is still ongoing.

Criminal networks originating from, or with links to, Moldova, remain active in the EU. Their criminal activities are diverse and include organised property crime (burglaries, motor vehicle crime,

robberies), migrant smuggling, cyber-dependent crime, non-cash payment fraud, production and trafficking of illicit tobacco smuggling, and drugs trafficking³².

The Commission made the recommendations below in the *Fourth Report under the Visa Suspension Mechanism*.

a) *Adopt a strategy and action plan for justice reforms.*

The new 2022-2025 strategy for ensuring the independence and integrity of the justice sector and its accompanying action plan was adopted on 6 December 2021.

b) *Adopt constitutional amendments related to the judiciary in line with the Venice Commission's recommendations.*

Parliament adopted constitutional amendments related to the judiciary on 23 September 2021, which entered into force on 1 April 2022. The amendments significantly improve the legal framework on the independence, accountability, and efficiency of the judiciary and judicial administration, in line with recommendations of the Council of Europe. In particular, the amendments bring the composition of the Superior Council of Magistracy in line with the recommendations by excluding *ex officio* membership and revising the appointment process of the Council's lay members. This strengthens the role of the President in appointing judges, regulating the functional immunity of judges at the constitutional level, and changing the appointment procedure of judges to the Supreme Court of Justice to reduce the risk of politicisation.

c) *Ensure that judicial appointments are carried out in a merit-based and transparent selection process, including well-reasoned justifications for appointments and rejections with reference to competence and integrity criteria.*

Moldova has comprehensive legislation regulating judicial appointments. The main institutions involved in the judicial selection process are the College for Selection and Career of Judges and the Superior Council of Magistracy. The National Anticorruption Centre carries out the vetting of candidates by verifying declarations of assets/interests as well as certificates from the National Integrity Authority and by consulting criminal records.

Transparency of the selection process is ensured by publishing announcements on competition launches, information about the candidates, and the results of competitions. However, the appointment and promotion system of judges and prosecutors after the initial training/graduation examination stage by the Superior Council of the Magistracy and the Superior Council of the Prosecutors is not sufficiently transparent, and criteria are unclear.

In March 2022, the law on pre-vetting candidates to judicial and prosecutorial councils was adopted. The law provides for an assessment of the integrity of future members of the Superior Council of Magistracy, the Superior Council of Prosecutors and their specialised bodies by an Evaluation Committee composed of three national and three international members. This aims to increase the integrity of the self-administration bodies of judges and prosecutors and boost the public's confidence in their activities and the justice system as a whole. Most recommendations of the Venice Commission were implemented.

³² Member States' contributions to the EU Serious and Organised Crime Threat Assessment 2021.

d) Ensure the effective implementation of the asset declaration system by high-level actors.

On 7 October 2021, Parliament adopted amendments to the asset declaration system by laying down the following features: (i) declaration of assets at their real market value; (ii) extending the scope of checks on people in case of justified suspicion; and (iii) allowing integrity inspectors to request an independent evaluation of assets. In 2021, the National Integrity Authority continued to check priority declarations of ministers, members of Parliament, heads of administrative agencies, management of the national bank, judges and prosecutors. The GRECO *Fourth Evaluation Round Second Interim Compliance Report* praises the asset declaration reforms but warns that the National Integrity Authority's strategy is not fully effective.

e) Impose an effective division of powers between the anti-corruption agencies, and ensure that the Anti-Corruption Prosecution Office focuses on high-level corruption cases.

In 2021, work began on the draft amendments to the Criminal Code and to the Criminal Procedure Code to delineate the powers of the Anti-Corruption Prosecution Office in investigating high-level corruption cases and to restructure the National Anticorruption Centre. The discussions continued at the level of competent government agencies, with the aim to adopt the amendments by Parliament in 2022.

f) Adopt secondary legislation implementing the law on anti-money-laundering sanctions.

There were no major legislative developments on this point. The authorities foresee entry into force of the respective legal acts only in 2023.

g) Progress in investigating and prosecuting in major money-laundering schemes.

The Anti-Corruption Prosecution Office continued to investigate major cases. One example is the 'Laundromat' scheme, in which some Moldovan and Latvian banks illegally transferred Russian funds evaluated at USD 22 billion abroad. The case is being investigated in cooperation with Latvia. A new investigation team was created on 5 November 2021 comprising the Anti-Corruption Prosecution Office prosecutors and the criminal investigation officers of the National Anticorruption Centre. In 2021, the Office opened or continued 26 other investigations of major cases.

h) Align national legislation with the EU acquis on anti-money laundering and counterterrorism financing.

Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing was transposed in Moldovan law in two steps, in 2017 and 2020. Further administrative rules were adopted in March 2021 by the National Bank.

The law on prevention and combating of money laundering and terrorism financing is to be modified only in 2022. It should include the transposition of the 5th Anti-Money Laundering Directive, the 2018 Cash Control Regulation provisions, the MONEYVAL recommendations and other necessary amendments, specific for Moldova

i) Strengthen efforts against bank fraud by updating the criminal asset recovery strategy and setting up a new asset recovery mechanism.

On 18 May 2021, the asset recovery strategy was replaced by a new asset recovery mechanism approved by a joint order of the Office of the Prosecutor General, the National Anticorruption

Centre, the State Fiscal Service and the Service for Prevention and Combating Money Laundering. The Criminal Assets Recovery Agency, together with the other competent authorities, are currently working on the draft of the National Programme on Asset Recovery, which should be adopted by Parliament in 2022.

j) Finalise the investigation into the 2014 banking fraud to bring those responsible to justice and recover the misappropriated funds.

The investigation into the 2014 banking fraud continued in 2021. Six new criminal cases linked to the fraud were submitted to the court by the Anti-Corruption Prosecution Office. The assets seized in those six cases totalled EUR 2 288 718. A further EUR 1 400 000 was recovered through international legal cooperation. Since the beginning of the investigation, the total value of recovered funds is EUR 367 115 731. One reason for adopting the asset recovery mechanism mentioned above in May 2021 was to speed up the return of the funds stolen in this bank fraud to the Moldovan state.

3. Recommendations for Moldova

Moldova has taken action to address the Commission's recommendations. However, further efforts are needed on visa policy, money laundering and organised crime. In particular, the following issues need to be further addressed,

- a) Align Moldova's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.
- b) Continue tailoring information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), and those making unfounded asylum applications.
- c) Clearly separate the powers and enhance intra-agency coordination of the anti-corruption bodies investigating high-level corruption cases.
- d) Complete the alignment with EU anti-money-laundering legislation, adopt secondary legislation implementing the law on anti-money-laundering sanctions, and implement MONEYVAL recommendations.
- e) Increase efforts against organised crime, including certain networks smuggling people and goods into the EU, in close cooperation with EU institutions, Member States and international partners.
- f) Strengthen the efforts to fight against bank fraud by adopting the national criminal asset recovery strategy and setting up a new efficient mechanism for freezing, seizure, confiscation and capitalisation of criminal assets.

VIII. Ukraine

As this report's scope covers up until the end of 2021, this section mainly reflects the situation before the start of Russia's unprovoked and unjustified military aggression against Ukraine on 24 February 2022.

Russia's aggression has led to an influx of millions of people seeking refuge in the EU and neighbouring countries. Following a Commission proposal to activate for the first time the temporary protection directive³³, on 4 March 2022, the Council adopted Implementing Decision (EU) 2022/382 that granted temporary protection status to Ukrainian nationals (and other categories of persons) displaced from Ukraine on or after 24 February 2022. Furthermore, the Commission adopted operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders³⁴. There were nearly 8.9 million entries into the EU by Ukrainian nationals between 24 February and 5 September.

Under these exceptional circumstances, the visa-free regime between the EU and Ukraine has allowed to facilitate travel to and from Ukraine, in particular for those Ukrainian nationals who decided not to take up residence in the EU or do not fall under the scope of the temporary protection directive.

Despite the drastically changed situation, the Commission considers that it remains relevant to continue monitoring respect of the visa liberalisation benchmarks by Ukraine, and will continue to support the Ukrainian authorities to implement the country's reforms that are necessary for the continuous fulfilment of the benchmarks.

1. Migration, asylum and readmission

1.1 Action taken to ensure the continuous fulfilment of the visa liberalisation benchmarks

In 2021, Member States confirmed good and continued cooperation with Ukraine on return and readmission and other migration areas, in particular with Belgium, Germany, Estonia, Latvia, Lithuania, and Poland. Ukraine continued to work with many Member States to draft and adopt implementation protocols on readmission. The country also continued efforts to reduce the number of unfounded asylum applications filed by its citizens in the EU by carrying out a number of information campaigns on asylum seekers' rights.

Ukraine continued implementing the 2019-2025 integrated border management strategy and the corresponding action plan, as well as the 2018-2021 migration policy strategy and its action plan. The work on the new action plan for after 2022 started with the participation of EU4IBM project experts.

In 2021, there was a considerable effort to improve the efficiency of IT systems supporting border and immigration controls, including the continuation of the EU-funded IOM project 'Support for migration and asylum management in Ukraine' (IMMIS).

A joint analysis of threats to border security was carried out with Slovakia, Poland, Hungary, Romania and Moldova. In addition, a joint trilateral assessment of threats to state border security was conducted with Poland and Belarus. Furthermore, a joint Ukrainian-German border police situation report continued to be developed.

In 2021, work in the area of asylum was considerably disrupted by the COVID-19 pandemic. The need to enforce social-distancing rules put asylum seekers and staff in the asylum centres and temporary holding facilities under considerable stress. Considerable investment (including in more

³³ Directive 2001/55/EC

³⁴ Commission Communication 'Providing operational guidelines for external border management to facilitate border crossings at the EU-Ukraine borders' (2022/C 104 I/01).

medical installations, isolation rooms and fire safety) was made so that temporary holding facilities and other facilities could meet the particular health and safety requirements.

Ukraine has been issuing biometric passports since 2015. The last non-biometric passports were issued in 2016, and their complete phase-out is planned for 2026 when they expire.

1.2 Action taken to address the recommendations on migration in the *Fourth Report under the Visa Suspension Mechanism*

a) Continue efforts to reduce the number of Ukrainian nationals irregularly staying in Member States and lodging unjustified asylum applications.

The Ukrainian authorities' efforts focus on information to citizens about visa-free travel rules. Besides being available on websites, the information is also given in specifically designed campaigns (see recommendation (c) below) or general campaigns about European integration (e.g. EUKraina), which include chapters on visa-free travel.

Prior to the Russia's invasion of Ukraine, the Ukrainian authorities proactively engaged with the Commission asking for best practices and/or concrete measures that could be taken to reduce the number of unjustified asylum applications. In the current context, Ukraine is cooperating closely with the EU and Member States on informing Ukrainians on the rights and obligations linked to the temporary protection regime.

b) Eliminate the possibility for Ukrainian nationals to hold more than one valid passport at a time; stop issuing such 'additional' passports and cancel the validity of those that have been issued.

Ukraine proactively approached the Commission and Poland to discuss possible solutions. At the end of 2021 and the beginning of 2022, there were consultations by Ukraine with the EU and Poland on the technical aspects of this issue. These consultations were affected by Russia's aggression against Ukraine but have continued between Ukraine and Poland, including on practical solutions in the context of the war. Some aspects were however mutually explained, especially the issuing of more than one passport. For many reasons, this practice is common, even in Member States and does not need to be changed. Moreover, the country's authorities already ensure that every Ukrainian citizen has a unique personal identification number, which never changes and appears on every identification document, including passports.

c) Tailor information campaigns on the visa-free regime to relevant migrant profiles, including vulnerable groups, those remaining beyond the period for which entry was granted (overstays), and those making unfounded asylum applications.

Ukrainian authorities conducted regular information campaigns on the rights and responsibilities of its citizens when travelling to EU countries. This included the 'Safe Migration' and 'Work Safe' campaigns, with the latter dedicated to preventing trafficking in human beings and the exploitation of migrants.

d) Ensure further aligning Ukraine's visa policy with the EU's list of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.

Ukraine's visa policy is not aligned with the list of third countries whose nationals are subject to a visa for short stays in the EU. The following countries that are on the EU visa-required list are visa-exempt for Ukraine: Armenia, Azerbaijan, Bahrain, Belarus, Ecuador, Kazakhstan, Kuwait, Kyrgyzstan, Mongolia, Oman, Qatar, Saudi Arabia, Tajikistan, Turkey and Uzbekistan. There were no significant developments in 2021.

1.3. Monitoring trends in irregular migration, applications for international protection, returns and readmission

In 2021, the number of Ukrainian applicants for international protection in Member States was 6 460, 8% more than in 2020 (5 990). The recognition rate rose from 11.2% in 2020 to 17.1% in 2021.

The number of Ukrainian nationals irregularly crossing the EU border in 2021 was small (113 in 2021, 87 in 2020 and 93 in 2019). In 2021, 36 670 Ukrainian nationals were found to be irregularly staying in EU (50 415 in 2020, a decrease of 27%). The number of refusals of entry to Ukrainian nationals fell by 11%, from 56 370 in 2020 to 50 220 in 2021.

In 2021, the number of return orders issued to Ukrainian nationals decreased by 17% (17 820 in 2021 compared with 21 540 in 2020). The number of returns was 21% lower than in 2020 (9 590 in 2021 compared with 12 145 in 2020).

2. Judicial cooperation, public order and security

2.1. Action taken to ensure the continuous fulfilment of the benchmarks

Member States reported good overall cooperation with Ukraine in the field of security. In 2021, Ukraine continued cooperating with Europol and Eurojust and engaged in joint activities with several Member States. Ukraine gives access to most of its databases to Europol. On 21 October 2021, Parliament adopted the law ratifying the Memorandum of Understanding between Ukraine and Europol on confidentiality and ensuring safety of information, which will allow exchanging confidential information. Cooperation with Eurojust continued via the Ukrainian representative at the EU agency.

In 2021, the Ukrainian Liaison Prosecutor at Eurojust registered 23 new cases, while 58 new cases were registered by Eurojust National Members towards Ukraine. These cases relate mainly to swindling and fraud, money laundering and corruption. In 2021, Ukraine signed six new joint investigation team agreements in cases supported by Eurojust.

Ukraine is carrying out its strategy for combating organised crime, which was adopted in September 2020. An action plan to further implement the strategy was drafted in November 2021 but could not be adopted before the beginning of Russia's war of aggression against Ukraine. Since 2020, the Department of Strategic Investigations of the National Police of Ukraine has the lead role in coordinating efforts against organised crime. In 2021, police investigations made it possible to prosecute 428 organised groups and 41 larger criminal organisations. The State Bureau of Investigation dismantled another 21 groups/organisations and indicted 143 of their members.

The fight against the production and trafficking of illegal drugs continued; laws on narcotic drugs, psychotropic substances and precursors were amended in April 2021. A big effort was made to fight

the trafficking of illegal weapons; in 2021 various police and security agencies seized 3 098 firearms, 3 236 grenades and 201 grenade launchers of all types.

In the fight against terrorism, priority was given to address incidents related to the armed conflict in the Donetsk and Luhansk areas. Ukraine also participated in the DARIF project (Danube Forum), protecting critical transport infrastructure on the Danube and its neighbouring area from terrorism and organised crime.

In 2021, Ukraine continued to counter international terrorist and violent extremist organisations from North Africa, the Middle East, Central and South-East Asia (including the Islamic State and Al Qaeda). As a result, 601 foreigners suspected of involvement in international terrorist organisations activities were banned from entering Ukraine, 27 were detained and 101 were forcibly returned to their countries of origin.

Despite the authorities' efforts, criminal networks originating from, or with links to, Ukraine, remain active in the EU. Their criminal activities are diverse and include organised property crime (burglaries, motor vehicle crime, robberies), migrant smuggling, cyber-dependent crime, non-cash payment fraud, production and trafficking of illicit tobacco smuggling, and drugs trafficking (especially cocaine and heroin trafficking)³⁵.

On money laundering, Ukraine appeared to be a destination for the transfer of illicit funds and an origin of illicit funds sent to other countries.

2.2 Action taken to address the recommendations in the *Fourth Report under the Visa Suspension Mechanism*.

a) Improve the efficiency of anti-corruption institutions and law enforcement agencies by focusing anti-corruption efforts on high-level corruption and state capture cases.

In 2021, there was some progress in the fight against high-level corruption, with a bigger number of convictions. Ukraine reported that the High Anti-Corruption Court (HACC) issued 72 sentences in 2021. Some of the verdicts concerned individuals occupying or having occupied high-level positions in national or local administrations, the judiciary, armed forces, and politics. On 1 June 2021, Law No 1498-IX was adopted allowing the deployment of an autonomous e-case management system for the National Anti-Corruption Bureau of Ukraine (NABU), the Specialised Anti-Corruption Prosecutor's Office (SAPO) and HACC. The law aims to boost the transparency, effectiveness and efficiency of criminal investigations in high-level corruption cases.

Ukraine also reintroduced criminal liability for false declarations and restored key corruption prevention powers of the National Agency for Prevention of Corruption (NACP) in June 2021, which the Constitutional Court had declared unconstitutional in October 2020. A compromise was made for the applicable sanction regime, and now failing to make an asset declaration can lead to 1 year in prison.

b) Adopt the necessary legislation on NABU to remove the legal uncertainty of its status.

On 10 November 2021, Law No 1810-IX amending the law on NABU entered into force. The amendments included the status of NABU and confirms it as a central executive body with special

³⁵ Member States' contributions to the EU Serious and Organised Crime Threat Assessment 2021.

status. NABU's special status protects it, in particular, from reorganisation without amending the law and gives better protection to its employees. The status also includes a procedure to interact with the government. This prevents a priori the government from interfering in how NABU operates. The Director of NABU has full control of the structure of the service, recruitment and job descriptions.

c) Carry out a transparent, depoliticised and merit-based selection of the heads of NABU, SAPO, the Asset Recover and Management Agency (ARMA) and law enforcement agencies, as well as management-level prosecutors, using adequate procedures and selection criteria, including credible integrity checks.

The amendments to the Law on NABU mentioned above stipulates a commission for selecting the NABU Director composed of six people, three appointed by the government and three appointed on the basis of proposals from international and foreign organisations. However, the NABU selection process was not finalised and could not proceed further. A new SAPO Head was appointed only on July 28, 2022, following a selection process that lasted for almost two years.

On 1 September 2021, the prosecutors self-governing body – the Council of Prosecutors of Ukraine – resumed its work, taking over the tasks previously handled by the commission mentioned above. However, unlike the commission, the Council's procedures lack transparency, meritocracy and checks on integrity.

As regards the selection of the head of ARMA, a temporary head was appointed on 4 August 2021. The competition for selecting the new head started, but the process was not finalised.

d) Improve ARMA legislation to manage seized assets and adopt a national strategy on asset recovery.

In 2021, Parliament started to examine draft amendments to five different laws affecting the work of ARMA, but none were adopted. The government produced three different draft resolutions on the same topic, but again none was adopted. In addition, the 2022-2024 asset recovery strategy was developed, but it was not adopted and needs further revisions.

e) Create conditions for NABU and other eligible agencies to carry out autonomous wiretapping of communication.

Law No 187-IX, adopted on 4 October 2019 gives NABU the possibility to autonomously gather information from telecommunication networks. However, NABU still cannot carry out these operations due to the lack of technical capacity and the necessary secondary legislation, including an inter-agency agreement with the Security Service of Ukraine.

f) Improve the effectiveness of the fight against organised crime and money laundering by: (i) fully making intelligence-led policing a part of the national strategy on the fight against organised crime; (ii) clarifying and separating the powers of all law enforcement agencies and taking measures to ensure that NABU, SAPO and HACC have exclusive powers to investigate, prosecute and adjudicate high-level corruption cases; (ii) continuing efforts to fully align national legislation with the EU acquis on anti-money laundering and counterterrorist financing, and improve its implementation.

Intelligence-led policing was considered a priority by Ukrainian authorities. Measures were taken to introduce the serious and organised crime threat assessment (SOCTA) methodology developed by Europol into Ukrainian police activities. Ukraine purchased the required software, and, in February

2021, began training analysts to use those new tools. On 26 January 2022, the government gave its final approval for adopting the SOCTA methodology.

3. Recommendations for Ukraine

Overall, Ukraine continues to fulfil the visa liberalisation benchmarks and has taken action to address the Commission's previous recommendations. However, further progress is needed, in particular, in fighting corruption. Since the beginning of the unprovoked and unjustified Russian military aggression against Ukraine, the Commission has supported strengthening the resilience of the Ukrainian public administration, and Ukraine was granted EU candidate country status in June 2022. The Commission will continue to support the Ukrainian authorities, including in the country's reforms that are necessary for the continuous fulfilment of its visa liberalisation requirements. Taking this into account, Ukraine needs to further address the following issues.

- a) Align Ukraine's visa policy with the EU's lists of visa-required third countries, in particular those third countries presenting irregular migration or security risks to the EU.
- b) Continue efforts to improve the efficiency of anti-corruption institutions and law enforcement agencies, including by enabling NABU to carry out autonomous wiretapping.
- c) Urgently finalise the ongoing competitions for the leadership positions of NABU and ARMA.
- d) Take further steps to improve anti-corruption legislation in order to strengthen institutional independence and procedures, particularly by: (i) amending the procedures for selecting SAPO officials, setting out a crucial role for independent experts with international experience in selection processes; and (ii) amending ARMA legislation on managing seized assets and adopting a national strategy on asset recovery.
- e) Improve the selection procedure for senior executives in the prosecutor's office by making it more transparent, fair and based on merit and by including a thorough check on candidates' integrity, drawing on positive features from the temporary procedure that applied until September 2021.
- f) Take further steps to improve Ukraine's compliance with the Financial Action Task Force's standards while considering the security constraints imposed by the martial law, in particular those on virtual assets, ultimate beneficial ownership, and supervision of designated non-financial businesses and professions.

When assessing progress in the areas mentioned above in the next report, the Commission will take into account the consequences of the ongoing Russian military aggression against Ukraine and its impact on the functioning of the Ukrainian public administration.

Conclusions

The Commission considers that all the countries assessed have taken action to address a number of the recommendations made in the *Fourth Report under the Visa Suspension Mechanism*. For those countries whose nationals obtained the visa exemption less than 7 years ago and for which reporting on the fulfilment of the visa liberalisation benchmarks is still necessary, the Commission considers that the visa liberalisation requirements continue to be fulfilled. However, all countries need to take further action to ensure the continuous fulfilment of the benchmarks and to address the Commission's recommendations.

In 2021, the end of COVID-19 travel restrictions had an impact on trends in irregular migration, applications for international protection, returns and readmission. Most countries registered an increase in these trends compared with 2020. Nevertheless, in general, Member States and Frontex continue to report good cooperation with all eight countries on border management, asylum, return and readmission.

In terms of further action to take on migration, asylum and readmission, several countries need to continue addressing unfounded asylum applications, including by strengthening participation in EMPACT and continuing to organise targeted information campaigns. The reception capacity of some Western Balkan partners also continues to raise concerns. The Frontex status agreements with North Macedonia and Bosnia and Herzegovina need to be concluded and implemented.

To ensure migration and security is well-managed – an underlying condition for the continuous fulfilment of the benchmarks – all the countries covered should align their visa policy with the EU's, in particular as regards those third countries presenting irregular migration or security risks to the EU. The Commission looks forward to concrete steps being taken by all relevant partners and this will be an important theme for forthcoming dialogue. It will also remain attentive to any possible displacement of arrivals between partners driven by visa-free access. Furthermore, the Commission continues to insist that those countries operating investor citizenship schemes phase them out. This is necessary to prevent possible circumventions of the EU short-stay visa procedure and the in-depth assessment of individual migratory and security risks it entails. This issue is of even higher concern to the EU in the context of Russia's ongoing military aggression against Ukraine.³⁶ In case the granting of citizenship under investor citizenship schemes is deemed to constitute an increased risk to the internal security and public policy of the Member States, the visa-free regime may be suspended.³⁷

In judicial cooperation, public order and security, Member States also report good overall cooperation with all eight countries. However, further efforts are needed, in particular in the fight against organised crime, financial fraud, money laundering, and corruption.

Visa liberalisation has been a key part of the EU's cooperation on migration, security, and justice with the countries of the Western Balkans and the Eastern Partnership. It facilitates mobility and people-to-people contacts, and can also trigger key policy reforms in these countries. The recent developments in the EU's enlargement policy, with Ukraine, Moldova and Georgia having their perspective to become EU members recognised³⁸, make implementing visa liberalisation benchmarks and following up the Commission's recommendations an even more important objective for both the EU and the candidate and potential candidate countries.

³⁶ The risks related to investor citizenship schemes were – with regard to the Member States – also highlighted in the Commission Recommendation of 28 March 2022 on immediate steps in the context of the Russian invasion of Ukraine in relation to investor citizenship schemes and investor residence schemes, C(2022)2028 final. In addition, in a resolution of 9 March 2022, the European Parliament proposed that cessation of investor citizenship schemes be included in the accession criteria.

³⁷ See, in this respect, Council Decision (EU) 2022/366 of 3 March 2022 on the partial suspension of the application of the Agreement between the European Union and the Republic of Vanuatu on the short-stay visa waiver (OJ L 69, 4.3.2022, p. 105).

³⁸ European Council conclusions, 23-24 June 2022.

Therefore, close monitoring of this process will continue, including through meetings between senior officials, the regular Justice, Liberty and Security subcommittee meetings, and discussions between the EU and the countries covered in the report. The monitoring of aspects related to the visa liberalisation benchmarks will also continue being included in the Commission's annual enlargement package.