

BTI 2014 | Montenegro Country Report

	scale	score	rank	trend
Status Index	1-10	7.50	# 22 of 129	
Political Transformation	1-10	7.90	# 23 of 129	➔
Economic Transformation	1-10	7.11	# 28 of 129	➔
Management Index	1-10	6.51	# 18 of 129	

This report is part of the Bertelsmann Stiftung's Transformation Index (BTI) 2014. It covers the period from 31 January 2011 to 31 January 2013. The BTI assesses the transformation toward democracy and a market economy as well as the quality of political management in 129 countries. More on the BTI at <http://www.bti-project.org>.

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Key Indicators

Population	M	0.6	HDI	0.791	GDP p.c.	\$	14206.2
Pop. growth ¹	% p.a.	0.1	HDI rank of 187	52	Gini Index		28.6
Life expectancy	years	74.5	UN Education Index	0.838	Poverty ³	%	0.0
Urban population	%	63.5	Gender inequality ²	-	Aid per capita	\$	163.1

Sources: The World Bank, World Development Indicators 2013 | UNDP, Human Development Report 2013. Footnotes: (1) Average annual growth rate. (2) Gender Inequality Index (GII). (3) Percentage of population living on less than \$2 a day.

Executive Summary

Preparations for EU accession have dominated the political agenda in Montenegro during the period under review. Recognizing the progress made by the country on seven key priorities identified in its 2010 opinion, the European Commission in October 2011 proposed to start accession negotiations. Following the European Council's green light, accession talks with Montenegro were opened in June 2012. In line with the EU's new approach, negotiations began with the screening of specific *acquis* chapters: 23 (judiciary and fundamental rights) and 24 (justice, freedom and security). Negotiations within these chapters are intended to address some of the key challenges for democratic governance in Montenegro. The results of the screening and the initial benchmarks set will determine the focus of reforms undertaken in Montenegro for the near future. The screening of some other chapters started in the latter half of 2012, which led to the provisional closure of chapter 25 (science and research) in December 2012.

As part of the EU accession process, Montenegro's parliament introduced new laws and amended numerous laws, amongst others, on elections, the civil service and state employees, political party funding and non-governmental organization funding. A constitutional amendment aimed at strengthening judicial independence has been under discussion, and the prosecution of corruption has led to several convictions of public officeholders.

The government has struggled to maintain macroeconomic stability during the crisis, with both public and foreign debt levels increasing and a continuing high current account deficit. Cuts in public spending have exacerbated dissatisfaction among citizens whose living standards have diminished.

The Democratic Party of Socialists (DPS) continues to be the dominant political party in Montenegro. The parliamentary elections on 14 October 2012 were the third parliamentary elections held in Montenegro since independence. The Coalition for a European Montenegro, which is comprised of DPS, the Social Democratic Party (SDP) and Liberal Party (LP), won 39

out of 81 seats in parliament. Together with their former coalition partners Bosniak Party (BS) and Croatian Civic Initiative (HGI), and an Albanian minority party FORCA, the Coalition has formed a government that enjoys support of 44 out of 81 members of parliament. The opposition expanded its share of mandates and demonstrated a more cooperative approach to policymaking. Protests in 2012 over socioeconomic issues indicate a certain degree of social discontent.

History and Characteristics of Transformation

A tradition of independent statehood in the area of what is now modern Montenegro dates back several centuries. In 1878, the Congress of Berlin recognized Montenegro as an independent state. The history of Montenegrin independence ended in 1918, when Montenegro unconditionally joined Serbia in a controversial decision of the Podgorica Assembly, and soon afterwards became a part of the Kingdom of Serbs, Croats and Slovenes, later renamed Yugoslavia. From 1918 to 1941, and from 1946 to 1992, Montenegro belonged to Yugoslavia.

Montenegro was the only republic of Yugoslavia that decided to remain in a joint state with Serbia in the early 1990s. This policy was not only advocated by the post-communist political elite that emerged victorious in the country's first democratic elections, but also was supported by a substantial part of Montenegrin citizens who felt closely associated with the idea of Yugoslavia and Serbia. In 1992, Montenegro and Serbia established a Federal Republic of Yugoslavia (FRY) to succeed the Socialist Federal Republic of Yugoslavia (SFRY). While the constitution of the FRY envisaged parity between Montenegro and Serbia in federal institutions, the common state was de facto dominated by much larger Serbia, both economically and politically. Facilitated by wars and nationalist mobilization, Serbia's president, Slobodan Milosevic, was able to establish a semi-authoritarian system that included Montenegro and that kept him in power until 2000. Milosevic's regime was based on clientelistic networks within the state administration, police, military and the state-dominated economy, all of which enabled him to exercise control over traditional and electronic media, skillfully falsify elections and, thereby, engender the effective fragmentation and isolation of the political opposition. These methods enabled him to control the Democratic Party of Socialists as well as the political leadership in Montenegro.

Milo Djukanovic broke with Milosevic in 1997 and successfully ran as president in October 1997, increasingly distancing Montenegro itself from Serbia and implementing reforms aimed at establishing a market economy. In the wake of the Kosovo war, in August 1999, the Montenegrin government proposed to transform the FRY into a confederation of two states. As the Milosevic regime rejected this proposal and unilaterally abolished the equal representation of Montenegro in the federal parliament, Montenegro boycotted the federal presidential and parliamentary elections in September 2000.

After the fall of the Milosevic regime, Montenegro and Serbia negotiated a loosely integrated "state union" to replace the FRY. The talks were mediated by the European Union, which feared

the destabilizing effects of another disintegrating state in the Balkans. Whereas the Montenegrin government wanted to establish an independent state, Montenegrin opposition parties and most parties in Serbia preferred to preserve a common state framework. Negotiations led to an agreement in 2002 and a constitutional charter in 2003, which defined the state union and its institutions. To accommodate Montenegrin interests, the constitutional charter of the state union envisaged the option of an independence referendum, held three years after the creation of the state union.

On 21 May 2006, the referendum was held and more than 55% of Montenegrin citizens voted for independence. Following its declaration of independence, Montenegro joined the United Nations and other major international organizations. Montenegro is a candidate country for membership in the European Union. Its European perspective was reaffirmed in June 2006 after the recognition of the country's independence by EU member states. In October 2007, Montenegro signed the Stabilization and Association Agreement (SAA) and an Interim Agreement on trade and trade-related issues. Montenegro submitted its application for EU membership in December 2008. In December 2010, the European Union granted the country candidate status, and the accession negotiations with Montenegro were opened in June 2012.

Montenegro is also on track to join NATO.

The BTI combines text analysis and numerical assessments. The score for each question is provided below its respective title. The scale ranges from 1 (worst) to 10 (best).

Transformation Status

I. Political Transformation

1 | Stateness

The state's monopoly on the use of force covers the entire territory of the country. Police and military forces provide security in all areas of the country and there are no militias or guerrillas or similar organizations active in the country.

Public acceptance of legitimacy of the state is on the increase since the 2006 referendum on independence. All the major political subjects have publicly and often stated that they do not question the independence of Montenegro, and that they pose no threat to its statehood. However, some identity issues, such as the official language and national symbols, continue to play a divisive role in society, especially between Montenegrins and Serbs, and remain the key topics of electoral campaigns and other important discussions.

Throughout history, national identity in Montenegro has been dual. The denominations of Serb and Montenegrin were both used, and were not considered mutually exclusive. This has seriously affected Montenegrin politics in the last two decades, and was a highly divisive question in the years before the independence referendum. According to the 1991 population census, there were 61.86% self-declared Montenegrins and 9.34% self-declared Serbs in Montenegro. In the 2003 census, when the political partition reached one of its highest points, 43.16% inhabitants declared themselves as Montenegrin and 31.99% as Serb. New data from the 2011 census reflected a fairly similar situation, with 44.98% self-declared Montenegrins and 28.73% self-declared Serbs.

Another question of identity involves the official language spoken in Montenegro. While there is a wide understanding that a common language exists, the dispute over the "Montenegrin language" and some of its rules continues to be dynamic. According to the 2011 census, Serbian is the language spoken by majority of

Question
Score

Monopoly on the
use of force
10

State identity
8

population (42.88%), while Montenegrin has the second-largest number of speakers (36.97%).

The state is largely secular, but religious dogma has a significant influence on politics and decision-making.

According to the 2011 census, the three major religious groups in the country are Orthodox Christians (72.07%), which is divided between two churches, the Serbian Orthodox and Montenegrin Orthodox; Muslims (19.41%) and Catholic Christians (3.44%), while the remaining 5.4% cover other religious groups, atheists/agnostics and those who declare no religious affiliation. Most Orthodox Christians are affiliated with the Serbian Orthodox Church (SPC). The SPC showed the highest level of interference in affairs of the state and politics in recent years, as the clergy occasionally interferes directly with political and democratic processes at the state level. The SPC has been particularly critical of the government.

According to the constitution, religious communities are separated from the state and are equal and free in the exercise of religious rights. The law on the legal status of religious communities from 1977 is a basic legal framework for religious life. In 2012, agreements were signed with the Catholic, Islamic and Jewish religious communities, which triggered considerable discussion and criticism. The NGO Civic Alliance called for the termination of these agreements, stating that the relationship between the state and religious communities should be defined by law and in accordance with the constitution, and should guarantee equal rights to all religious groups. Serbian Orthodox Church representatives also criticized the agreements.

Many observers have noted the need for this legislation regarding religious communities' status, which is outdated and needs to be harmonized with the constitution. The government was supposed to prepare a draft law in the third quarter of 2012, but it was postponed due to parliamentary elections. The Ministry of Human and Minority Rights announced that work on the draft law will begin early in 2013.

All necessary administrative structures, providing all basic public services, exist and operate throughout the entire territory of Montenegro.

Still, the extreme weather conditions of 2012 revealed severe shortcomings in the administration of the country's most basic infrastructure. Due to heavy snow over most of the territory, a state of emergency was declared for 16 days in February 2012. The northern part of the country was entirely cut off from the rest of the territory for a few days, and rural areas had no electricity for over 10 days. While this can be attributed to a "force majeure," it also indicates considerable issues with civil emergency planning and management.

No interference of religious dogmas

9

Basic administration

9

In addition, in January 2013, regular and expected winter snows caused serious damage to the electricity supply infrastructure, leaving five northern municipalities and rural regions of another six municipalities without power for four to eight days.

2 | Political Participation

In September 2011, after four years of negotiations, the parliament of Montenegro adopted amendments to the law on the election of councilors and representatives (election law). Harmonizing of the election law with Montenegro's constitution was a key EU requirement, and a condition for the opening of EU accession negotiations. A two-thirds majority was required to adopt the law in parliament (it received 71 of 81 votes). Parties that represent the Albanian minority did not support the law, expressing the concern that the new provision would negatively influence their representation in parliament.

The main changes of the election law harmonized its provisions with the constitutional commitment to minority representation by introducing a system of affirmative action for minorities. The election law provides that the right to elect and be elected shall be granted to every Montenegrin citizen 18 years or older, with at least two years of residence in the country. The 81-seat parliament is elected for a four-year term. The law provides for the allocation of mandates on the basis of a proportional list system within a single nationwide constituency with a 3% threshold. In addition, two different kinds of measures of affirmative action (including requiring a smaller number of signatures to support candidates' lists and two different thresholds) are foreseen for larger minority groups and for smaller ones (less than 2%). However, the provision that regulates the allocation of mandates narrows the practical value of affirmative action for smaller groups to the Croatian minority only, excluding Roma and some other smaller minority groups.

Amendments to the election law addressed some but not all OSCE/ODIHR and Venice Commission recommendations on elections. The most important improvement is that now all parliamentary seats are allocated on the basis of the candidates' order on the lists, instead of the previous solution, when half of the seats were allocated at the discretion of the candidate list's submitter. Also, exit polls are explicitly allowed and provisions regulating the transparency of the publication of results have been improved. The powers of the State Election Commission (SEC) and the system of appointments of its members have been further clarified, and the political representation of opposition parties in Municipal Election Commissions and polling boards has been strengthened. However, in reality, the SEC continues to be a political body, with a lack of autonomy and professional and financial capacities to safeguard the electoral process.

Free and fair
elections

8

Still, there are a number of pending recommendations of the OSCE/ODIHR and the Venice Commission that Montenegro will have to deal with in the upcoming period, within its EU aspirations. Most important of these are the overly long residency requirements for national elections, restrictions on the right to run as an independent candidate, dissolution of coalitions and their funding obligations and improvements of the sanctioning system.

The constitution of Montenegro and the 2007 law on gender equality guarantee gender equality and establish a legal basis for positive discrimination, but electoral legislation does not provide mechanisms that guarantee gender equality in practice. The new provisions stipulate an obligation of having 30% of female candidates on a candidate list, but the law does not demand that candidates of each gender should be ranked high enough on the list to have a realistic opportunity of being elected (e.g., one in three or the zipper system).

Deficiencies in implementing the new 2011 law on political party financing are one of the key obstacles to a free and fair electoral process. On 14 October 2012, parliamentary elections were held largely in line with international standards; however, some shortcomings remained. OSCE/ODIHR and local election observers noted a high number of allegations of vote buying and other weaknesses, including a flawed voters' list and insufficient oversight of campaign finances.

Local elections in April 2012 in Tivat and Herceg Novi did not bring much change in the composition of local governments. Together with parliamentary elections, local elections were also held in Niksic, Kotor and Budva. While the Budva and Kotor elections went reasonably smoothly, elections in Niksic, the second-largest town in Montenegro, were plagued with controversy. The ruling European Montenegro Coalition failed to win an absolute majority of votes, winning 20 out of 41 mandates. That was a chance for an opposition coalition to take over. The Democratic Front, the Socialist People's Party and Positive Montenegro started negotiations, which lasted over a month and a half, and were characterized by a polarized atmosphere among opposition parties. By the end of November it emerged that there might be some agreement, and the opposition was about to elect their representative to be speaker of the local assembly. However, one member of Positive Montenegro decided to change sides and supported the European Montenegro candidate. The opposition accused him and the Democratic Party of Socialists (DPS) for political corruption and initiated a criminal investigation. Still, a new majority voted for the termination of the mandate of local assembly in late December, and the president of Montenegro called new elections for 9 March 2013.

Democratically elected political representatives have the effective power to govern, and no individuals or groups hold any veto power. The army and the security services are subject to democratic and civilian control.

Effective power to govern

9

Freedom of assembly and freedom of association are guaranteed by the constitution. The constitution prohibits political activity in state bodies and political activity by foreigners and political organizations with headquarters abroad. The freedom of assembly may be temporarily restricted by the decision of the competent authority to prevent disorder or the execution of a criminal offence, a threat to health, morality or security of people and property, in accordance with the law.

Association /
assembly rights

9

The freedom of association is further protected and regulated by laws, such the law on political parties. The new law on NGOs was adopted in July 2011 and introduced the online registry of civil society organizations (CSOs), which significantly increased transparency in this field. On the other side, however, this new legislation has brought an obligation for all previously registered CSOs to harmonize their statutes with the law within a one-year period (13 August 2012), following the sanction of the deletion of CSOs that failed to meet that obligation. Around 1,600 out of 6,000 NGOs were registered in accordance with the new law. NGOs continued to register after the deadline.

The first half of 2012 was marked by protests against declining living standards, led by an NGO, a student organization and labor unions. Protests included a few thousand peaceful demonstrators, and were concluded without incident.

Montenegro has approximately 70 electronic and print media outlets. Despite such a high number, media pluralism is hampered by the financial sustainability of a majority of outlets as well as the strong influence of the government on media and otherwise strong links between media and particular parties that often prevail over the pursuit of professional standards and topics of public interest.

Freedom of
expression

6

In 2012, the debt of electronic media outlets toward the Radio-Diffusion Center (RDC), tasked with the provision of electronic communications services, increased to € million. RDC has warned that electronic media outlets would be disconnected from the national frequencies system. There is still no clear solution to this problem, as most of the electronic media outlets are coping with financial difficulties. The print media, due to the overall economic environment and a decrease in advertising budgets from major companies, are also suffering from financial difficulties that raise questions about the outlets' long-term sustainability. In part, this is also due to an overcrowded marketplace.

On the other hand, the public broadcaster (RTCG) faces different challenges. The independence and professionalism of RTCG has been questioned by both national stakeholders and international organizations. RTCG programming heavily relies on information submitted from official sources, with a poor level of self-initiated investigations, whereas the bulk of the news focuses on official media events and activities of the executive and legislative branches. The news ranking and (un)biased presentation is influenced by the institutional position of the sources, rather than the

social and political relevance of the information. In addition, RTCG is still facing enormous financial difficulties and budget loopholes, despite legislative changes in 2008, which provided direct state funding.

The daily newspaper Pobjeda continues to operate under majority state ownership, although the law on media (2002) specifically prescribed its privatization. The daily is also confronted with large debts. Several consecutive attempts to privatize the paper failed due to a lack of interests by foreign investors. However, reports suggest a possible purchase of Pobjeda by the Bosnian Dnevni Avaz media group.

The situation within the media community is heavily burdened by strong political polarization. This has been reflected in the creation of two separate press councils, in charge of self-regulation of professional standards. One group (dailies Vijesti and Dan, weekly Monitor) formed the Press Council, which would address complaints solely over media reporting. Other media outlets (notably dailies Dnevne Novine and Pobjeda, RTCG, TV Atlas, radio Antena M, portal Analitika) formed the Media Self-Regulatory Council (MSC), covering both print and electronic media. The latter has been more active with the regular public presentation of monitoring reports and those media not subscribed to the MSC. Internally, these two media groups have frequently pursued partisan debates over their support for governmental and oppositional political parties, stating that the promotion of political viewpoints have prevailed over a compliance with professional standards.

Freedom of expression, freedom of the press, the prohibition of censorship and access to information are constitutionally guaranteed. However, the practical implementation of these standards is often in conflict with constitutional and legal provisions.

The decriminalization of defamation has helped to improve the media environment. The authorities continue to promote a more favorable environment for journalists. In June 2012 parliament adopted an amnesty legislation, which, inter alia, enables the president to grant a pardon for individuals convicted of defamation and insult, even in the absence of a request.

The trial of Miomir Mugosa, the mayor of Podgorica, his son Miljan, and Mihailo Jovovic, the editor in chief of Vijesti, has finally come to an end. Three years after the incident, Mugosa was fined €400 for a misdemeanor charge of disturbing the peace and order, and his son Miljan was sentenced to a six-month suspended prison term for assault on a journalist. Mihailo Jovovic was acquitted of all charges that were made by the prosecutor, alleging that Jovovic inflicted physical damage to Mugosa's driver.

Another Vijesti reporter, Olivera Lakic, suffered a series of threats and a physical attack, following her coverage of the illegal labeling of tobacco products. The attacker was soon after apprehended, appeared in court and sentenced to nine months

in prison. However, later developments in the investigation revealed that some police officials might have been linked with organizing this incident; the investigation is still ongoing.

3 | Rule of Law

According to the 2007 constitution, Montenegro is an independent and sovereign state with a republican form of government regulated by the division of power into legislative, executive, and judicial branches. Parliament's rules of procedure envisage member of parliament questions and a prime minister's hour, interpellation, vote of confidence and consultative and control parliamentary hearings as tools for exercising parliament's oversight function. However, parliament's capacity to perform its oversight and legislative functions continues to be limited. The parliament amended its rules of procedure in 2012 to introduce more regular hearings and two parliamentary committees on European integration and anti-corruption, which are chaired by opposition members of parliament.

Separation of
powers

7

The government holds executive power, responsible for the management of Montenegro's internal and foreign policy and the enforcement of legislation. It plays a key role in the legislative process, as the majority of law proposals are drafted by the government. The dominance of the executive is reinforced by the dominant role of Milo Djukanovic, Montenegro's former president and the chairman of the ruling Democratic Party of Socialists (DPS), who returned as prime minister following the 2012 elections.

There has been some controversy over the ability of incumbent President Filip Vujanovic to run for a third term, despite a two-term limitation in the constitution as he began his first term prior to the passing of the current constitution.

According to the country's constitution, the judiciary is an autonomous and independent body. Courts should rule on a legal basis provided by the constitution, laws and confirmed and published international agreements. However, serious concerns exist over the independence and efficiency of the judiciary, in terms of the constitutional provisions on the composition of the Judicial Council, the exercise of political influence over the work of judges, the public perception of corruption and available resources for their work and in general, extreme workload.

Independent
judiciary

6

Given the model for the appointment of members of Judicial Council, with four out of nine members being elected by the president of Montenegro and the national parliament, there are no guarantees that these members shall not be politically engaged, enabling thereby political influence over the work of council. Proposed legal and constitutional amendments, which should resolve this issue, are hampered by broader political debates over other unrelated constitutional changes. The support

of two-thirds of parliamentary members is required to amend the constitution, and during 2012 it became obvious that the opposition might condition its support by asking for changes to national symbols. The debate is expected to be in the focus of political discourse in 2013.

Although the Judicial Council has recently shown positive changes, according to the monitoring report of Human Rights Action, a significant portion of the council's work still remains nontransparent, and sessions of the Judicial Council remain closed to the public. Decisions on the appointment and promotion of judges are inadequately elaborated. There is still no document specifying the method of assessment of the quality of judges' performance, or the system for regular assessment of their performance that would ensure certainty in terms of deciding on progress and accountability of judges. The system for assessing the quality of the judges' performance lacks precise criteria for assessing the performance of judges, and therefore the assessment depends on subjective judgment of Judicial Council members. Furthermore, the Commission for the Code of Ethics found no violations of the Code of Judicial Ethics hitherto.

According to the Annual Corruption Survey (ACS) 2012, prepared by the Center for Democracy and Human Rights (CEDEM), only 42.8% of Montenegrin citizens have confidence in the judiciary, which is a slight increase in comparison to the results from the same survey in 2011. However, in comparison to other national institutions, only parliament and political parties have scored a lower ranking. The ACS 2012 also identified an increase of citizens with more positive appraisal of courts' efficiency and transparency. This trend is also evident with regard to the publication of court rulings and a decrease in the case backlog. However, the number of citizens with negative standpoints toward the judiciary remains high, with a margin of 40%; critics point to issues of tardiness in their regular operations. In addition, the research confirmed that the negative perception of citizens over judicial efficiency is influenced by problems of nepotism, incompetence and a lack of professionalism.

On the other hand, a court monitoring report by the Youth Initiative for Human Rights/Civic Alliance in 2011 – 2012 revealed a series of problems faced by the court system, which constitute a strong impediment to the practical implementation of their mandate. The report stated that material conditions within the courts do not fulfill spatial and technical conditions that would satisfy the necessary standards of court proceedings; their workload is excessive, with judges often handling hearings on 10 different cases per day, available support staff and resource materials are inadequate, and communication within the judicial community with regards to the unification of court practice is on a low level. In addition, the interaction between the courts of first and second instance is not satisfactory, resulting in a high number of first instance verdicts being rejected on the second instance. This leaves a huge space for

speculation on the quality of first instance verdicts and/or the rigidity in the application of procedural rules by second instance judges.

Corrupt office holders are occasionally prosecuted under the law, although investigations and trial proceedings are often of long duration and are followed with a lot of publicity and aggressive media reporting, often inciting speculations on the background of such prolonged proceedings.

Prosecution of
office abuse
6

Prosecutors demonstrate an inadequate level of self-initiative and their investigations mainly result from reports made by media and civil society organizations. When it comes to high-level corruption cases, as the European Commission has noted in a recent progress report, they have all been brought on the basis of evidence provided by a third party.

The State Audit Institution has assumed a proactive role in documenting malfunctions in financial and administrative management practices within the public sector, also providing concrete recommendations for improvements and the elimination of errors. However, there have been very few attempts by competent authorities, notably prosecutors, to follow up on identified problems and address responsible individuals.

The capacities of the police and prosecutorial officials with regard to recent challenges (e.g., financial investigations, cybercrime, money laundering) remain poor, and along with insufficient inter-agency coordination, present core obstacles to their practical operations.

However, in 2012 number of sentences related to corruption and abuse of public office increased, with 29 individuals being sentenced through four first instance and three second instance verdicts. Most notably, the infamous case of Zavala resulted in prison sentences for nine individuals, including the former mayor of Budva and his deputy (also the brother of the vice president of the ruling Democratic Party of Socialists) as well as one member of parliament. Among others, the investigations led to convictions of a president and a judge of a Basic Court at Cetinje and three employees of the Ministry of Interior.

Civil rights are generally observed, with occasional violations that do not have a systematic profile. Legal and institutional architecture provide the appropriate formal framework for the protection of civil rights and sanctioning of violations. However, issues of discrimination and torture as well as rights of marginalized groups remain the biggest challenges in the practical implementation of legal standards and institutional practices.

Civil rights
8

Through the regular monitoring of the human rights situation in Montenegro, the NGO Civic Alliance (CA) noted a steady trend of reported police torture cases. Although it is encouraging that competent bodies are reacting with adequate criminal charges and follow-up procedures, the CA registered more cases of torture where

competent public institutions did not conduct fast, efficient or effective investigations that would lead to the sanctioning of all violators of human rights. Competent institutions, primarily prosecutors, have not investigated all statements on the violation of human rights by police officers in an appropriate manner, nor did the police directorate suspend implicated police officers until proceedings were finalized. In addition, according to official governmental data, from 2009 to 2012 some 18 police officers were given suspended sentences and four officers were sentenced to three to six months on charges of torture. Also, 24 police officers were sanctioned by the Police Directorate on the grounds of exceeding their competencies, with a short term 20% to 30% salary reduction, except in one case when a police officer was dismissed.

According to opinion polls and studies, Roma, lesbian/gay/bisexual/transgender (LGBT) and people with disabilities are social groups mostly facing societal discrimination and institutions, both in terms of prejudices directed toward them, access to employment and various social services.

There has been noted progress toward more functional ombudsman prevention and monitoring efforts, strategic plans and material reconstruction in closed institutions, access to justice and the introduction of a formal free legal aid system.

However, in practice the situation includes an abundance of problems, ranging from deep rooted cultural practices to the limitations of capacities and resources to pursue further reforms and ensure the sustainability of ongoing reforms. A Center for Democracy and Human Rights (CEDEM) study on gender equality in an economic perspective pointed out that prejudices and stereotypical thinking on gender roles are generally present. Furthermore, a number of women underlined that the public system of support is not harmonized with the needs of parents and their professional environments, such as the working hours of kindergartens and schools do not mirror official working hours.

The access to information has been changed and the agency for the protection of personal data has been positioned as a second instance body, in charge of processing complaints over public bodies' compliance with legislation. However, due to the demanding aspect of that work and workload as well as capacities of the agency, some civil sector organizations have raised concerns whether the solution would contribute to the overall implementation of the law. However, public bodies generally allow for access to public information and the portion of information available online is increasing, whereas core problems remain with sensitive public information that might indicate corrupt practices and larger failings within the public sector, as well as the strong influence of the ruling party. Only a small number of citizens actually submits requests for information, whereas civil sector organizations remain the biggest users of this legal mechanism, thus obtaining information for their activities

in monitoring public sector bodies and the implementation of legal and strategic documents.

Still, Roma, Egyptian and Ashkali communities remain the most vulnerable groups, and some members are at risk of statelessness due to a lack of personal documents. In June 2011, the UNHCR announced that almost 1,300 Roma might be at risk of statelessness as they have not been signed up with the civil registry.

4 | Stability of Democratic Institutions

Montenegro has a stable governance system that, taken as a whole, functions smoothly. The legal framework establishes legal guarantees and institutions that create the basis for stable institutions that can guarantee democracy, a rule of law and human rights. However, due to the small size of the country and its political elite, personal relations continue to be a very important mode of governance. While it has proven effective in avoiding violent conflicts, the long-term dominance of one party with its partisan networks of personal relations also tends to weaken the formal-institutional mechanisms of accountability.

During 2011 and 2012, significant efforts have been made to strengthen the legislative and oversight role of parliament, but its capacity and expertise needs to be further strengthened. Amendments to parliament's rules of procedures, the law on parliamentary inquiry, and amendments to the law on data secrecy were adopted in July 2012, to enhance parliament's oversight function. New rules define better parliamentary hearings and increase the chances for bills presented by the opposition to be on the parliamentary agenda. Parliamentary committees on European integration and anti-corruption have been established.

In June 2012, the government adopted an analysis of the functioning of local self-government in Montenegro, which contains numerous recommendations for improvements. Legislation regarding territorial organization was adopted in November 2012.

The long-lasting dominance of the ruling Democratic Party of Socialists (DPS) party impairs the functionality of the institutions.

All relevant political and social players accept democratic institutions as legitimate. However, political actors strongly use and rely on informal relations which tend to weaken the impact of formal institutions on their behavior.

Performance of
democratic
institutions

8

Commitment to
democratic
institutions

9

5 | Political and Social Integration

The party system is fairly stable and socially rooted, and shows moderate fragmentation, moderate polarization and moderate voter volatility.

Party system
7

In the parliamentary elections of October 2012, the Coalition European Montenegro, comprised of the Democratic Party of Socialists (DPS), the Social Democratic Party (SDP), and the Liberal Party (LP), won 39 of 81 seats in parliament. Their former coalition partners, the Bosniak Party (BP), the Croatian Citizens' Initiative (HGI) and the Democratic Union of Albanians (DUA) ran separately, using the affirmative action opportunity given to minority lists with new election law. The Bosniak Party (BP) won three seats, the Croatian Civic Initiative (HGI) won one seat, while the Democratic Union of Albanians (DUA) failed to enter parliament. The BP and HGI, as well as the Albanian minority party FORCA, gave support to the government, which has the support of 44 out of 81 parliamentary members. As a result, the largest party, the DPS, continues to dominate the government without interruption since the introduction of multiparty elections in 1990, though with a smaller majority than in 2009. While the DPS has been governing the country throughout its democratic period, the party has split (1997), modernized considerably and changed coalition partners.

Efforts among the opposition to unify were partially successful. The New Serb Democracy (NOVA) and Movement for Change (PzP) created the Democratic Front (DF), which attracted some smaller political players, officials of Socialist People's Party (SNP) and independent candidates. DF's list, headed by the former diplomat Miodrag Lekic, won 20 seats, and became the strongest opposition group in parliament. The weakened SNP won nine seats in parliament, representing a loss of seven seats. A new political party, Positive Montenegro, emerged shortly before the elections and secured seven seats.

Voter volatility is overall moderate. The degree of change in voting behavior between elections is very low among ruling coalition voters – official numbers show that in the last four parliamentary elections, the ruling coalition always received 165,000 to 168,000 votes. On the other hand, parts of the electorate switch allegiance between opposition parties.

There is an average range of interest groups which reflect and represent social interests. These groups are primarily located within civil society organizations, which proved to be the most active and efficient mediator between society and the political system. Civil society is fairly diverse, and represents a large number of social interests and social groups. Certain social segments are not represented adequately, but improvement is visible – such as the first groups representing the lesbian/gay/bisexual/transgender (LGBT) population have been established and their

Interest groups
7

influence is growing. The voice of the labor unions has become stronger, especially through the activism of the Union of Free Trade Unions of Montenegro. There are two national business associations, which also play a certain role in society, and have limited influence on decision-making. While there are certain social and political powers that mobilize around ethnic and nationalist interests, none aim to undermine democracy or civil society.

However, informal networks, especially in the business sector and in politics, remain powerful and non-transparent.

Approval of democratic norms and procedures is fairly high. According to the September 2012 public opinion poll by the NGO Center for Democracy and Human Rights (CEDEM), 33.9% of citizens believe that Montenegro “took the right track” politically while 32.5% thought that the country chose incorrectly. In December 2011, 47.2% respondents thought that the country was on the right track, while only 21.5% disagreed. These numbers are mostly a reflection of the continuing economic crisis and the fact that Montenegrin independence is still not universally accepted. However, this does not reflect a rejection of democratic norms.

Approval of
democracy
8

The results of the same poll show a decrease of confidence in institutions. Some 49.1% of citizens expressed trust in the president, 44.7% in the government, 37.3% in parliament and only 24% in political parties. The level of trust in democratic institutions remains lower than the level of trust in education, the health system or in the Serbian Orthodox Church.

In a 2012 survey, 58.3% of Montenegrins were very or generally satisfied with the state of democracy in Montenegro.

The issue of the number of civil society organizations (CSOs) in operation as one indicators of civic engagement was finally clarified during the review period. Namely, due to changes in national legislation, CSOs were obliged to re-register with set of new mandatory internal documents. By the official deadline, out of a formal number of approximately 6,000 registered CSOs, only 1,600 re-registered. There was no clear explanation as to the background of such a gap between formally existing and operating CSOs.

Social capital
7

In the first half of 2012, peaceful protests against a fall in living standards were organized in Podgorica, led by the NGO MANS, the Union of Free Trade Unions and the student union. Initially, protesters gathered to criticize rising energy prices. Soon, their demands grew to include a more efficient fight against corruption and organized crime, the investigation of all privatizations, and better respect for students’ and workers’ rights. Their final demand was the resignation of Prime Minister Luksic. At first, protests gathered several thousands of citizens from all over Montenegro. The

number of protesters declined later, which eventually led to the termination of gatherings.

II. Economic Transformation

6 | Level of Socioeconomic Development

Question
Score

Poverty and inequality in Montenegro are pronounced and partly structurally ingrained. With a gross national income of \$7,140 per capita in 2011 (World Bank figures), Montenegro belongs to a group of lower- to middle-income countries. However, further progress in poverty reduction and social inclusion is needed.

Socioeconomic
barriers

7

According to the latest data, the poverty rate in Montenegro in 2011 was 9.3% of the population, an increase from 2010 (6.6%). The absolute poverty line for Montenegro equaled a monthly income of €175.25 in 2011, which is €5 higher than in 2010. The poverty gap increased in 2011 as compared with 2010, to 2% in 2011 from 1.1% in 2010.

Poverty rates increased in both rural (by 7.1 percentage points) and urban areas (by 0.4 percentage points). A survey conducted by the state statistical office MONSTAT showed that the rural population is much more at risk of poverty than is urban populations. The depth and severity of poverty is also more considerable in rural areas. In relation to the other parts of the country, the risk of poverty is significantly higher in the northern region. In the north, high unemployment, high rates of illiteracy, especially among the elderly and women, and low-income levels contribute to maintaining high poverty rates. Some population groups are poorer than others.

There are no data on employment or unemployment by ethnic status as part of the MONSTAT labor force survey. Also, there are no data on each group's exposure to the risk of poverty. Therefore, it is difficult to assess the position of vulnerable communities such as Bosniaks, Albanians, and so on. However, it is evident that Roma, Ashkaelia and Egyptians (RAE) are a vulnerable community in Montenegro. According to the UNDP 2009 Human Development Report, the RAE population is recognized as a socially disadvantaged group, due to poverty and social exclusion. The survey shows that the rate of social exclusion at the national level amounts to 3.5%. A major departure from the average is recorded among the RAE population, among which 14.1% of households are socially excluded. Only around 20% of the RAE population is employed and 36% have not received any education; in general, this group is also characterized by a high rate of illiteracy (72%).

The RAE group represents the most vulnerable population in Montenegro, followed by displaced persons and social welfare beneficiaries, pensioners, the long-term unemployed and persons with disabilities. The general conclusion is that the position of the RAE population has slightly improved in comparison to the previous review period, as evidenced by their inclusion in social life. However, there is a need for additional efforts to make the overall position of this community more favorable.

Unemployment is also a feature of other disadvantaged groups. In Montenegro, the unemployed often are made up of the uneducated or under-educated, people lacking professional training, people with disabilities, minorities, ex-criminal offenders, drugs addicts, victims of violence, workers made redundant and the long-term unemployed from all categories, people who do not have permission to work, refugees and internally displaced persons, and so on. The growing share of these groups amid the overall employment situation is indicative. Most people from the groups remain in a low social position, as their lack of competitiveness keeps them from employment. In this way, these groups become permanently dependent on social assistance. Some 40% of these groups are registered with the Employment Agency of Montenegro (EAM).

The poor usually live in large households, and the highest poverty rates are seen in households with seven or more members. In households with three or more children, the risk of poverty is six times higher than the national average. The risk of poverty is lowest in households where the head of household is employed or is retired. Also, the risk of poverty is highest for persons with lower level of education (unfinished primary school).

The country's Gini coefficient shows an increase of inequality in Montenegro during 2011, from 24.3 in 2010 to 25.9 in 2011.

Economic indicators		2009	2010	2011	2012
GDP	\$ M	4157.9	4114.8	4501.8	4231.5
GDP growth	%	-5.7	2.5	3.2	0.5
Inflation (CPI)	%	3.5	0.7	3.2	-
Unemployment	%	19.1	19.7	19.7	-
Foreign direct investment	% of GDP	36.7	18.5	12.4	-
Export growth	%	-26.0	4.0	18.1	-
Import growth	%	-28.1	-3.1	3.1	-
Current account balance	\$ M	-1150.3	-952.4	-791.2	-768.7

Economic indicators		2009	2010	2011	2012
Public debt	% of GDP	38.2	40.9	46.0	51.1
External debt	\$ M	2356.7	1594.3	2093.2	-
Total debt service	\$ M	68.6	98.0	214.4	-
Cash surplus or deficit	% of GDP	-	-	-	-
Tax revenue	% of GDP	-	-	-	-
Government consumption	% of GDP	22.2	23.4	22.1	-
Public expnd. on edu.	% of GDP	-	-	-	-
Public expnd. on health	% of GDP	6.7	6.0	6.2	-
R&D expenditure	% of GDP	-	-	-	-
Military expenditure	% of GDP	1.9	1.8	2.0	1.9

Sources: The World Bank, World Development Indicators 2013 | International Monetary Fund (IMF), World Economic Outlook 2013 | Stockholm International Peace Research Institute (SIPRI), Military Expenditure Database 2013.

7 | Organization of the Market and Competition

Market competition in Montenegro has a strong institutional framework, but the rules for market competition are not consistent for all market participants.

Privatization efforts in previous years were an intense process. Tax, banking and customs reforms were implemented, followed by the development of a new capital market and the creation of a new private sector. In 2011 there were public calls for the privatization of numerous companies. In March 2012, the government of Montenegro adopted a decision on its privatization plans for 2012.

Montenegro is an open economy with free market competition and limited government intervention, which focuses its efforts on encouraging new businesses. The main instruments Montenegro used as a response to the economic crisis in 2011 were a consistent policy of fiscal consolidation and improvements to the business environment to attract investors. This improved framework for market-based competition meant that during 2011, 3,072 new companies were established in Montenegro (8.6% of all companies that operate in Montenegro), while only 288 companies were closed (0.81% of all companies). There are some distortions in market competition due to the strong links between politics and the economy, and the advantages for well-connected businesses.

Although there is the assumption that different policies in the labor market contributed to a reduction of the informal economy in previous years, it is difficult to

Market-based
competition

6

predict the size and trend of the informal economy; yet its role can't be ignored. The Montenegrin government has taken several measures against the informal economy, with a key effort being the elimination of business barriers. The work of institutions was improved. Inspections resulted in some 2,235 people who were previously working in informal market jobs were placed under regulation (1,433 foreigners and 802 Montenegrin citizens).

However, there are many significant indicators which show that the rules are not equally applied to all market actors; therefore, one can conclude that a strong political influence on the market still exists. The state remains the country's biggest employer. Also, refugees may receive work permits, but this is not an easy process as it requires residence papers that are difficult to acquire as a refugee. Hence, refugees are forced toward the informal economy. The decrease in the activity rate during 2011 and 2012 may indicate that some unemployed workers have chosen to stop searching for documented employment and are working in the informal market instead.

Competition laws to prevent monopolistic structures and conduct exist, but are enforced inconsistently. Montenegro is a small country and it is not uncommon that in such circumstances, some companies occupy a monopolistic or oligopolistic situation in the market. However, this situation doesn't necessarily benefit consumers, thus it is necessary to ensure that businesses do not abuse their dominant position. A training and assistance project seeks to strengthen the institutional capacity of the Agency for the Protection of Competition in implementing antimonopoly legislation.

Anti-monopoly
policy
7

During 2011 and 2012, the legislative framework over monopoly policy was improved in some areas. Parliament has recently adopted new legislation on the protection of competition, which represents an improvement of the legal framework in this field and a harmonization with European Union standards. The new law came into force in October 2012.

Several provisions are specifically designed to improve the efficiency of procedures, including the possibility of a settlement with administrative bodies. The act introduces a new system of penalties; thus infringements are penalized based on 1% to 10% of a company's annual revenue from the previous fiscal year. In addition, the responsible person within the company can be fined from €1,000 to €4,000. A special penalty of €4,000 up to €40,000 aims to sanction companies that give information about market concentration after the application deadline.

The government of Montenegro has also authorized the Agency for the Protection of Competition to impose a so-called periodic penalty from €500 to €5,000 per day of violation (up to a maximum of 3% of the annual revenue generated in the year preceding the start of the procedure) for procedural obstructions, such as not providing data to the agency, submitting false information, disregarding a temporary

measure, misusing privileged communications, destroying evidence, or other methods of disabling an investigation.

The Postal Services Act (November 2011) is in effect. In accordance with EU directives and the provisions of this act, the complete opening of the postal market should be realized 1 January 2013. During 2011 and 2012, the electronic communications market was fully liberalized. However, the Agency for Electronic Communications and Postal Services regulates prices only if an operator claims significant market power or position.

Foreign trade is widely liberalized, with uniform, low tariffs and few non-tariff barriers. All customs tariff rates on imports have been reduced significantly in Montenegro. Montenegro also eliminated tariffs on exports and quotas on either imports or exports. Montenegro has an institutional basis for free trade with countries that are its main trading partners and with countries with which there is the greatest potential for the development of trade relations – primarily with EU countries, the countries which are part of the Central European Free Trade Agreement (CEFTA), as well as with Turkey and Russia.

Montenegro became a full member of the World Trade Organization (WTO) on 29 April 2012. Montenegro's membership in the WTO implies the obligation to continue the liberalization of the country's trade regime, providing a transparent and predictable environment for both domestic and foreign companies.

Montenegro still applies an agreement between the Federal Republic of Yugoslavia and the Russian Federation. Montenegro and Russia have started negotiations on amendments to the protocol of the existing free trade agreements. The free trade agreement between Montenegro and the European Free Trade Association (EFTA) was signed in Geneva on 14 November 2011 and came into force on 1 September 2012 (for Switzerland and Liechtenstein October 1, for Iceland and Norway November 1). A free trade agreement between Montenegro and Ukraine was signed on 18 November 2011.

The country's banking system is solid and oriented toward international standards with functional banking supervision and minimum capital equity requirements. Capital markets are open to domestic and foreign capital with sufficient resilience to cope with sudden stops and capital flow reversals.

The main institution in charge of supervision and oversight of the financial service sector is the Central Bank of Montenegro. The banking sector is reformed and aligned with international standards. All regulations are in accordance with the Basel Accords and European Union norms. The banking sector in Montenegro has significantly recovered, but is still vulnerable, and within its regulatory jurisdiction, the Central

Liberalization of
foreign trade

10

Banking system

8

Bank of Montenegro is able to take the necessary measures to preserve financial stability and strengthen the financial market.

To further encourage and preserve monetary and financial stability, the Central Bank is undertaking all necessary measures within its jurisdiction to strengthen confidence in the overall financial system, prevent and improve the stability and safety of the banking system, as well as reduce negative impacts and threats to financial stability. There are currently 11 commercial banks and six micro-financing institutions that have a license issued by the Central Bank. Within the Central Bank, there is a department for the control of banks. This department reports on the financial indicators of each bank, such as balance sheets and income statements, and ensures the bank maintains a minimum share of capital equity in relation to assets, which is required. Also, banks undergo a supervisory review process, disclosing information about their economic activities. The Central Bank has also continued to develop monetary instruments, a policy review of reserve requirements and in cooperation with the World Bank, the government and the Bank Association, the Central Bank will work on designing and implementing a model for restructuring bad loans. As part of measures to strengthen the financial system, special attention is given toward the encouragement and preservation of stability of the banking system. In this direction, the Central Bank is continuously monitoring and analyzing, and if necessary, is able to take corrective measures to strengthen corporate governance and risk management and further the implementation of internationally accepted standards and business principles.

However, credit risk remains the main risk for the banking sector in Montenegro. In 2011, the total amount of credit was reduced by 11.1%. The share of low-quality credit in total credit was 15.5%, which represents a 5.5 percentage point decrease from 2010, but it is still high. On the other hand, the ratio of coverage of bad credits increased during 2011 at 0.31). Restrictive policy contributed to increased bank liquidity. Bank capital totaled 10.9% of the balance sum at the end of 2011, and was higher in comparison to 2010. The ratio of capital adequacy of the banking sector totaled 16.5% at the end of 2011; all banks maintained this ratio above the required minimum of 10%.

Most banks are foreign owned. The main domestically owned bank, Prva Banka, has been a source of controversy, as a majority of shares has been held by the Djukanovic family and the bank required government assistance in 2009 due to badly performing loans. In 2010, the governor of the Central Bank was replaced in a move by parliament that was deemed by observers as reducing the bank's independence. The governor's replacement had previously been on the Prva Banka board. The new governor, Radoje Zugic, was replaced in January 2013 after he was named finance minister. The current governor, Milojica Dakic, has been a long-time employee of the Central Bank.

8 | Currency and Price Stability

Inflation and foreign exchange policies are brought in line with other economic policy goals and are institutionalized in the country's largely independent Central Bank. Montenegro is a euroized economy and uses the euro as legal tender. This helps build investors' trust and reduces transaction costs. However, due to the current economic crisis, even though inflationary pressures are essentially imported from the euro zone, inflation in general has been unstable due to regional economic turmoil.

Anti-inflation /
forex policy

9

Inflation instability experienced over recent years continued during the review period. After a deflationary episode in 2010 when the inflation was only 0.5%, the consumer price index accelerated to 3.1% in 2011. In 2012 figures varied, recording deflation of 0.3% in December, and finally averaging 4.1% in 2012. Overall, inflationary pressures have been increasing.

The main contributors to inflation were alcohol and tobacco, due to the increase in excise duties at the beginning of 2012. Increases were also significant in accommodation services, food, fuel and housing, the latter as a consequence of an increase in water supply prices and electricity tariffs.

The Central Bank of Montenegro contributes to price stability, publishing reports on price stability and delivering them to parliament and the government, if needed, at least once per year. The Central Bank is assessed by the relevant authorities as highly independent in achieving its objectives and carrying out its functions as prescribed by law. The Central Bank, members of its agencies and employees act independently in carrying out bank functions and may not accept or seek instructions from the government and other agencies and organizations or other entities. Also, governmental and other agencies and organizations may not influence the work or decision-making bodies of the Central Bank.

The government's fiscal and debt policies generally promote macroeconomic stability, but lack institutional safeguards and are prone to populist policy changes. In 2011, the total budget deficit reached €190 million. Due to less economic activity during the economic crisis period, public debt increased from 38% of GDP at the end of 2010 to €1.620 billion or 47.6% of GDP at end of second quarter of 2012. Public debt continued to grow in the second half of 2012, and new debts are expected in 2013. Between 2009 and 2011 International Financial Institutions supported the budget with approximately €500 million.

Macrostability

7

The high and persistent deficit of current accounts represents one of the most serious inconsistencies of Montenegrin macrostability. In 2012, the potential of the service sector increased notably, especially in tourism and transport. Additional positive changes in revenues and current transfers contributed to the reduction of external

debt. The deficit was partly financed by foreign direct investments and portfolio inflow through the offering of Eurobonds in the international market. In 2011, the current account deficit was 19.4% of GDP. The reduction is mostly due to less foreign direct investment, which represents 63.1% of the total deficit. The rest of the total deficit is represented by a net inflow of investments.

The problem of deficit reduction has already started to be resolved by the government. However, it is necessary to restructure public expenditures as well as public income. The budget income is determined by GDP and when it increases, the budget income increases even more than it should as part of a balanced economy. Also, when GDP decreases, budget income decreases faster. During a stable growth period, it is necessary to keep budget income and expenditures balanced.

An additional threat to the macrostability of the Montenegrin economy is the potential activation of state guarantees for credits of Aluminum Plant Podgorica (KAP). The government has already paid €2 million against KAP's debt to foreign banks, and there is a serious concern that an additional €10 million in guarantees will be activated.

9 | Private Property

Property rights and regulations on acquisitions, benefits, use and sales are well-defined, but occasionally there are problems with implementation and enforcement under the rule of law.

Property rights
8

The institutional and legislative framework related to property rights is slowly improving but still has a number of issues to be resolved. One issue is the process of restitution, an issue that is proceeding only slowly. Montenegro committed itself as part of its Stabilization and Association agreement with the European Union to take the necessary measures to guarantee by January 2013 a level of protection for intellectual, industrial and commercial property rights, similar to those existing in the European Union. Many steps have been taken to improve the protection of property rights. For example, Montenegro adopted the EU regulation implementing the copyright law.

Private companies are viewed institutionally as the primary engines of economic production and are given appropriate legal safeguards. The privatization of state companies proceeded consistently according to market principles. The legal framework for a functional private sector exists in Montenegro, and more than 90% of the Montenegrin economy is privatized. Along with the privatization process, Montenegro has conducted reforms aiming to improve the overall business environment, resulting in an easier process of starting a business and strong incentives for greater entrepreneurship.

Private enterprise
8

As part of the 2012 privatization plan, several transport companies, including railways, port and the national airlines, are planned to be sold through international tenders. However, the privatization of some, especially Montenegro airlines, has been difficult. A first attempt at selling a 30% stake failed in 2010 due to lack of interest. Meanwhile, the company has accumulated large debts that are covered by the government.

In 2012, calls for tenders were issued for a national tobacco factory (NDKP), the Institute for Physical Therapy, as well as for the container and bulk cargo terminal in the port of Bar. In July 2012, a 90-year lease contract to develop a tourist resort at the former barracks site of Kumbor (Kotor Bay) was concluded. Overall, the privatization process during the review period resumed after essentially two years of stagnation.

10 | Welfare Regime

Social safety nets are well-developed but do not adequately cover all risks for all population groups. A significant part of the population is still at risk of poverty. Social networks are well-developed, partly due to the legacy of the state socialist system. However, these systems and contribution levels are not sustainable under the conditions of a private market economy. The number of recipients of social benefits and the level of the compensation they receive is unsustainable.

Social safety nets
7

During the review period, the state has tried to reduce risks and complete the legal framework of transfers for social assistance. In general, the system of social protection in Montenegro includes health care, pension insurance, worker's compensation insurance, disabled insurance, unemployment insurance, child support and so on. The complete system is coordinated by two ministries (health and social welfare) through different administrative bodies, each one being in charge of a different segment.

Social transfers represented 31% of total budget expenditures in 2011, or 14% of GDP. According to October 2012 data, the state provides pension funds for 105,854 people, clear evidence that the existing system of pension security is unsustainable.

The global economic crisis affected budget incomes, so the government has had to introduce new taxes that are a burden to the poorest population groups. In July 2012 the government decided to introduce a €1 tax on each mobile phone SIM card, cable TV receiver and electric meter. This tax caused a public outcry and its legality was questioned by the Constitutional Court, but the court eventually decided that the law was in line with the constitution.

In January 2013, income taxes were increased from 9% to 15%, but only for salaries that exceed an average of €720 per month.

Women and members of ethnic and religious groups have near equal access to education, public office and employment.

Equal opportunity
7

According to 2011 census, there are 1,559 illiterate men and 6,590 illiterate women in Montenegro. For those over 70 years old, there are ten times more illiterate women than illiterate men. For all age groups, women have the highest unemployment rate. For the age group 15 to 24 years, 39.3% of women are unemployed and 35.6% of men are unemployed. Women earn on average 86.8% of the average earnings of a man.

There are legal provisions against discrimination, although Roma and individuals from other ethnic minorities often lack the knowledge and means to act against discrimination or use existing opportunities to combat discrimination. Although there has been some progress in improving the regulatory framework for discrimination protections, the integration of marginalized groups proceeds slowly, and many face citizenship-based discrimination. In one example in Podgorica in June 2011, a public kitchen that offered free meals to poor Montenegrins refused to serve Roma who were not citizens. Human Rights Action, an NGO, raised this issue with the Constitutional Court, which however didn't act upon the case. With an aim of fostering an active anti-discrimination policy, the government of Montenegro established in 2012 a council for the protection from discrimination in March 2012.

There have been accusations in the opposition media that members of the ruling party have been hired to public administration positions due to their party membership. While this would not necessarily be disadvantaging a particular ethnic group or gender, such actions would suggest another important aspect of potential discrimination.

11 | Economic Performance

Montenegro's macroeconomic indicators include low growth rates, moderate unemployment levels, relative price stability, an unbalanced budget, rising debt and an unpredictable current account position.

Output strength
6

The GDP per capita places Montenegro among middle-income countries, with €7,140 in 2011. Total GDP in 2011 in current prices was €3.2 billion, with a projected €3.4 billion in 2012 by the Ministry of Finance.

Montenegro has registered strong economic growth in the period prior the global crisis. This was partly due to introducing the euro as the official currency, increased foreign investments in the tourism sector, privatization and tax reform. However, the

global crisis starting in 2008 slashed growth, which has remained at a low level until 2012. According to IMF data for 2012, unemployment remains high at 18%, even though it is lower than the peak in the first quarter of 2011. Since the onset of the crisis, the unemployment rate has ranged between 16% and 21%.

During the review period, however, the economy has started to recover and recorded moderate growth rates of 3.2% and 2.5% for 2010 and 2012 respectively. The recovery was partly fueled by increasing tourism and increased retail demand. Economic activity did however start to slow in 2012. Still domestic consumption continues to grow, increasing retail sales by 9%, again due to tourism. Average income per capita (purchasing power parity) rose to 43% of the EU average. Even though the economy is recovering, the performance of several sectors still remains weak.

Public debt was 47.6% of GDP at end of the second quarter of 2012. In 2011, the current account deficit was 19.4% of GDP. The reduction is mostly due to less foreign direct investment, which represents 63.1% of total deficit. Foreign direct investment in 2011 was €534 million, some €158 million lower than in 2010.

12 | Sustainability

The country's tax and energy policies do not adequately consider environmental concerns. The government has often assessed the long-term impact of energy development on the environment after having considered the strategic perspectives and environmental impact of individual energy facilities. This is the wrong sequence as it is necessary to take the cumulative effect of any such project into account.

Environmental
policy
6

The biggest industrial polluters, such as the aluminum plant in Podgorica (KAP), the thermal power station in Pljevlja and the steel mill in Niksic, are still working without an adequate system for environmental protections. The funds charged by the state and paid by the polluter are not adequate or provide enough economic stimulation to invest toward establishing environmental standards.

The government doesn't sufficiently encourage sustainable development and the proper use of natural resources. Problems of illegal construction, the uncontrolled exploitation of river materials, illegal woodcutting, improper waste management, and high energy consumption per capita are serious. Even if government legislation stipulated punitive measures, in practice such measures would not be applied.

Education policy ensures a nationwide system of sound education and training, while research and development is deficient. In 2012, 0.43% of GDP was invested in research and development efforts, compared to 0.13% in 2010. Within accession negotiations with the European Union, in December 2012 Montenegro provisionally closed the chapter on science and research, setting up a goal to increase investments

Education policy /
R&D
6

in research to 1.4% of GDP by 2016. There are no reliable figures available on investment in research and development by the private sector.

The screening process on the EU accession chapter on education and culture started in September 2012. Primary and secondary school enrolment rates remain high. The government has adopted strategies and action plans toward elementary education and vocational education improvements. Still, the link between higher education and vocational training and the labor market needs to be strengthened for the country's education system to become better responsive to labor market needs. Investment in education and training is average (4.6% of GDP in 2009).

Transformation Management

I. Level of Difficulty

Montenegro's structural difficulties over the past 20 years are predominantly the consequence of a non-transparent neoliberal privatization process which started in the early 1990s and continued throughout the 2000s. While the country has never suffered from extreme poverty, the disappearance of the middle class still presents a serious structural constraint for society. A (politically) significant percentage of the population is dependent on the state in providing stable jobs. This has opened up a space for political clientelism which – combined with the fact that the country has not experienced a major political change in elections since the introduction of a multiparty system – enforced a symbiotic relationship of the ruling party with the state. The close links between the ruling party and the state is reinforced by strong patronage patterns and is complicated by the small size of the country where personal connections are often paramount.

Structural
constraints

5

Another structural constraint is uneven regional development, the ultimate outcome of which is the migration of an educated labor force from the north to the more developed regions in the south. Severe snow storms in 2012 showed that the government is severely unprepared in dealing with natural disasters. These issues still present structural obstacles which mainly affect the democratization process, and thus highly constrain governance.

Traditions of civil society remain fairly weak, with certain positive developments during the review period. The civil sector in Montenegro depends primarily on foreign aid donations, with only isolated successful attempts to build a constituency within the local context (e.g., Association of Parents). Programming is under the strong influence of foreign donors and advocacy efforts rarely go beyond funded project frameworks and durations. Long-term perspectives on sustainability do not provide a bright outlook, especially given the controversies with state funding schemes in terms of priorities, justification and transparency of awards, for which responsibility is equally distributed to public and civil sector representatives in competent decision-making bodies. There are barely any functional coordination civil society organization (CSO) mechanisms, and it mostly comes down to ad hoc issue-based coalitions.

Civil society
traditions

5

CSOs maintain a strong presence in the media, and the civil sector has upheld the role of providing a platform for the public expression of concerns and criticism over the work of public sector. The civil sector maintains the position of an important social factor, especially in terms of employment and working conditions, available primarily to youth and recent graduates.

There have been no violent incidents based along social, ethnic and religious lines, given that radical actors have failed to mobilize along existing cleavages. Montenegro represents a functional multicultural society, although it is still divided around unresolved ethnic/national identity issues which are mostly visible in the case of Serbs – the largest minority in the country – and their political representatives who continuing to deny Montenegrin state symbols. With this exception, all possible topics for social, ethnic and religious conflicts are translated within the political and civil sphere, where they are dealt through institutional channels by political parties or non-governmental organizations. In 2012, due to the poor socioeconomic situation, civil actors were able to mobilize people in peaceful protest against governmental socioeconomic policies. In short, the confrontational nature of politics remains rather low, while during the election period, it increases along ethnic and cultural and, only recently, socioeconomic cleavages.

Conflict intensity
2

II. Management Performance

14 | Steering Capability

The government sets strategic priorities, but these priorities are often used as a way of capitalizing on the short-term benefits of electoral competition. For example, European integration and Euro-Atlantic integration still offer two strategic goals, but they are often represented as goals that can be achieved in so far as the ruling coalition remains in power. It is also not clear to what degree these policies will remain a priority, if they interfere with the short-term goals of the government.

While the government is gaining and organizing expertise, it still falls short in evidence-based policymaking, as well as in evaluating strategic and action plans for improving strategies and their subsequent implementation. While the political determination in achieving strategic goals is unquestioned, the institutional capacity of ministries in achieving goals severely differs across government branches. These goals are not constrained by actors outside the government, as the government is fully supported by powerful economic interests, foreign governments and foreign donors. Within this configuration, actors outside the government who are against goals are not able to seriously constrain government strategic priorities.

Question
Score

Prioritization
8

The government has had only limited success in implementing its policies. Laws are often passed but not implemented. This gap is caused by a combination of a lack of commitment in some cases, and a lack of resources or sufficiently trained staff in others.

Implementation
7

The government has identified two major policy objectives, of which one was realized. EU accession negotiations began with a screening process in June 2012. The other objective, NATO membership, has not been realized in part due to a lack of public support (only 37% of the population supports NATO membership as of September 2012, according to the Center for Democracy and Human Rights (CEDEM)). One major hindrance toward EU integration is a lack of administrative capacity and know-how in tackling the major structural challenges that have been identified by the European Union. Another obstacle for NATO membership is polarized popular opinion. However, the government and its ministries are strongly dedicated to European and Euro-Atlantic integration.

The government demonstrates a general policy learning, but its flexibility is limited. The government has shown a tendency to learn from mistakes and from failed policies, but only at a certain level: learning from past experiences does not seem to affect the routines and the knowledge foundation on which policies are based, and sometimes the same mistakes are repeated, even within reformed policies. This is due to the lack of a mechanism for the effective monitoring and evaluation of governmental strategic and action plans in particular, which would enable the government to systematically learn from its mistakes and improve upon them. On the other hand, the government engages in institutional knowledge exchange and consultancy with academic experts and practitioners, which has had a positive effect on the basic beliefs that guide policy formulation. Moreover, the government benefits from international cooperation, which aims to introduce good practices. To sum, there are no institutionalized mechanisms that facilitate innovation and flexibility in policymaking.

Policy learning
7

15 | Resource Efficiency

The government makes efficient use of only some available human, financial and organizational resources. The main problem in making public finances sustainable is the country's budget deficit that needs to be cut. In 2011, the total budget deficit reached €190 million. Due to weak economic activity during the economic crisis period, public debt increased from 38% of GDP to €1.62 billion at the end of 2010, to 47.6% of GDP at end of the second quarter of 2012. Public debt continued to grow in the second half of 2012, and rising debt is expected in 2013.

Efficient use of
assets
6

The legislative framework for internal auditing was completed in 2011, and implementation has begun. According to a 2012 European Community Progress

Report, about half of the entities required to set up an internal audit unit have done so, although not all units have appointed auditing staff.

A new law on civil servants and state employees was adopted by parliament in July 2011 has been in effect since January 2013. The law strengthens the principles of merit-based recruitment and promotion, aiming at avoiding patronage appointments in public administration. Preparations for the law's implementation are undergoing, and the application of depoliticized and merit-based recruitment and a promotion system will be carefully monitored by EU institutions.

The government tries to coordinate conflicting objectives, but with limited success. Sometimes different parts of the government do not operate in sync, which results in policies that often have counterproductive effects on other policies. The main problem is policy implementation. For example, while the Ministry of Foreign Affairs and European Integration tries to serve as a body of horizontal coordination to mediate between different ministries and agencies that are part of the EU accession process, some policies are introduced simply because they are required by Brussels, without researching whether the new policies would have counterproductive effects on existing policies. In general, there are problems with overall governmental policy coherence.

Policy
coordination
7

The government's 2011 – 2012 action plan for fighting corruption and organized crime has been implemented, and preparations are underway for the adoption of the next action plan 2013 – 2014. The overall institutional framework for monitoring implementation of the action plan is working well. However, the same structural problems with these strategic documents remain unaddressed as was the case for previous action plans (2006 – 2010). Namely, the substantive evaluation of the action plans does not go beyond the assessment of the level of implementation of the measures and achievement of their outputs, without reference to the impact of those outputs and implemented activities. Hence, reports on the implementation of action plans provide a mere statistical overview of the number of organized trainings and seminars, adopted and amended laws, signed memorandums, organized public campaigns, and so on – but no analytical elaboration as to which extent measures actually managed to contribute to the suppression of corrupt practices and organized crime.

Anti-corruption
policy
6

It appears that most of the successful anti-corruption measures have been the result of increased political willingness to prosecute individuals close to the government and the ruling political parties.

On the other hand, anti-corruption laws with preventive mechanisms are still inadequately implemented. Recent changes in conflict of interest legislation addressed the criticisms of the European Commission and prohibited members of parliament to take part in public or private managerial boards. It also allowed for an

independent commission to investigate asset declarations of public officials and examine cases of potential illicit enrichment. However, the commission refrained from exercising their mandate, constantly referring to a lack of internal capacities and resources. Since the commission for the prevention of conflict of interest is established by parliament and as such is the only anti-corruption body that operates without direct government control, the commission has been under fire by civil society actors and the media for failing their mandate, especially given that the commission is primarily composed of former members of ruling political parties. In addition, recent amendments to the labor law extended protections for whistleblowers in the private sector, one of the main deficiencies of the previous provision. However, the number of whistleblowers' reports is still low, whereas the previous handling of whistleblower cases has not provided much incentive for proactive engagement.

In 2013, it became mandatory for public bodies to develop their own integrity plans, essentially cataloging and analyzing corruption risks in their operations as well as outlining appropriate responsive actions to mitigate their effects. This practice would provide practical monitoring mechanisms at each institution and increase their operational capacities to curb corruptive practices. In addition, integrity plans might provide a complementary tool to national anti-corruption strategy implementation and monitoring mechanisms.

Taken together, during the early days of the outgoing government during the review period there was a push to tackle corruption with a number of high-profile arrests, but since then, a decline in government commitment was observed, with fewer corruption investigations. A recent survey conducted by the United Nations suggests that during the 2009 elections, 11.6% of citizens were offered a bribe to vote for a particular party.

In early 2011, the government added legislative changes in the area of political party financing to its action plan, both to fulfill EU recommendations and establish a start date for accession negotiations. The new legislation was drafted in cooperation with a number of non-governmental organizations (the Center for Democratic Transition (CDT), MANS and the Center for Monitoring and Research (CEMI)) and adopted in July 2011 by parliament. Implementation was supposed to begin in January 2012, but meanwhile parliament introduced another set of legislative amendments that represented a step backward. Instead of giving the authority over political parties to one institution – the State Election Commission (SEC) – a body that was supposed to be strengthened to achieve full political and financial autonomy through this new legislation, parliament decided to divide responsibilities for the law between three institutions – SEC, the State Audit Institution (SAI) and the Ministry of Finance. This decision opened up the possibilities for delays and transfers of responsibilities among the institutions in 2012, resulting in poor implementation, no control and certainly no sanctions for those that breached the new law, resulting in no significant improvements in party financing. Transparency has not improved, as a majority of

political parties failed to submit comprehensive, accurate and transparent annual and campaign reports.

In December 2012, the Group of States against Corruption (GRECO) published a compliance report on measures taken by authorities to implement the recommendations issued in the Third Round Evaluation Report on Montenegro. GRECO concluded that four out of nine recommendations dealing with transparency in party funding were only partially implemented. Montenegro failed to satisfactorily meet the recommendations related to the use of public resources for party activities and election campaigns; political and financial independence of enforcement authorities; strengthening the auditing of political parties; and adjusting the sanctions relating to infringements of political financing rules. The European Commission recognized similar shortcomings in its 2012 Progress Report. The report notes that mechanisms for checking on the funding of political parties and electoral campaigns and imposing penalties need to be reinforced and set out in legislation, and that the capacity of enforcing authorities should be enhanced. In late 2012, the government announced a plan to introduce new legislative changes in this area.

16 | Consensus-Building

All major political actors agree that democracy and a market economy are strategic, long-term goals of Montenegrin transformation. The degree of consensus with regard to democracy is high (as there are virtually no political actors that promote anti-democratic ideas or sentiments), while there are visible differences on market regulations, even among the ruling coalition. This has intensified in past years when a set of neoliberal economic policies were introduced to deal with the effects of the financial crisis – the government was determined that the only way to deal with the economic crisis was to cut back on public spending, without even considering an option of progressive taxation. This has intensified the divisions among important political actors (especially between the ruling coalition and the opposition and non-governmental sector) on the issue of market regulations. In short, while all major political actors agree on democracy as a strategic, long-term goal, there is an evident division of how to manage a market economy – through a welfare state or a neoliberal state.

Consensus on goals
10

A decade-long overall consensus of political actors on establishing democracy prevented the rise of anti-democratic sentiment among parties and their acquiring of political power. Thus reformers can successfully exclude or co-opt all actors with anti-democratic interests.

Anti-democratic actors
10

After the referendum on Montenegro's independence in 2006, the political leadership managed to reduce the intensity of cleavage-based conflict and build a tentative consensus across dividing lines. The divide between Montenegrins and Serbs has become a largely secondary problem that carries little weight in day-to-day matters. However, during the review period, ethnic/national identity issues have become important in the political and cultural sphere, a fact evident in many cultural policies that have been introduced by the government, as well as through language employed during election campaigns.

Cleavage /
conflict
management

7

Issues of Montenegrin identity, including the country's official language, national anthem and flag, have been raised often during 2012 debates over changes to the constitution. During the 2011 debate over the legislative framework for elections, opposition parties offered to give the necessary two-thirds support to the election law in parliament, asking for agreement on improving the status of Serbian in education in return. The agreement was reached, and it guarantees the use of the official language and other languages in schools, in line with the constitutional right of minorities to obtain an education in their own language.

One of the key factors which unites the population is the national consensus on the EU integration process as a strategic goal (60% strongly supports EU integration, according to the Center for Democracy and Human Rights (CEDEM), September 2012), an issue that serves as a way to establish consensus across dividing lines in Montenegrin society. With relation to NATO membership, in contrast, society is split, which has brought to the surface many ethnic and national differences. On occasion, such as during the 2011 census, the question of identity can still polarize public opinion.

The political leadership permits civil society participation. On some issues the government takes into account and accommodates the interests of most civil society actors, while in contrast sometimes it tends to ignore civil society actors and formulates policy autonomously.

Civil society
participation

7

In its 2012 monitoring report on Montenegro, the European Commission noted improvements in terms of cooperation between state institutions and civil society organizations, with CSOs participating in a number of councils and committees for oversight of the implementation of national strategic documents, notably in the areas of corruption and discrimination. In addition, CSOs are regularly involved in the activities of the state administration, including working groups on EU accession negotiation chapters.

However, their overall contribution remains a point of concern, as the bulk of their initiatives are either not properly addressed by public sector counterparts or their substantive inputs do not correspond properly to the actual resolution of social

problems. Hence, the entire setup implies the simulation of true dialogue rather than the actual coordinated action of diverse sectors.

There is no institutional mechanism which would include civil society through the entire process of policy formulation, its adoption and implementation. When it comes to implementation, everything remains on the level of performance monitoring.

The political leadership recognizes the need to deal with historical acts of injustice, but its attempts at reconciliation remains problematic, since segments of the political leadership were directly involved in conflicts. However, the leadership actively tries to develop friendly relations with all former Yugoslav republics, and Montenegrin institutions have attempted to address some crimes. However, the acquittal of police officers accused of deporting Bosnian Muslims to Bosnian Serb authorities in 1992 led to criticism by NGOs and international observers over the willingness of the Montenegrin judiciary to investigate war crimes.

Reconciliation
7

17 | International Cooperation

The political leadership makes well-focused use of international assistance (EU institutions, IMF, OSCE, the World Bank, the United Nations and, more recently, NATO) to implement its long-term strategy of development, utilizing international know-how and external advice toward its domestic policy agenda. International support has helped the government to articulate its aims of political and economic development, as well to make progress in implementing development steps. While the government has successfully utilized international assistance to create a roadmap of political and economic development, it lacks specifics to mitigate a number of issues, which sometimes negatively affects support.

Effective use of
support
9

The government mostly acts as a credible and reliable partner, but some international actors express doubts regarding its reliability on certain issues (e.g., freedom of the press, judicial reforms, the fight against corruption and against organized crime).

Credibility
8

The political leadership actively promotes regional and international integration. The government cooperates with all neighboring countries and complies with the rules set by regional and international organizations. Moreover, the political leadership sees good neighborly relations as a strategic goal. There are few open problems with neighboring countries, and Montenegro has been able to maintain relations with both Serbia and Kosovo.

Regional
cooperation
9

Strategic Outlook

The referendum on independence settled more than a decade of political disputes over the status of Montenegro. Since then, independence has come to be generally accepted. While identity politics continue to matter, the political leadership managed to expand consensus across dividing lines, primarily based on a key strategic goal of European integration which is supported by two-thirds of the population. However, NATO membership remains a polarizing topic, as a majority opposes it and holds negative views of NATO. The Montenegrin political leadership should take into account that any quick unilateral decision by the government and parliament would create a significant social divide. In December 2009, Montenegro was granted a Membership Action Plan, from which the country's progress in preparation for membership will be annually evaluated. While progress in fulfilling the technical and administrative conditions of the plan is evident, public support needs to be increased as it will be one of the requirements for Montenegro to be considered for full NATO membership. Therefore, raising awareness and support for the institution is the only viable solution for the prevention of cleavage-based conflict based on the question of NATO membership.

In June 2012, the European Union started accession negotiations with Montenegro through a screening process. Until Montenegro fulfills EU requirements, its candidate status is important in a purely symbolic sense, as an acknowledgement for progress which Montenegro has made in previous years. Right now, Montenegro has to create a comprehensive strategic agenda that will shape its future in years to come.

The reforms required in the EU accession process pose a particular challenge for Montenegro, due to its small size and lack of administrative capacity. Mastering this challenge will depend on whether the government will be able to cooperate with and use the resources of civil society. In addition, preparing the country for EU membership implies a transformation of Montenegro's inherited model of governance. The long-term political dominance of the Democratic Party of Socialists has entailed a remarkable capacity for political integration, conflict resolution and modernization, but these successes have been built on close personal relations that have spread throughout the state, while the mechanisms of formal accountability and institutional checks and balances have been much weaker. The strategic challenge consists in enforcing public accountability and disclosing vested interests, while sustaining the problem-solving and accommodation capacities accumulated by the elite network that has been governing Montenegro.