

# Montenegro

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*Capital:* Podgorica  
*Population:* 0.6 million  
*GNI/capita, PPP:* US\$13,700

Source: The data above are drawn from the The World Bank's *World Development Indicators 2014*.

## Nations in Transit Ratings and Averaged Scores

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Electoral Process	3.25	3.50	3.50	3.25	3.25	3.25	3.25	3.25	3.25	3.50
Civil Society	2.50	3.00	3.00	2.75	2.75	2.75	2.75	2.75	2.75	2.75
Independent Media	3.25	3.25	3.50	3.75	3.75	4.00	4.25	4.25	4.25	4.25
National Democratic Governance	4.50	4.50	4.50	4.25	4.25	4.25	4.25	4.25	4.25	4.25
Local Democratic Governance	3.50	3.50	3.25	3.25	3.25	3.25	3.25	3.25	3.25	3.25
Judicial Framework and Independence	4.25	4.25	4.25	4.00	4.25	4.00	4.00	4.00	4.00	4.00
Corruption	5.25	5.25	5.50	5.25	5.00	5.00	5.00	5.00	5.00	5.00
Democracy Score	3.79	3.89	3.93	3.79	3.79	3.79	3.82	3.82	3.82	3.86

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

# EXECUTIVE SUMMARY

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In April 2013, Montenegro provisionally closed its second negotiation chapter with the European Union (EU), moving closer to accession. In December 2013, following the European Commission's progress report, five further *acquis* chapters were opened.

Montenegro held its second presidential election as an independent state in April. Incumbent president Filip Vujanović of the Democratic Party of Socialists (DPS) won by a narrow margin. The election was complicated by the Constitutional Court's dismissal of a constitutional challenge to Vujanović's candidacy; the court argued that the discontinuity in Montenegro's legal status during his first term—as the country ended its union with Serbia in 2006—allowed him to run for the third consecutive time.

The so-called Recording Affair—a scandal centered on leaked recordings of DPS meetings that emerged in February—exposed the blurred boundaries between the long-ruling party and the state. The prosecution and the parliament revealed their own weaknesses by failing to investigate and determine responsibility for the abuse of state resources suggested in the recordings. In July, Montenegro adopted constitutional changes aimed at enhancing the independence of the judiciary.

**National Democratic Governance.** The government made progress in the EU negotiation process in 2013. Negotiations for five chapters, including the demanding topics of the judiciary and rule of law, were formally opened on 18 December 2013. The negotiation process was fairly open to the public and stakeholders, and representatives of Montenegrin civil society were included in all working groups. However, the administrative capacity of government institutions remains limited, and there has been no significant progress in public administration reform. The domestic political scene was strongly shaken by a number of scandals. Disagreements within the ruling coalition were frequent on both political and economic issues, but the bloc did not dissolve. *Montenegro's rating for national democratic governance remains unchanged at 4.25.*

**Electoral Process.** Vujanović won the April 2013 presidential election with 51.2 percent of the vote after overcoming the constitutional challenge to his bid for a third term. Due to the narrow margin between the two candidates, both Vujanović and opposition candidate Miodrag Lekić proclaimed victory before the publication of the official results. Although international observers noted that the election was, in principle, free and fair, the Recording Affair revealed that the ruling party used state resources—including offers of employment—to ensure loyalty and mobilize voters. Due to electoral authorities' poor handling of the Recording Affair, the lack

of clarity in the country's laws regarding term limits, and the prevalence of personal rather than programmatic issues in the campaign, *Montenegro's rating for electoral process declines from 3.25 to 3.50.*

**Civil Society.** Montenegro has a diverse civil society with influential nongovernmental organizations (NGOs) that nevertheless struggle to maintain a strong presence in some parts of the country and meaningful activity on certain issues. Cooperation between the government and NGOs had been improving, and various legislative proposals in 2013 aimed to further this collaboration. NGO representatives were included in all working groups for the negotiation of the EU *acquis* chapters. Financing remains the biggest challenge for civil society, as most small NGOs rely on public funding, which decreased in 2013 for the fourth year in a row. *Montenegro's rating for civil society remains unchanged at 2.75.*

**Independent Media.** The number of physical attacks against journalists increased in the second half of 2013. Many past cases remain unsolved, and a commission to address the authorities' poor handling of threats to and violence against journalists was established in December. Media self-regulation and professionalism are at a low level, particularly regarding personal data protection. The media environment is marked by political divisions. Coverage of the presidential election was generally fair, though state media consistently reported on the activities of government officials, blurring the line between the state and the ruling party. Online media are proliferating as internet use rises. Editorial boards often fail to curate comment sections to remove hate speech and discriminatory or defamatory language. *Montenegro's rating for independent media remains unchanged at 4.25.*

**Local Democratic Governance.** Local governments in Montenegro continued to face numerous problems in 2013, ranging from a lack of transparency to structural challenges and financial difficulties. A new municipality was formally established in northern Montenegro in May. Local elections in Cetinje, Mojkovac, and Petnjica were held in November 2013. The DPS won absolute majorities in Cetinje and Mojkovac, while in Petnjica it formed a coalition with the Bosniak Party. Due to numerous difficulties in the functioning of local governments and the authorities' lack of commitment to implement necessary reforms, *Montenegro's rating for local democratic governance remains unchanged at 3.25.*

**Judicial Framework and Independence.** The government made progress on judicial reform in 2013; constitutional changes were adopted in July to increase the integrity and accountability of the judiciary. However, the amendments fell short of ensuring complete independence for the branch, as indicated by the process for election of judges to the Constitutional Court. The allocation of state funds to cover the salaries of magistrates and the underfunding of the prosecution contributed to the inefficiency of the system. The case backlog has been reduced, but efficiency remained a problem. Little progress was made in prosecuting war crimes cases in

2013, and public confidence in the judiciary continued to decline. *Montenegro's rating for judicial framework and independence remains unchanged at 4.00.*

**Corruption.** Pervasive corruption continues to be one of the key challenges for Montenegro's democratization. The policy framework for fighting corruption improved with the adoption of new action plans. However, allegations of serious abuse of state resources remain commonplace, and there was little progress in the prosecuting of corruption, especially in high-level cases. Law enforcement bodies are understaffed and highly politicized. Due to poor results in fighting corruption in practice, *Montenegro's corruption rating remains unchanged at 5.00.*

**Outlook for 2014.** In 2014, the government's top priorities will be EU accession talks and the economy—especially the management of the deficit, the public debt, and the side effects of mismanaged privatizations. Negotiations on EU-mandated reforms are expected to continue with chapters on public procurement (chapter 5); company law (chapter 6); enterprise and industrial policy (chapter 20); judiciary and fundamental rights (chapter 23); and justice, freedom, and security (chapter 24). The pace and stability of this process will depend on the government's commitment to advancing rule of law and democratic reforms in general, as the country still struggles with widespread corruption and weak institutions. The coming year is also expected to be a challenge for the governing coalition because the ruling DPS and its junior partner, the Social Democratic Party (SDP), increasingly diverge on political and economic goals.

# MAIN REPORT

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## National Democratic Governance

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
4.50	4.50	4.50	4.25	4.25	4.25	4.25	4.25	4.25	4.25

During 2013, Montenegro made progress in meeting the criteria for European Union (EU) membership. However, the turbulence caused by domestic political developments triggered a crisis within the ruling coalition. These events were accompanied by strong pressure from the EU and the United States to resolve allegations raised by the so-called Recording Affair (*Afera Snimak*), in which leaked recordings of meetings among ruling party officials indicated serious abuses of state resources.<sup>1</sup> Such issues shifted the focus from the advancement of the EU accession process toward domestic party politics.

The EU negotiations continued at a satisfactory pace. The government formed working groups for another 15 chapters, in addition to the existing 18. Representatives of civil society were included in all negotiation working groups; of the total of 1,257 people engaged in the 33 groups, 381 were representatives of civil society, including nongovernmental organizations (NGOs), universities, business and trade associations, and other entities.<sup>2</sup>

The government continued to work toward the fulfillment of benchmarks highlighted by the European Commission's screening of legislative alignment with the *acquis*. After a provisional closure of chapter 25 (science and research) in December 2012, chapter 26 (education and culture) was opened and then provisionally closed by April 2013.

After including revisions called for by the European Commission and additional modifications, the government adopted the final version of the action plans for chapters 23 (judiciary and fundamental rights) and 24 (justice, freedom, and security) in September 2013. However, the first real test of the government's commitment to respecting the time limits provided in the action plans was the adoption of amendments to the constitution, accomplished at the end of July. The amendments, concerning appointment and dismissal procedures for senior judges and prosecutors, were a precondition for ensuring the independence of the judiciary. Negotiations on the *acquis* chapters 23 and 24, alongside three additional chapters,<sup>3</sup> were opened in December 2013.

The parliament adopted a resolution on European integration in December.<sup>4</sup> The key issue during the preparation of the document was the parliamentary committee for European integration's proposal that it should be given a veto right on the government's draft negotiating positions. The proposal did not win the support of the ruling Democratic Party of Socialists (DPS), but a compromise was reached whereby the government must comment within eight days if the committee opposes a negotiating position.<sup>5</sup> Even so, the role of the parliament in

the negotiation process has been limited to date due to its unclear responsibilities and powers, ill-defined channels of communication with the government, and poor use of oversight mechanisms.

Other entities meant to supervise the government also lack capacity and influence. Although the president of the governing body of the State Audit Institution (SAI) was appointed in 2013, the senate is still missing one of its five members. The SAI has little financial independence; the funding allocated to the institution for 2014 was even lower than in the previous year's budget. Moreover, the SAI's annual report for 2012 noted that only 15 percent of its recommendations were actually carried out by the audit subjects.

A new legal framework introducing merit-based procedures for recruitment and promotion in the civil service took effect in January. The reform improved the transparency of the hiring process, although the Recording Affair's revelations of partisan patronage regarding public-sector jobs cast doubt on the new law's implementation.

Politicization of appointments in public administration became evident in the so-called "sealed resignations" affair where 148 deputy ministers and directors of agencies and public institutions were asked to submit their resignations to Prime Minister Milo Đukanović immediately after the parliamentary elections of November 2012.<sup>6</sup> The action had no grounding in the legislation on the employment of civil servants.

In July, the government adopted a plan for the reorganization of the public sector, but the document was published only in November, and no substantial progress was made in the rationalization of the number of employees. Overall, reform of the public sector is poorly coordinated. The EU negotiation process has shown that the institutional capacities for implementing adopted legislation are insufficient.

In August, the DPS's junior coalition partner, the Social Democratic Party (SDP), declined to vote for the government's proposal on a new loan to stabilize production at the Podgorica Aluminium Plant (KAP). In addition, the parliament in July rejected government-backed laws on higher education, health care, and amnesties, as well as the report of the prosecutorial council. The minister of education withdrew the draft law on higher education due to the lack of parliamentary support and criticism from academics and NGOs. These defeats caused political turmoil and frequent debate about the legitimacy of the government's mandate. However, no steps were taken to hold early parliamentary elections.

Two "pride parades" were organized in 2013 to promote the rights of LGBT (lesbian, gay, bisexual, and transgender) people. The first event, in Budva, was organized on short notice in July. The second was held in Podgorica in October and was attended by Montenegro's minister for human and minority rights, the head of the EU delegation to the country, and other international representatives. Both events were accompanied by strong opposition from citizens, but despite a number of minor incidents and several injuries to participants and police officers, the parades marked a step forward in raising awareness of the importance of minority rights.

The police showed a high degree of professionalism in ensuring that the events proceeded as planned, and this was recognized by representatives of the diplomatic and consular corps in Montenegro.<sup>7</sup>

#### Electoral Process

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
3.25	3.50	3.50	3.25	3.25	3.25	3.25	3.25	3.25	3.50

While Montenegro has been a multiparty democracy since 1990, the DPS has dominated the country's political landscape. Either on its own or in coalition with smaller and ethnic minority parties, the DPS has held power without interruption for 23 years. The electoral process, based on the 2007 constitution and the 2011 Law on the Election of Representatives and Councillors, guarantees universal suffrage to all citizens aged 18 and older, with votes cast by secret ballot under a proportional system, and reserved seats for ethnic minority parties.<sup>8</sup> Nevertheless, electoral legislation and the electoral process have significant shortcomings that have the potential to distort free and fair elections.

The Law on Political Party Financing was last amended in January 2012,<sup>9</sup> but the legislation requires further improvement, especially regarding financial reporting and the excessively large allocations to political parties from the state's budget.<sup>10</sup> Following the conclusions of the parliament on the limitations of Montenegro's electoral legislation in view of the recommendations of the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Council of Europe, a working group on the building of trust in the electoral process was established in July 2013.<sup>11</sup> In August and September, parliamentary committees began considering amendments to Montenegro's electoral legislation.

On 7 April 2013, Montenegro held its second presidential election since gaining independence in 2006. Voters chose between two candidates—incumbent president Filip Vujanović and the candidate of the opposition Democratic Front (DF), Miodrag Lekić.<sup>12</sup> The DPS's long-standing coalition partner, the SDP, brought a constitutional challenge to Vujanović's eligibility, revealing tension in the ruling coalition. Vujanović had already served two terms, which is the maximum stipulated in the constitution. However, the Constitutional Court dismissed the challenge on the grounds that there was a discontinuity in the legal status of Montenegro before and after independence, meaning Vujanović's first term—which began in 2003—did not count toward the two-term limit.<sup>13</sup>

A total of 63.9 percent of registered voters turned out for the election, and Vujanović won narrowly, receiving 51.2 percent of the valid ballots. The number of invalid ballots (10,563) was more than twice as high as in the 2008 presidential election (4,674).<sup>14</sup>

The election was monitored by the OSCE-ODIHR. In its final report, the observer mission stated that “the campaign took place in a competitive environment,

with respect for fundamental human rights and freedoms.”<sup>15</sup> However, the observers noted a number of shortcomings, including the misuse of public resources, weak campaign finance oversight, and problems in the legal framework for the elections—specifically the legal residency requirement of 2 and 10 years to vote and stand in presidential elections, respectively.

Allegations of vote buying and the misuse of state resources were especially prominent during the electoral process, diminishing public confidence in the elections. The leaked material of the Recording Affair—first published in the opposition-oriented daily *Dan* in February—was discussed extensively in the media. The transcripts revealed alleged efforts by the DPS to reward loyalists with public-sector jobs and loans and to enlist state-owned companies in mobilizing progovernment voters, among other abuses.<sup>16</sup> The case was referred to the state prosecutor, who concluded that there were no legal grounds for pursuing criminal charges.<sup>17</sup> Amid international pressure and opposition threats to boycott the April election, the parliament established an inquiry committee, but it issued only a technical report containing the opinion of each of its members, with no conclusions or recommendations.<sup>18</sup>

Problems with updates to the electoral roll and voter registration were also reported, and the OSCE/ODIHR observation mission called for a better registration system to accurately identify deceased voters and protect personal data.<sup>19</sup> The issue of data protection also emerged in the process of collecting signatures for candidacies, as citizens were allowed to sign the statement of support for only one candidate and in front of politically appointed election officials. This has been assessed as a potential opportunity for political influence on voters.

As with previous elections, the tone of the 2013 campaign was negative. The incumbent’s campaign emphasized the need for continuity in government in the context of the EU accession process, as well as Lekić’s past opposition to Montenegro’s independence, shifting the focus of the debate back to divisions regarding national identity. Lekić’s campaign focused on calls for a change in government, the need to tackle corruption, and the DPS’s monopoly on power and abuse of state resources.<sup>20</sup>

On 16 November 2013, local elections were held in the municipalities of Cetinje, Mojkovac, and Petnjica. The DPS won absolute majorities in the local legislatures of Cetinje and Mojkovac while remaining one seat short of an absolute majority in the legislature of Petnjica, where it formed a governing coalition with the Bosniak Party.<sup>21</sup> In these elections, the DPS’s national coalition partner, the SDP, ran separately, again demonstrating the growing distance between the two parties. A number of shortcomings were noted at the local elections, including problems with the accuracy of electoral rolls, changes of personal data, and multiple entries for a single voter.<sup>22</sup> Several additional controversies emerged regarding the DPS’s suspected vote buying in Cetinje and Petnjica, along the lines of the practices alleged in the Recording Affair.<sup>23</sup> Prosecutors had filed no charges in these cases by year’s end.

On the whole, despite the tension with its coalition partner and some loss of voter support in the presidential election, the DPS remained overwhelmingly

dominant in 2013. Its leader, Đukanović, has held the presidency once and is currently serving his seventh term as prime minister, while Vujanović is serving his third consecutive presidential term. This virtual monopoly on power enjoyed by the DPS can be attributed to the intimate coupling of the party and the state. It opens up avenues for the party to exert pressure on voters in the preelection period by offering or threatening job security in exchange for loyalty. It also creates opportunities for the abuse of public resources to reinforce the party's position and denigrate opponents while promising various permits, business licenses, and patronage positions to key figures during elections.

#### Civil Society

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
2.50	3.00	3.00	2.75	2.75	2.75	2.75	2.75	2.75	2.75

Montenegro has a strong framework for the establishment and functioning of NGOs and trade unions. However, during 2012 and 2013, the number of registered NGOs fell significantly as a result of the 2011 Law on Nongovernmental Organizations, which required the NGOs to change their statutes and reregister.<sup>24</sup> According to a Ministry of Interior database, roughly 2,700 NGOs were registered at the end of 2013, compared with some 6,000 before the new law.<sup>25</sup> The inability of some NGOs to retain their legal status can be attributed to two factors. First, the 2011 law helped to clarify the number of active NGOs because groups were forced to reregister, meaning inactive organizations simply dropped from the rolls. Second, as noted by NGO representatives, the Ministry of Interior did not do enough to inform affected organizations of the legislative changes.<sup>26</sup>

In terms of structure, the majority of NGOs in Montenegro are small and underdeveloped, with limited human, organizational, and financial resources. At the national level, there is a very small core of influential and long-standing NGOs, whose main areas of interest include human rights, good governance, European integration, and marginalized groups. These organizations are often the ones involved in the adoption and monitoring of legislation. The sources of funding of the influential NGOs are commonly foreign, with most coming from the EU, while smaller NGOs rely on public financing, which is insufficient, inconsistent, and often allocated with a lack of transparency.

In its October 2013 report, the European Commission noted that the role of civil society actors has been enhanced, particularly regarding the transparency of the work of the parliament.<sup>27</sup> NGO representatives participate in several government advisory bodies and in all working groups for negotiating chapters of the EU *acquis*. A greater involvement of civil society actors has been recommended in the area of environmental protection.<sup>28</sup>

The council for cooperation between the government and NGOs held regular meetings throughout 2013. Following an initiative of the council, the

government has proposed the adoption of an agreement on the cooperation of the governments of the Western Balkans and Turkey with the NGO sector, aimed at establishing communication channels and enhancing collaboration between NGOs and governments across the region. Adoption of the document was pending at year's end.

Between late 2012 and November 2013, a working group consisting of representatives of the government and NGOs, established by the Ministry of Interior, drafted a strategy for the development of the NGO sector in Montenegro in 2014–16. The working group held meetings and public debates with stakeholders throughout 2013, and the strategy was formally adopted on 26 December 2013.<sup>29</sup>

Despite some progress, cooperation between state institutions and civil society remains uneven. The NGOs taking part in the government's EU accession working groups are not allowed to inform the public of their activities, as this is the prerogative of the state authorities (the chief negotiator, the negotiator for the particular chapter, and the head of the working group). The council for cooperation between the government and NGOs is funded through the general secretariat of the government and does not have directly allocated funds from the state's budget. The office of the council has no institutional independence, as it operates as a unit of the general secretariat. The 54 government liaison officers responsible for cooperation with NGOs are frequently changed, and the description of their duties is vague, which undermines consistency in cooperation.

Financing—and especially access to public funds—remained a key problem for civil society in 2013. While some bylaws establishing application criteria for NGOs wishing to receive money from the centralized fund have been adopted, others are still under consideration. This implies that public funds are still distributed in line with the earlier practice, which lacks transparency. The public funding for NGOs has decreased consistently over the past four years, from €4.5 million in 2010 and 2011, to €2.4 million in 2012, and €1.5 million in 2013.<sup>30</sup> The main source of public funds remains the lottery fund. In 2013, the government conducted, for the first time, an external audit of the projects financed through the lottery fund. The audit report revealed that the majority of the NGOs followed the required financial procedures but that a few failed to do so.

According to a March public opinion poll, public confidence in NGOs is improving, most likely due to increased NGO activities in the fields of EU integration, anticorruption, and good governance. A total of 42.3 percent of respondents reported confidence in NGOs, which is significantly higher than in September 2012, when the level of public confidence stood at 34 percent.<sup>31</sup>

There are two main national trade unions: the Alliance of Independent Trade Unions and the Association of Free Trade Unions of Montenegro. In early 2013, trade unions organized protests against taxes introduced through austerity measures, but their impact was marginal.<sup>32</sup> In July, the parliament adopted amendments to the law on trade union representation aimed at increasing transparency,<sup>33</sup> but the labor law requires further enhancement to protect against antiunion discrimination. The level of public trust in trade unions is low.<sup>34</sup>

## Independent Media

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
3.25	3.25	3.50	3.75	3.75	4.00	4.25	4.25	4.25	4.25

The 2007 constitution, along with secondary legislation, guarantees the freedom of the press. Defamation was decriminalized in 2011, which decreased the pressure on the media while increasing their responsibility for maintaining their own professional standards. Persistent problems include violence against journalists, court handling of media-related cases, frequent denial of free access to information, manipulation of advertising funds, and a lack of independence for regulatory bodies.<sup>35</sup>

In July 2013, the Law on Electronic Communications was adopted in order to align the legislation of Montenegro with EU requirements.<sup>36</sup> The law stipulates that the Agency for Electronic Communications and Postal Services (EKIP) should contribute surpluses to the state's budget until January 2016. Provisions requiring the Agency for Electronic Media (AEM) to do the same were adopted earlier in the year. However, the new legislation does not guarantee the independence of these two regulatory bodies. The parliament may dismiss the head and members, using very vague criteria, if the agencies' financial and operational reports are not approved. In September 2013, Montenegro adopted a strategy on cybersecurity.<sup>37</sup>

Given the country's relatively small population, media saturation is high. Montenegro has a national public broadcaster with radio and television services (RTCG); 14 public and 38 private radio stations with local coverage; 3 local public television services; and 18 private television broadcasting services, four of which have national reach.<sup>38</sup> In addition, there are 5 daily newspapers, a news agency, and several online news portals. *Vijesti* is the country's largest media conglomerate, with a daily newspaper of the same name, an online news portal, and television stations.

The Law on Media provides that outlets receive public funds for science, culture, education, production in minority languages, and service for people with impaired hearing and vision.<sup>39</sup> While the reports of the Commission for the Control of State Aid indicate no irregularities in the distribution of public funds to the media, NGO reports maintain that state funds for advertising go disproportionately to particular media outlets, such as the state-owned daily *Pobjeda*, which receives 89 percent of these funds.<sup>40</sup> The private media that are supported by the state through advertising are considered friendly toward the government.

In November 2013, a media conference entitled "Word, Image, and Enemy" was held in Podgorica with the support of the Ministry of Culture and the Ministry of Human and Minority Rights. Media and journalists known to be critical of the government were not invited, and local NGOs claimed that the conference represented progovernment propaganda and was aimed at intimidating citizens and discouraging dissent.<sup>41</sup>

Montenegro's media market is polarized due to political divisions. Coverage in the *Pobjeda* is favorable to the government, while the private *Dan* and *Vijesti*

are generally critical of government policy. Media self-regulation mechanisms are weak. The Media Council for Self-Regulation and the Self-Regulatory Local Press Council have rarely found violations of the Code of Montenegrin Journalists,<sup>42</sup> although NGOs have argued that such violations are frequent.<sup>43</sup> The daily *Vijesti* has established an ombudsman, while the daily *Dan* and weekly *Monitor* remain outside self-regulation.<sup>44</sup>

The media also lack professionalism in dealing with personal data. In June 2013, various outlets published the names of casualties in the crash of a Romanian bus in the Morača canyon, drawing objections from both the Romanian embassy and the Montenegrin Personal Data Protection Agency.<sup>45</sup>

Attacks against and intimidation of journalists remain a concern for Montenegro. In August 2013, a bomb exploded in the yard of a reporter for *Vijesti* and *Monitor*, Tufik Softić.<sup>46</sup> This was the second physical attack against Softić, who had published several articles on the links between high-ranking Montenegrin officials and organized crime. On 26 December, an explosive device was detonated under the office window of the chief executive of *Vijesti*, Mihailo Jovović.<sup>47</sup> Although the victims received assurances that the cases would be solved, successful investigations and prosecutions of crimes against journalists have been an exception rather than a rule. In October, following the parole of one of the perpetrators of a 2012 attack on *Vijesti* journalist Olivera Lakić, the newly established media trade union organized protests calling on the authorities to address unresolved cases of violence against reporters. In December, the government established a commission that will reexamine such cases for omissions by the authorities.<sup>48</sup>

During the presidential campaign, both candidates used free airtime on RTCG as well as paid advertising in national and local media. State-owned media provided equal free coverage of the two candidates, but they also devoted extensive airtime to other government officials, blurring the lines between the state and the ruling party.<sup>49</sup> The OSCE's media monitoring report for the 2013 presidential election noted that the state-owned media favored the government's candidate, while private outlets such as *Dan* and *Vijesti* favored the opposition.<sup>50</sup>

Internet use is increasing. Government surveys found that 56 percent of households had internet access in 2013, compared with 55 percent in 2012 and 51.4 percent in 2011.<sup>51</sup> Online media are becoming more important as a result. The online portals *Vijesti*, Portal Analitika, and Café del Montenegro are among the most popular nationally. Social media increasingly influence public opinion because they are considered to be inclusive and more transparent than traditional outlets. However, they also risk becoming channels for hate speech and discrimination. During 2013 online portals featured negative comments about minorities, particularly the LGBT community. Editorial boards commonly refuse to accept responsibility for the content posted in the comment sections of their websites.<sup>52</sup>

## Local Democratic Governance

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
3.50	3.50	3.25	3.25	3.25	3.25	3.25	3.25	3.25	3.25

There were no significant developments in efforts to reorganize local governments, reduce the number of local public employees, or ensure financial sustainability at the local level during 2013. In May, amendments to the Law on the Territorial Organization of Montenegro were passed by the parliament with 55 out of 81 votes.<sup>53</sup> The changes granted municipality status to Petnjica, leaving the country with a total of 22 municipalities, including the capital city of Podgorica—with its two “urban municipality” subdivisions—and the historic royal capital of Cetinje. A proposal to grant municipality status to a 23<sup>rd</sup> unit, the small town of Gusinje, was pending before the parliament at year’s end. Both Petnjica and Gusinje are populated mostly by Bosniaks.

Most municipalities continue to struggle with weak investment, poor financial management, and bad governance. The system of public finance at the local level is characterized by decreased income, growth of arrears, and large budget deficits.

By the end of 2013, two municipalities, Budva and Plav, had not adopted final budget reports for the year 2012. Certain municipalities, such as Budva, Plav, and Kolašin, adopted their final budget reports for 2011 in early 2013. The reasons for the delays are diverse, including violations of the terms and procedures of the local executive authorities, lack of interest of the members of the local parliaments in budgetary issues, and shortcomings in the legal framework that do not promote budget transparency. Because of these problems, it is impossible to achieve a timely insight into the cost and implementation of local budgets.

Local parliaments continue to be inactive, exercising poor oversight over local executives. The capacity of members of the local parliaments, citizens, and NGOs to influence decision making at the municipal level is limited. As the existing action plans to fight corruption expired in 2012, local governments were required to adopt new plans by the end of 2013. Seventeen municipalities adopted the plans in due course. Those that failed to do so were Budva, Ulcinj, Žabljak, and Plav.

Legislative changes in 2010 stipulated that 70 percent of concessions income should go to local budgets. However, municipalities did not benefit from this provision as expected. Poor coordination between institutions at the national and local levels has resulted in a lack of local plans for concessions. The system is also hampered by inadequate mechanisms for collecting concession fees and monitoring the implementation of contracts. Concessionaires’ arrears in 2012 exceeded €12 million.<sup>54</sup>

Due to its limited administrative and financial capacity, the SAI is still unable to perform large-scale, regular audits of local governments and local enterprises. On average, the institution performs only one audit of a local government each year. In 2013, the municipality of Bijelo Polje was audited.

Prerequisites for the implementation of the Law on Civil Servants at the local level have still not been adopted. The high level of local civil service staffing

(10,508) was listed as a major obstacle to budget savings and the reorganization of municipalities in the country's public administration reform strategy.<sup>55</sup> No municipality has adopted a plan for reorganizing and rationalizing the number of employees, though all were required to do so by the end of 2013.<sup>56</sup> Municipalities do not have adequate or long-term strategies for the development of human resources.

Cetinje, Mojkovac, and Petnjica held local elections in November. The DPS won an absolute majority of seats in Cetinje and Mojkovac, while in Petnjica, it formed a governing coalition with the Bosniak Party.

#### Judicial Framework and Independence

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
4.25	4.25	4.25	4.00	4.25	4.00	4.00	4.00	4.00	4.00

Montenegro has a multitiered judicial system, with permanent appointments for judges. The constitution guarantees judges functional immunity. The Supreme Court is the highest judicial authority, and the parliament appoints its president. The current president is a former supreme state prosecutor, which is widely perceived as a conflict of interest. In December 2013, the parliament failed to reach the two-thirds majority needed to appoint a new president of the Supreme Court. The issue was set to be considered again in early 2014.<sup>57</sup>

The president of the Supreme Court also presides over the Judicial Council, composed of a president and nine members. The current members of the council include four judges, one ruling party and one opposition member of parliament, two prominent lawyers, and the minister of justice.<sup>58</sup> The Judicial Council appoints and dismisses judges and presidents of courts. It appointed six judges during 2013. However, according to the European Commission, the criteria for the appointment of judges, despite recent constitutional and legal changes, remain vague.<sup>59</sup>

In July 2013, in line with the benchmarks for opening EU negotiation chapters 23 and 24 and the recommendations of the Council of Europe's Venice Commission, Montenegro amended its constitutional provisions related to the judiciary. The laws on the Judicial Council, on courts, on the Constitutional Court, and on the state prosecution service were then revised to conform with the amended constitution in September 2013.<sup>60</sup> The changes are intended to reduce political influence on the appointment and dismissal of prosecutors and judges, including the Supreme Court president, members of the Judicial Council, and Constitutional Court judges. However, the legal framework still contains some shortcomings that give leeway for political influence on the judiciary. The media reported that some of the judges appointed to the Constitutional Court in December 2013 had been active in different political parties.<sup>61</sup>

While parliamentary appointments to the judiciary require a two-thirds majority, the preliminary selection takes place in parliamentary committees by simple majority. A further problem is the absence of provisions prohibiting political

engagement for the prominent lawyers serving as members of the Judicial Council or the Prosecution Council. Moreover, the justice minister is still allowed to vote for the dismissal of judges as a member of the Judicial Council.<sup>62</sup> A new strategy for the reform of the judiciary in 2014–18 was under consideration at the end of 2013.

In other legislative action, the parliament in September adopted the Law on Amnesty, along with amendments to the Law on International Legal Aid in Criminal Matters and to the criminal code.<sup>63</sup> While the European Commission's progress report praised the amendments to the criminal code, which provide a prison sentence for undue influence on judicial officials, it also highlighted problems with the regulation and practice of amnesty in Montenegro.<sup>64</sup> Concerns have been raised that the large number of pardons issued either by the country's president (366 in 2012; 299 in the first half of 2013) or following the adoption of the new Law on Amnesty (380 pardons for convicted criminals) may lead to impunity and an increase in corruption and organized crime.<sup>65</sup>

Montenegro has among the largest numbers of first instance courts, judges, prosecutors, and judicial administrative personnel per capita in Europe. While the budget for the judiciary and the prosecution service increased from €24.9 million (0.75 percent of gross domestic product) to €26.1 million (0.8 percent) in 2013, the allocation of funds remains a problem. A total of €20.3 million is allocated to the judiciary and €5.8 million to the prosecution service. This imbalance, whereby the bulk of the budget is used to cover the salaries of judges and administrative staff, creates two problems for the Montenegrin judiciary. First, given the high staffing costs, the funds for renovating and replacing infrastructure and equipment are limited.<sup>66</sup> Second, the allocation to the prosecution service is insufficient to cover all costs of criminal proceedings.<sup>67</sup>

As regards efficiency, accountability, and transparency of the judiciary, some progress has been made in recent years. In general, efficiency is problematic. However, the courts reduced the backlog of cases by approximately 6 percent overall in 2012, with a 14 percent reduction at the level of basic courts.<sup>68</sup> The backlog of cases continued to grow in the commercial courts and the Administrative Court. Moreover, the Administrative Court, while long a pillar of the judiciary, is relatively weak in terms of enforcement. With many of its verdicts ignored by state bodies, citizens and companies often do not even file complaints, to the detriment of rule of law. In terms of accountability, five disciplinary proceedings were initiated against judges during the 12 months before October 2013, by which time three had been dismissed, raising questions about the quality of the disciplinary mechanisms in place. The European Commission report emphasized the need for improved monitoring of corruption and conflict of interest in the judiciary and a strengthened disciplinary system.<sup>69</sup> Transparency has been enhanced, as the majority of court decisions are now publicly available. Even so, public confidence in the judiciary continues to decline, dropping from 41.3 percent in September 2012 to just 36.9 percent in March 2013.<sup>70</sup>

Two out of four domestic war crimes cases have received judgments from the Appellate Court, one level below the Supreme Court. In 2012, in the Bukovica

case, the Appellate Court ruled that the suspects could not be held criminally liable for inhumane treatment of Bosniaks in Bukovica in 1992–93.<sup>71</sup> In May 2013, the Appellate Court confirmed the acquittal of all indicted former officials of the Montenegrin Ministry of Interior in a case on the deportation of Bosnian refugees in 1992, upholding the November 2012 ruling of the Podgorica High Court. The other two cases are still proceeding through the lower tiers of the judiciary. In July 2013, the Podgorica High Court sentenced four defendants to a total of 12 years in prison, confirming the first instance judgement of January 2012, for crimes against prisoners of war and civilians at the Morinj detention camp in 1991–92. The Kaluđerski Laz trial, involving the murder of 21 ethnic Albanians who fled to Montenegro during the 1998–99 conflict in Kosovo, concluded in December 2013, and the defendants were acquitted.<sup>72</sup> In several instances in these cases, the defense argued that judgments were rendered on insufficient evidence and often under political pressure.<sup>73</sup>

### Corruption

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
5.25	5.25	5.50	5.25	5.00	5.00	5.00	5.00	5.00	5.00

Corruption remains a serious problem in the country, to the detriment of political and economic development. Although legal provisions continue to be improved, in practice there is little progress, especially when it comes to prosecuting cases of high-level corruption. The institutional framework is weak, with a large number of institutions that lack either a sufficient degree of independence or investigative powers.

The policy framework for the fight against corruption was further strengthened in 2013. In May, a new action plan to combat corruption and organized crime for the period 2013–14 was adopted.<sup>74</sup> The new Law on Free Access to Information began to be implemented, as did all the provisions of the Law on Prevention of Conflicts of Interest. The Law on Classified Data was amended to allow access to classified information for members of the parliamentary committee on anticorruption.<sup>75</sup> Although the committee should have an important role in the fight against corruption, considering the number of sessions held, it has been the most inactive permanent working body in the parliament. Moreover, the committee has not met most of the obligations identified in its annual work plan. Areas requiring further legal reforms include protection for whistleblowers and regulations for public-private partnerships.

The publishing of audit reports on political parties has improved the transparency of party financing. However, the existing law on the financing of political parties does not adequately regulate loans to parties, restrictions on membership fees, or penalties. Work on new legislation governing political party financing began in 2013, but the working group failed to complete a draft law within the time provided by the action plan for EU chapter 23.

Steps were also taken toward the adoption of laws on an anticorruption agency and a special prosecution office for the fight against corruption and organized crime, in keeping with the action plan for chapter 23. A working group for drafting the law on the anticorruption agency was formed in December, and it included three representatives from the NGO sector. Also in December, a working group was formed for preparing a draft law on the special prosecutor's office.

There are a variety of problems in the implementation of reforms and activities related to the fight against corruption. They include a lack of transparency and poor control of concession and public procurement contracts, as well as limited capacity to implement new legislation on the part of the state administration, prosecutors, judges, and law enforcement agencies.

Confiscation of assets in corruption cases remains negligible. The status of property that was taken in 2011 and in further confiscations in 2013 remained "seized," because criminal proceedings before the High Court in Podgorica and the High Court in Bijelo Polje had not been completed.<sup>76</sup>

The lack of prosecution of high-level corruption cases remains a significant concern. In March 2013, the Appellate Court overturned the 2012 convictions in the Zavala case, and new proceedings against the accused began in May. The mayor and deputy mayor of the Budva municipality were charged with abusing their offices to obtain benefits for the private company Zavala Invest in connection with a construction project, costing the municipal budget €821,599.

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- <sup>64</sup> European Commission, *Montenegro 2013 Progress Report*.
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- <sup>66</sup> European Commission, *Montenegro 2013 Progress Report*.
- <sup>67</sup> “Čarapić: Tužilaštvo nema dovoljno novca da ispuni sve obaveze” [Čarapić: Prosecution does not have enough money to meet all obligations], *Vijesti Online*, 24 December 2012, <http://www.vijesti.me/vijesti/carapic-tuzilastvo-nema-dovoljno-novca-da-ispuni-sve-obaveze-clanak-106205>.
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- <sup>69</sup> European Commission, *Montenegro 2013 Progress Report*.
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