



MONTENEGRO'S EU INTEGRATION PATH: BETWEEN RHETORIC AND PRACTICE

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Montenegro's EU integration path: between rhetoric and practice

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Content

Introduction7
Technical Progress vs. Measurable Results7
CSO’s Involvement vs. CSO’s Impact10
Reforms vs. Affairs11
Rhetoric vs. Practice.....13
Conclusion and recommendations.....15
Recommendations to the European Union.....16
References.....16

Introduction

Montenegro started the most demanding phase of the European integration process, the accession negotiations for EU membership, in 2012. Since then, it has opened thirty-two negotiating chapters,¹ out of which three have been provisionally closed,² and changed a number of laws and strategic documents. Having in mind that Montenegro is the only Western Balkans' country, alongside with Serbia, to negotiate membership in the EU, but also because of the dynamics of opening negotiating chapters (only the Chapter 8 remains to be opened)³, it is often called an EU accession front-runner⁴. This position is also contributed by the fact that Montenegro has a small number of open issues and, in general, good relations with all its neighbours. Still, key reforms are missing, particularly in the form of implementing the adopted legal solutions and eliminating inappropriate political influence from the work of institutions. On the one hand, looking in strictly technical sense, Montenegro did the most, compared to other Western Balkan countries, in meeting the formal prerequisites that make the accession process. On the other hand, such achievements have been challenged by constant criticism: by citizens, who do not notice any significant progress in their everyday life; by civil society organisations (CSO), through highlighting serious violations of laws and human rights in its reports; by the European Commission, which indicates in its 2018 Western Balkans Strategy that Montenegro shares same challenges with other countries in the region, including links of the political elite with organized crime groups.⁵ The country continues to face significant obstacles in meeting the EU requirements. The lingering issues which have widely characterised this process are: rule of law deficiency, weak and strongly politicized institutions, followed by a slow speed of political transition and transformation of society which have ultimately led to the intensification of political, social and economic structural problems.

Technical Progress vs. Measurable Results

In fulfilling what the EU membership implies, guided by the postulate "quality before speed",⁶ Montenegro has committed itself to aligning its legislation and economy with European standards and principles. Having in mind nature of Europeanization,⁷ it is crucial to bring Montenegrin legislation into a complementary position with the European standards. This process can ultimately be viewed through three prisms: legal, objective and subjective.

Chart 1: Montenegro EU integration process timeline

Stabilisation and Association Agreement (SAA) signed in 2007, entered into force on 1 May 2010

Opening of the Accession Negotiations, June 2012

Candidate Country in 2010

¹The Acquis is divided into 35 chapters, covering the main aspects of European Union policy. Chapter 34 – Institutions opens at the end of the negotiation process, when it is certain that the candidate country will become an EU member state, and the last chapter 35 – Other issues, contains issues that are not covered by other chapters and need to be addressed. See: European Neighbourhood Policy And Enlargement Negotiations, Chapters of the Acquis: https://ec.europa.eu/neighbourhood-enlargement/policy/conditions-membership/chapters-of-the-acquis_en

²25 - Science and Research, 26 - Education and culture 30 - External relations

³Competition Policy

⁴Tusk: Montenegro is 'frontrunner' to join EU", EUobserver, 29 March 2016, <https://euobserver.com/tickers/132827>

⁵"A credible enlargement perspective for and enhanced EU engagement with the Western Balkans", European Commission, 2018, https://eeas.europa.eu/sites/eeas/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

⁶"In the EU accession process Montenegro is guided by the principle of "quality before speed". This means that priority is given to the quality of implemented reforms as opposed to the time-frame, i.e. the length of the process", Montenegro and the EU: <https://www.eu.me/en/montenegro-and-eu/faq>

⁷The notion Europeanization has multiple meanings. It represents both the process of changes within the European Union, policies and international relations, as well as the process of accession to and implementation of European standards in the woven tissue of one country through the diffusion of social models and ideas. See: Damir Banović, "Europeanization as democratization",

In line with the new European Commission's methodology and approach, which it has started to apply with the Montenegro's accession negotiations, the chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security) have to be opened at the beginning and closed at the end of the process, and to be followed by continuous monitoring and evaluation. The idea behind this approach is to allow the candidate country sufficient time, under the EU's mentorship, to fulfil all the necessary preconditions in order to consolidate its democracy.

Therefore, the process, first of all, entails and encompasses the fulfilment of technical requirements with the aim of improving legislation and reforming institutions. However, the main point of the Commission's new approach and its enhanced monitoring is to prevent setbacks, so the candidate country must provide measurable results and a track record showing that institutions are independent, the law applies equally to everyone, while corruption is being gradually eradicated from all levels. An additional mechanism at the European Union's disposal is the introduction of a balance clause, which blocks further opening of negotiating chapters if satisfactory results are not recorded under the Chapters 23 and 24. The European Commission in its annual reports also pinpoints key priorities for certain chapters, but without clear assessment whether the previous priorities were tackled.

While Montenegro has achieved results within the so-called the first level of conditionality, such achievements are almost completely missing from the second level. The Government is to certain extend more successful in meeting the benchmarks for other chapters, as it has managed to open thirty-two, out of which three have been provisionally closed. The Government has adopted information and plans for meeting the closing benchmarks for twenty-nine chapters.⁸

Table 1: The state of play in the negotiations by chapters

Chapter ⁹	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Open																	
Closing Benchmarks																	
Provisionally Closed																	
Chapter	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	
Open																	
Closing Benchmarks																	
Provisionally Closed																	

⁸Communication from the 91 Session of the Government of Montenegro", the Government of Montenegro, 27 September 2018, <http://www.gsv.gov.me/vijesti/192020/Saopstenje-sa-91-sjednice-Vlade-Crne-Gore.html>, Documents from the eighty-seventh session of the Government of Montenegro, 26 July 2018, http://www.gov.me/sjednice_vlade_2016/87, Documents from the ninety-sixth session of the Government, 1 November 2018, http://www.gov.me/sjednice_vlade_2016/96, Documents from the 115 session of the Government, 28 March 2019, http://www.gov.me/sjednice_vlade_2016/115

⁹Chapters of the Acquis: 1. Free movement of goods; 2. Freedom of movement for workers; 3. Right of establishment and freedom to provide services; 4. Free movement of capital; 5. Public procurement; 6. Company law; 7. Intellectual property law; 8. Competition policy; 9. Financial services; 10. Information society and media; 11. Agriculture and rural development; 12. Food safety, veterinary and phytosanitary policy; 13. Fisheries; 14. Transport policy; 15. Energy; 16. Taxation; 17. Economic and monetary policy; 18. Statistics; 19. Social policy and employment; 20. Enterprise and industrial policy; 21. Trans-European networks; 22. Regional policy and coordination of structural instruments; 23. Judiciary and fundamental rights; 24. Justice, freedom and security; 25. Science and research; 26. Education and culture; 27. Environment; 28. Consumer and health protection; 29. Customs union; 30. External relations; 31. Foreign, security and defence policy; 32. Financial control; 33. Financial and budgetary provisions; 34. Institutions; 35. Other issues

When it comes to the Chapters 23 and 24, Montenegro prepared and adopted comprehensive action plans for these, which was a prerequisite for its opening.¹⁰ Also, in accordance with the European Commission's interim benchmarks for the chapters 23 and 24 (45 benchmarks for Chapter 23 and 38 for Chapter 24) Montenegro adopted a whole set of laws and strategic documents including the new Strategy for Public Administration Reform (2016), the Law on Prevention of Corruption (2015), and in January 2016, the Agency for the Prevention of Corruption (APC) started with its work. Since the Commission's criticism and assessment on a weak institutional framework for the fight against corruption influenced the establishment of Agency in the first place, the public has been paying special attention to the Agency's work and it has succeeded in attracting it, but not in a good way. Its establishment was marked by frequent violations of the law;¹¹ its director has family connections with the Montenegrin prime minister, while the interested parties and the European Commission itself are constantly criticizing lack of proactivity and independence in its work. Local NGOs are highlighting that the Agency is serving as a kind of database, and due to lack of capacity and independence, it does not control (or it is doing it selectively) information submitted by the public authorities and political parties. The Agency itself was in the spotlight in 2018, after the unlawful dismissal of NGO representative, Vanja Čalović, from the APC Council. The same role the Agency had in the case of dismissal of two critically oriented members of the Council of the Public Broadcaster (RTCG). The local courts found such the APC decisions on these members' conflict of interest unlawful.¹² Citizens' confidence in the work of APC has never been on a high level. Specifically, the Institute Alternative's survey from December 2017 shows that as many as 57% of those who have heard about APC do not consider that this institution have contributed to the fight against corruption.¹³ Due to low confidence in the work of the Agency, stakeholders are losing their interest in filing complaints to this institution. During the presidential election in 2018, no complaints were filed by interested parties, civil society or citizens, while in 2016, when the parliamentary election were held, a total of 2373 complaints were submitted to the Agency about frequent and various violations of the law during the election campaign.¹⁴ All these complaints were almost as a rule rejected by the Agency, so one has to look at that fact in order to understand why the interested parties have become passive. Therefore, it could be said that the Agency is attracting attention because of its controversies, not because of its influence or results.

As for the judicial branch, the establishment of the Special State Prosecutor's Office in 2015 did not convince citizens that the fight against undemocratic practices was impartial. More than half of the Montenegrin citizens, 59%, do not agree that the law is applied equally to all, while only 6% completely agree with such assessment.¹⁵

¹⁰Chapters were opened in December 2013

¹¹Jovana Marović, Stevo Muk "Happy New Agency! – Establishment of the Agency for Prevention of Corruption in Montenegro", Institute Alternative, January 2016, <https://institut-alternativa.org/en/happy-new-agency-establishment-of-the-agency-for-prevention-of-corruption-in-montenegro/>

¹²"Decision of the Basic Court in Podgorica - Goran Djurovic dismissed unlawfully from the Council of Radio Television of Montenegro", Action for Human Rights, March 4, 2019, <https://www.hrraction.org/2019/03/04/4-3-2019-prvostepena-odluka-osnovnog-suda-upodgorici-goran-durovic-nezakonito-razrijesen-clanstva-u-savjetu-radio-televizije-above-black/>

¹³"Attitudes of the citizens of Montenegro on corruption", Institute Alternative, December 2017, <http://media.institutalternativa.org/2018/02/stavovi-gradjana-cg-o-korupciji.pdf>

¹⁴Report on the conducted control during the election campaign for election of MPs in the Parliament of Montenegro and election of members in the local assemblies of Andrijevica, Budva, Gusinje and Kotor held on October 16, 2016", the Agency for Prevention of Corruption, December 2016, https://www.antikorupcija.me/media/documents/Izvjestaj_o_sprovedenom_nadzoru_u_toku_izborne_kampanje.pdf

¹⁵Balkan Barometer 2019: Public Opinion Survey", RCC, 3 July 2019, <https://www.rcc.int/pubs/89/balkan-barometer-2019-public-opinion-survey>

As the negotiation process has been underway for more seven years now, due to the lack of necessary reforms and the EU's stance on enlargement policy, a trend of worsening legal solutions is noticeable. The most illustrative example is the Law on free access to information. The decision of the ruling coalition to adopt amendments to the Law on free access to information in 2017, and grant the authorities with the right to subjectively determine whether to declare certain information classified and keep any data hidden from the public was a step backward in ensuring the transparent work of Montenegrin institutions. European Commission reports and European Parliament resolutions have repeatedly urged the Government of Montenegro to increase the transparency of its work and the public's access to information, but without major success. On the contrary, new amendments to the same Law are recently (2019) announced by the Government, which plans to regulate the "abuse of the right to information", which would provide the authorities with legal basis to arbitrarily evaluate reasons and interests of applicants, which is in direct violation of the freedom of access to information of a public interest.¹⁶ In case of its effective implementation, this would open the door for a complete blocking of organizations and media to oversee the conduct of public administration and would limit the access to viable information. Numerous cases revealed through the use of this Law previously demonstrated the significance of CSOs in the fight against corruption, abuse of political power and resources, and various forms of violations of human rights. A trend is particularly worrying as it also denies the progress made at the technical level during the first years of negotiations.

CSO's Involvement vs. CSO's Impact

When it comes to the cooperation of state authorities with civil society, which the Commission has put at the heart of the conditionality policy since its opinion on Montenegro's readiness to start accession negotiations,¹⁷ most has been done, again, in the legislative field. At the end of 2011 and early 2012, the government adopted regulations¹⁸ allowing broad participation of civil sector representatives in the working groups for drafting legislation and prescribing mandatory public hearing, with two exceptions.¹⁹ Despite the good framework for civil society participation in the decision-making, the CSO's impact remains limited. Some of the reasons include the extremely low number of proposals that the government accepts, and still the large number of documents that are hidden from the public eye. The European Commission also pointed to this problem in a recent report recommending the Government to respond to the civil sector's inputs in a meaningful way.²⁰ In March 2012, the Government included the civil sector in the negotiating working groups, which is certainly a step forward comparing to the countries that have been negotiating membership by then. Since the beginning of the negotiations, civil society has been able to fight for the publication of important documents within the process (such as statistics on conflicts of interest and other important concrete cases, which are provided by the Government to Brussels) and, in general, has increased the transparency of the process. However, the central

¹⁶"Open letter to the international community in Montenegro regarding proposed amendments to the Law on Free Access to Information", 3 October 2019, <https://www.mans.co.me/otvoreno-pismo-predstavnicima-medunarodne-zajednice-u-crnoj-gori-povodom-predlozenih-izmjena-zakona-o-spi/>, "Open letter from 44 NGOs ahead of the International Day for Universal Access to Information", 27 September 2019, <https://politikon.me/2019/09/27/open-letter-from-44-ngos-ahead-of-the-international-day-for-universal-access-to-information/>

¹⁷"Commission Opinion on Montenegro's application for membership of the European Union", 2010, https://eeas.europa.eu/sites/eeas/files/mn_opinion_2010_en_0.pdf

¹⁸In July 2018, two regulations were merged into one

¹⁹There is no legal obligation to consult the public on the security and defence laws, nor when drafting the state-level budget

²⁰Montenegro Report 2019, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-montenegro-report.pdf>

problems remained the same as they were at the very beginning. The voice of civil society representatives is often silenced as they represent a minority (eg 8 out of the 47 members of the Chapter 23 working group) in the negotiating working groups. With the establishment of the Rule of Law Council in 2014, which has the authority to address all key issues in areas that are crucial for democratization and to put pressure on competent institutions which do not implement measures from the Action Plan within the provided deadlines, and with closing its sessions to the public and civil society representatives in the negotiating working groups, the Government has created parallel negotiating structure and downgraded the task and work of the negotiating working groups to a purely technical level. Finally, in February 2018, the Government adopted the Dynamic Plan for Fulfilling the Interim Benchmarks within the Chapters 23 and 24, but did not make it public, even after being requested by local NGO based on the free access to information law.²¹ Moreover, NGO members of the Working Groups 23 and 24 are not able to receive this document, which not only affects the transparency of the process, but also speaks to the highly debatable approach and commitment of the Government not to rely on all available capacity in the society in responding to the challenges. It is also unknown whether the Government is implementing this plan at all.

Additionally, when it comes to the enabling environment for civil society organizations, which is of the utmost importance for functioning of a democratic system, the Commissions 2019 report shows progress again on a technical level. It additionally highlights that media campaigns targeting critically oriented civil society activists are still present in the Montenegrin society. This with the dismissals of critically oriented CSOs from various bodies and practices of institutions to declare relevant information as classified made the European Commission to show great concern regarding the cooperation between the Government and civil society.²² The space for constructive critique is narrowing down by different sorts of censorship implemented by state authorities. Diminishing of the internal democracy is further affirming brutal censorship of non-governmental organisations and media that serve as voice of people.

Reforms vs. Affairs

Comprehensive reform of the electoral legislation leading to free and fair elections is one of the OSCE/ODIHR and GRECO key recommendations but also the EU request during the democratization process, respectively one of the main pillars of a democratic society. It is often said that political elites in the Western Balkans are not only illiberal in their way of governing, but also in the way they are elected. New parliamentary elections in Montenegro are scheduled for 2020, but the basic conditions necessary for reform have not yet been achieved. The ruling party still categorically rejects the opposition parties' demand for the formation of a technical government, as one of the preconditions for the successful organization of fair and free elections. Moreover, one of the biggest obstacles for Montenegro in the European integration in recent years stems from reasons behind the political crisis embodied in the boycott of the Parliament by the opposition political parties. The crisis began after the parliamentary election in 2016. During 2018 it seemed as if the problems on the political scene are improving, when a part of the MPs who boycotted the work of Parliament returned to this institution. But this did not last. The political context of Montenegro is characterized by the inability of

²¹"Government Hiding the Dynamic Plan", Institute Alternative, 4 July 2018, <https://institut-alternativa.org/en/government-hiding-the-dynamic-plan/>

²²Montenegro 2019 Report, European Commission, p.10, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-montenegro-report.pdf>

establishing a positive and constructive dialogue between political parties, which has been further hampered after divulgation of the latest "Envelope affair"²³ and decision of a considerable part of the opposition to return to the boycott of Parliament. Allegations on corruption and illegal financing of the Democratic Party of Socialists at the time of the parliamentary elections in 2016 were a motive big enough for the launch of citizens protests and demands for the formation of a technical government, which would allow the overcoming of political crisis and would contribute to development of the rule of law in the country.²⁴

At the centre of the affair was the Democratic Party of Socialists (DPS) along with one of their high-ranking officials and a former mayor of Podgorica, Slavoljub Stijepović, who was recorded on video receiving an envelope from the local tycoon, with 97,500 euros earmarked for financing the DPS campaign in 2016.²⁵ This case was followed by additional disclosure of black funds and other illegal activities of state officials and the focus is placed on witnesses and the financing of political parties, which, until that point, had represented a kind of an open secret.

Aside from the continuation of the boycott of Parliament by some opposition parties, the affair was followed by citizens' protests. So far, the only imposed sanction to DPS was a rather symbolic fine of 20,000 euros foisted by the Agency for prevention of corruption²⁶ regarding only a part of the alleged sum of 97,500 euros.²⁷ Similar to critiques by the local NGOs, the European Commission has called on the competent authorities to respond to the allegations on "black funds" in "independent, credible and effective" way. The professionalization and depoliticization of the APC, as the primary independent authority whose competence is control and monitoring of the financing of political entities and electoral campaigns, and in addition the improvement of the existing legislation pertaining financial investigations, remains an imperative prerequisite for obtaining closing benchmarks for chapters 23 and 24. As the consequence of their inability to act there is a low level of trust in institutions which is a persistent problem in Montenegro. Only 36.8% of citizens are satisfied with the work of the State Audit Institution (SAI) while 39.4% of respondents are evaluating positively the Constitutional Court when deciding on complaints within the electoral process.²⁸

This year was marked by another corruption affair, known as "Flats", which revolves around the granting of affordable housing loans to many state and local officials.²⁹ The affair calls into question the justification of the granting of loans to these officials in the context of their existing assets. Another aspect of the affair, which is in large part being ignored, includes the problem of the independence of officials, whose role is to control officials and institutions. It is an emblematic fact that the director of the Agency for Prevention of Corruption is also on the list of 96

²³Samir Kajošević, "Envelope' Affair Raises Suspicion over Montenegrin Party Funds", Balkan Insight, 25 January 2019, <https://balkaninsight.com/2019/01/25/envelope-affair-raises-suspicion-over-montenegrin-party-funds-01-24-2019/>

²⁴Montenegro 2019 Report, European Commission, p. 3, 6, <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-montenegro-report.pdf>

²⁵Knezevic hands over an envelope to Stijepovic", Portal Analitika, 11 January 2019, <https://portalanalitika.me/clanak/323056/knezevic-urucio-kovertu-stijepovicu>

²⁶"Elections in Montenegro: Stuck in and Envelope", Politikon Network, July 2019, <https://politikon.me/rol-in-wb-reinventing-the-rules-of-the-game/>

²⁷APC: DPS returned 47,500€ and paid a penalty of 20,000€, Antena M, 27 February 2019, <https://www.antenam.net/politika/111816-ask-dps-vratio-47-500-eura-i-platio-kaznu-od-20-000>

²⁸"Citizens do not trust in the state institutions responsible for elections", CEMI, June 2018, <http://cemi.org.me/2018/06/gradani-nemaju-povjerenje-u-rad-drzavnih-organa-u-izbornom-procesu/>

²⁹Popovic: Flats are a pyramid affair", CDM, 1 September 2019, <https://www.cdm.me/ekonomija/popovic-stanovi-su-piramidalna-afera-sacinjena-od-viseslojnog-bezakonja/>

officials who have received the loan. To make matters more absurd, the loan is not reported in his yearly asset report (while the Agency's is collecting these reports).³⁰

It is accurate to describe these affairs as symptoms of an illiberal democracy. On the one hand, the revelations of various political affairs could be described as progress. None of these affairs revolve around new issues, but rather issues that have been hidden from the public eye for decades. With that in mind, it can be argued that the European integration process is at least partially and indirectly responsible for creating the necessary conditions leading up to these revelations. On the other hand, the resolution to these affairs never seems to yield tangible results.

Rhetoric vs. Practice

Democratization, as a process which is entrenched in the Copenhagen criteria,³¹ and it is one of the most important consequences of the EU integration process, does not always fully affect political elites and their behaviour. This is the case especially in the countries where opening of chapters are happening with a fast pace, and Montenegro who was considered as a regional leader is one of these countries. This is a lesson learned from the 2004-2007 enlargement to Central and Eastern European countries where as Grzymala-Busse and Luong noticed, "(...) elites recombine old and new, formal and informal, practices. Such recombination is thus not limited to the political and economic transitions—it is also the linchpin of reconstructing public authority".³² EU's conditionality was a major leverage for the reform process and the democratization in Montenegro, however changed political context, the inability of the EU to introduce more severe and concrete mechanisms to influence the pace of the reforms have caused the ruling DPS to lose even minimal interest in the reform processes. Therefore, after a certain period of time being considered as a regional leader and the most progressive country when it comes to implementing the Acquis, the semi-consolidated³³ democracy in Montenegro has started to show signs of backsliding. EU's conditionality mechanisms that were the driving force in the negotiation process³⁴ and were a cause of different democratization related actions are clearly weakening due to enlargement fatigue in the European Union but also in the country.

Government officials often assess the readiness of the country to obtain closing benchmarks under the Chapters 23 and 24. The Minister of Justice for example, announced that Montenegro would meet the interim benchmarks in 2018, but this did not happen.³⁵ Similarly, the latest European Commission report from May 2019 does not give encouraging notes either. Besides, since the start of the accession negotiations, Montenegro has only once adapted the action plans for Chapters 23 and 24, and while they are completely out-dated, with activities that do not properly address the European Commission's interim benchmarks alongside with

³⁰"APC's director also received a favorable loan which is not in his property record", 11 August 2019, <https://www.vijesti.me/vijesti/ekonomija/i-direktor-ask-a-dobio-povoljni-kredit-a-nema-ga-u-imovinskom-kartonu>

³¹Defined at the European Council in 1993: political, relating to the rule of law, respect for human rights and freedoms, protection of minorities and stability of democratic institutions; economic, within which the candidate country is required to ensure the functioning of market economy and the ability to cope with competitive pressure and the EU market; legal, which are reflected in the candidate country's ability to assume the obligations implied by membership in the European Union.

³²Grzymala-Busse, A. and Luong, P., "Re-conceptualizing the State: Lessons from Post-communism. Political Theory", 2002, p. 547, <https://journals-sagepub-com.ezproxy.is.ed.ac.uk/doi/pdf/10.1177/003232902237825>

³³A typology designed by Freedom House, See: Nation in Transit Reports, Freedom House, <https://freedomhouse.org/report-types/nations-transit>

³⁴Džankić, J., Keil, S. and Kmezić, M., "The Europeanisation of the Western Balkans", Palgrave Macmillan, 2019

³⁵"Montenegro will meet the benchmarks within Chapters 23 and 24 in 2018", RTCG, 29 October 2017, <http://www.rtcg.me/vijesti/drustvo/182759/mjerila-poglavlja-23-i-24-ispunicemo-2018.html>

³⁶Information from the Negotiating Working Group Sessions for Chapter 23

poorly defined indicators, the Government refuses to update it or develop entirely new action plans on the grounds that such process will only be started once the EC has defined the closing benchmarks.³⁶ Montenegro does not have a specific anti-corruption plan or strategy, but all activities are grouped around the measures from the Action Plan for Chapter 23.

While much could be criticized in the way the European Commission presents the results achieved under the chapters of Acquis in its annual reports, the same assessments from year to year suggest that the Government's commitment to reform is questionable:

2019	2018	2016	2015	2014
Judicial Reform – moderately prepared;	Judicial Reform – moderately prepared;	Judicial Reform – moderately prepared;	Judicial Reform – moderately prepared;	Judicial Reform – some progress has been made
Fight Against Corruption – some level of preparation;	Fight against corruption – some level of preparation	Fight against corruption – some level of preparation;	Fight against corruption – some level of preparation;	Fight against corruption – progress has been limited
Public Administration Reform – moderately prepared	Public Administration Reform – moderately prepared	Fight against corruption – some level of preparation;	Public Administration Reform – moderately prepared;	

Moreover, official Brussels stressed out on several occasions that the degree of commitment of Montenegro to make significant progress when it comes to implementing measurable and structural reforms was lower in relation to Albania and North Macedonia.³⁸

Another example of the gap between rhetoric and practice which weakens EU's conditionality and influences EU's relations to the political elites in charge of reforms and overall democratization can be seen in sometimes soft Euroscepticism of the current President Milo Djukanovic.³⁹ Such examples are often used to send the message that the EU is not the "only game in town". The leader of the long-standing ruling party in Montenegro often points to constant threats to the stability of the country and potential detachment (based on external influences) from the

³⁷"Institute Alternative on the Montenegro Report", Vijesti, 29 May 2019, <https://www.vijesti.me/vijesti/politika/institut-alternativa-o-izvjestaju-o-crnoj-gori-prvi-u-trci-a-daleko-od-odlikasa>

³⁸Predrag Tomovic, "Tensions between Djukanovic and Brussels", Radio Free Europe, 14 June 2018, <https://www.slobodnaevropa.org/a/djukanovic-brisel-tenzije/29290418.html>

³⁹"Djukanovic: The EU is still acting like a bride", Vijesti, 3 November 2017, <https://www.vijesti.me/vijesti/politika/dukanovic-eu-se-i-dalje-ponasa-kao-nevjesta>

European path.⁴⁰ In this way, Djukanovic tries to convince the EU that it is less painful if it integrates Montenegro regardless of the unsatisfactory level of democratization, rather than leaving it small and unprotected to be influenced by the non-Western actors. By doing so Djukanovic and his party display inability to take decisive cuts which would mean the collapse of their power. As a reminder, the democratization process is taking place within the country that has never changed its government on elections since the establishment of the multiparty system in 1990.

Conclusion and recommendations

Montenegro has achieved results on technical level since the start of the accession negotiations, setting a precedent over the rest of the candidate countries. The transition process, which in most cases represents a process of modernization, and possibly EU accession, implies a long period. Therefore, this timeframe should be embraced, used as a guide and designed in a way that everyone who is able to influence the process can work adequately and complementary, towards the same goal. However, having in mind that Montenegro's weakest points, as it is consequently stated in EC's country reports, are organized crime and corruption meaning Chapter 23 and 24, comprehensive reforms are yet to come. The EU membership remains a firm ideal Montenegro is striving for, whose achievement will contribute to enhancing democracy, the rule of law and prosperity at the socio-economic level. Increasing the level of information on EU integration and strengthening capacities of the civil sector are the necessary basis, on one hand, for putting pressure on political elites to improve implementing structural and substantive reforms; and on the other, to maintain the European horizon nearby and further increase public confidence in the objectives and the purpose of joining the EU.

In order to achieve this, there is need for:

- An open and constructive dialogue between the government and the opposition, as well as the Government and the civil sector. The reforms ahead are demanding and comprehensive so the Government should include all available capacity in the country. Thus, criticisms should not be silenced but welcomed and transparency should be raised to a higher level so that the stakeholders can contribute to the public policy development. All documents from the negotiation process should be available to the public, while the right of free access to information cannot be the subject of arbitrary decisions;
- As a first sign of responding to requests from the European Commission and interested parties, all affairs have to be resolved and full legal implications and political responsibility have to be clear to all. After more than seven years of negotiations, a track record must entail more than passing a law;
- Building an independent institution involves more than capacity building, and strengthening some of them, such as the Agency for Prevention of Corruption, has to start from a change of leadership;
- The action plans for Chapters 23 and 24 should be updated in line with the priorities defined on an annual basis;
- The Government should prepare information on key challenges within the Chapters 23 and 24 and present to the European Commission a new reporting model that will allow a more targeted approach and address the burning issues.

⁴⁰“Djukanovic: The EU is still acting like a bride”, Vijesti, 3 November 2017, <https://www.vijesti.me/vijesti/politika/dukanovic-eu-se-i-dalje-ponasa-kaao-nevjesta>

Recommendations to the European Union

There is a need for new tools in measuring the level of democratization in the country that would motivate political elite to understand that the “political cost” of not progressing with the much needed reforms is too high and damaging for themselves and the whole society. Therefore, the EU should:

Adapt content and messages in the country reports to be more clear and concrete and adapted to the lack of progress in crucial areas. Progress or lack of it regarding the key annual priorities should be included;

- Reduce financial support if there is a lack of progress within the Chapters 23 and 24, that is, abuse of power and serious human rights violations;
- Adapt and apply the mechanisms it has established at the supranational level to strengthen democracy also in the Western Balkan countries;
- Use ad hoc missions to help in overcoming crises and offer binding recommendations to all parties.

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