



REPRESENTATIVES OF THE EU DELEGATION, GOVERNMENT, OPPOSITION AND NGO SECTOR ON MEETING THE CRITERIA FOR CHAPTERS 23 AND 24

Progress in the rule of law is vital

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Montenegro is the most advanced country in the process of joining the European Union (EU), but at the same time it must meet the temporary criteria set out in Chapters 23 and 24 on the rule of law, said the EU Delegation to Montenegro.

At the same time as the government estimates that political will is key in meeting the criteria from Chapters 23 and 24 and that there will be no progress without it, the opposition says that the situation in the judiciary affects the fulfillment of obligations under these two chapters, NGO sector claims Montenegro is nowhere near to closing the Chapters 23 and 24.

"Progress in the rule of law is vital, as it supports all other efforts to improve the lives of citizens and stimulate economic growth," the EU Delegation said.

As they said, progress in these areas is essential for further progress in the negotiations, which is recognized by the new enlargement methodology that Montenegro adopted last year.

"More results are needed in key remaining critical areas, such as media freedom, the fight against corruption and organized crime, as well as a renewed commitment to judicial reform. The state should focus on the "basics" of the enlargement process: the functioning of democratic institutions, public administration reform and economic governance. The rule of law remains the main priority on Montenegro's path to the European Union, where the next milestone is the fulfillment of the provisional benchmarks placed under the rule of law in Chapters 23 and 24," said the EU Delegation.

They stated that no other negotiating chapter can be closed before this is achieved.

As they said, in parallel, efforts should be made to develop a functioning market economy and improve the competitiveness and long-term growth of the Montenegrin economy by supporting key structural reforms.

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"An efficient judicial system is of the utmost importance for the functioning of the rule of law and the protection of fundamental freedoms. Although Montenegro is moderately prepared in this area, certain challenges remain, especially in terms of the professionalism, efficiency and accountability of the judiciary. The state has yet to comply with the recommendation of the Group of States against Corruption (GRECO) on the independence of the judiciary. It is necessary that Montenegro does not annul the previous achievements in the reform of the judiciary and continues to build on the progress achieved in recent years," said the EU Delegation.

They added that the European Commission's annual report, published in October last year, offered detailed guidelines on how to achieve that.

"All pro-European political forces now have the opportunity to prove their true commitment to Montenegro's European future," the EU Delegation said.

According to them, the best way to do that is to work together on issues of national interest, such as the economic recovery from COVID-19, comprehensive electoral reform and unresolved appointments to key judicial and prosecutorial positions.

The delegation said that Montenegrin citizens already feel very strongly that their country belongs to the EU - according to the latest public opinion poll, conducted by the DeFacto agency, 74.8 percent of respondents support their country's EU membership.

"It is clear that now is the time for all stakeholders to work together to bridge their differences and accelerate the political and economic reforms needed to bring Montenegro closer to the European Union," the EU Delegation concluded.

Simonida Kordić, a member of the Parliamentary Committee for European Integration from the Democratic Front, assessed that political will is key in meeting the criteria from Chapters 23 and 24, without it there will be no progress and added that the situation in the judiciary is one of the key objections in achieving given standards from these two key chapters.

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Simonida Kordić

Kordić said that the positive legislation prescribes the procedure for the election of members of judicial bodies, which requires a qualified parliamentary majority, which in the current situation in the parliament should consist of both government representatives and representatives of the opposition.

This is perhaps the best example of the necessity of having the political will to resolve problematic issues, such as the lawful functioning of the judiciary. If that will exists, this problem can be eliminated. If that is not the case, it will be quite clear who is truly in favor of the progress of our society in joining the EU, and for whom it is just a marketing screen behind which other interests and intentions are rolling, Kordić believes.

She added that despite the infamous experience in terms of inter-party political cooperation, she still expects that there will be enough responsible elected representatives of the people who will recognize the universal interest of all citizens to live in a stable, orderly state in which institutions function and which is a part of the European political and to some extent perhaps more importantly, economic space.

"Every decisive step of the Government aimed at establishing the rule of law, a fairer and freer society, a society in which journalists are not arrested but criminals, in which vulnerable social groups are provided aid from the state budget, not party officials, the services work for the security of the state, not the ruling party, will be recognized and welcomed by the EU and will be crucial for speeding up the negotiation process and Montenegro's final entry into the EU. Meeting the benchmarks and criteria in Chapters 23 and 24 are key to joining the EU. For now, that lock, as far as Montenegro is concerned, is still firmly closed," said Kordić.

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She said that these are systemic issues that affect all aspects of state organization, guaranteeing democratic processes and respect for human and civil rights, the lack of adequate progress in meeting the criteria set out in Chapters 23 and 24, blocks progress in all other chapters, and neither of them can be practically closed until these two key chapters are concluded.

"Many issues, especially those related to the rule of law, should enable an equal value system, a harmonized legal system with European standards, as well as equal access to the rights and protection of the rights of all EU citizens," Kordic said.

According to her, from the point of view of the Union, the entry of a member state whose standards in the field of rule of law are below the prescribed level can introduce systemic disturbances in the functioning of the entire Union and lead to a de facto lack of legal equality of all citizens in the EU, of fundamental democratic principles.

"Key issues related to the suppression of endemic corruption, freedom of the media, political control of the judiciary and the like remain open. In essence, the greatest progress has been made in mastering European rhetoric, but in achieving the set standards, at best, it has stagnated," said Kordić.

Kordic said that clear messages were coming from EU officials, warning of cases of granting favorable housing loans to officials, at the expense of budget funds, which directly calls into question the principle of the rule of law, then the arrest of journalists In4s, FOS, Borba and many others. Other issues that clearly indicate that in the field of protection of fundamental rights and freedoms, as well as the rule of law, things went backwards instead of forward.

"Dealing with the problem of organized crime and corruption is probably the biggest challenge that the new government will face," Kordic said.

She said that the combination of authorities, parts of the government with problematic, illegal processes that accompanied the Montenegrin transition in parallel, turned the issue of corruption and organized crime into an endemic problem.

"It should be noted that, according to numerous domestic and foreign sources, organized criminal groups in Montenegro are organizations that have significant connections in the world of crime outside Montenegro, which means that solving this problem in our country is important for the internal stability of others.

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"We have to recognize that when we enter the EU, we become part of the same - the European sea, which means that the waves in our bay hit the shores of other countries," said Kordic.

She assessed that the stalemate in the accession process is partly the result of EU policy, where there is no unanimity for enlargement, on the contrary, there are significant parties, led by the largest countries of the Union, clearly expressing the view that acceleration of the accession process for the countries of the Western Balkans is not the priority of EU now.

"Nevertheless, meeting the standards from Chapters 23 and 24 is a necessity that will certainly be on the agenda," Kordic said.

She said that the new government has the opportunity to show determination and political will to tackle the biggest problems already known to everyone.

"If it wants to make progress in meeting the criteria from Chapters 23 and 24, it must start unpacking major scandals that are the most visible peaks of endemic corruption, such as the Klap, Vardar, Mozura, Kovorta affairs and the like. It is necessary to consistently apply legal regulations and carry out all activities within the legal framework, but it is equally necessary to show determination and an equal approach to prosecuting major affairs and not to use bureaucratic obstacles as an excuse for inaction.

"We should not have any dilemma, the European Union is obviously ready to give political support to the new majority, but it certainly does not plan to look through its fingers at anyone to its detriment," Kordic concluded.

A member of the Committee for European Integration from the Democratic Party of Socialists, Predrag Sekulic, believes that a lot has already been done in fulfilling the obligations from Chapters 23 and 24.

"Due to the fulfillment of obligations from these two chapters, the Parliament of Montenegro in 2013 adopted amendments (I - XVI) to the Constitution concerning the election of judges and prosecutors, including the election of judges of the Constitutional Court. We then warned (DPS) that these amendments raise the prosecution as a separate branch of government, *sui generis*, and that the way the Supreme State Prosecutor is elected is not good. "Unfortunately, despite the warning that a system that does not exist anywhere in European countries is being created we received a recommendation from the Venice Commission for the adoption of amendments," Sekulic said.

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Predrag Sekulić

Asked what will be the most demanding obligations Montenegro will have to fulfill in the coming period, Sekulović answered that everyone has precisely determined obligations to fulfill.

"The government does not have too many competencies regarding cooperation between the Police Administration and the Prosecutor's office, the Parliament has competencies only in the part related to electing judges of the Constitutional Court and representatives for the Judicial and Prosecutorial Council, everything else is up to the prosecutor's organization and courts," Sekulic said.

Asked how the situation in the judiciary will affect the fulfillment of obligations from the Chapters 23 and 24, but also in general the fight against corruption and organized crime, Sekulic said that unfortunately because in the previous period some opposition parties boycotted the work of parliament and others did not want to discuss these issues, we find ourselves in this situation.

"All of this, of course, affects the fulfillment of the obligations from the Chapters 23 and 24, but, I repeat once again - the political addresses that bear the greatest responsibility for such a situation are well-known," said Sekulic.

According to him, and according to the Constitution (the amendments adopted seven years ago), talks and an agreement between the government and the opposition are the only way to overcome the current situation in the prosecution and judiciary, given that most election decisions require 2/3 and 3/5 majority vote.

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„We should bear in mind that this is only a part of solution. It seems that much harder and more demanding is building citizen's confidence in these institutions“, concluded Sekulić.

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Zoran Vujicic from the Civic Alliance, says that Montenegro has been in the negotiation phase for a full eight years and that although it has opened all the chapters, it is not even close to closing Chapters 23 and 24.



Zoran Vujičić

"If we take into account that Croatia has completed its negotiations in six years, this is considered a failure. Although not formally, Montenegro is essentially blocked during the accession negotiations. Also, by adopting the new methodology as a way of joining the EU, Montenegro is unprepared to enter this phase, which implies access to EU funds in accordance with the concrete results that are being made," Vujicic believes.

When asked which parts are the most demanding for fulfilling the criteria, Vujicic points out that Montenegro has completed the legislation and essential is the functioning rule of law, which means that no one is above the law and that everyone acts in accordance with the law.

"Unfortunately, Montenegro does not have concrete results in these areas, which is crucial in this phase of negotiations. Key functions of the judicial system are filled on an acting basis. Such are members of the Judicial Council selected from the part of eminent lawyers, the Supreme State

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Prosecutor and 11 state prosecutor's offices. Also, the Judicial Council has made decisions that violate the Constitution and the law by electing presidents of courts for the third term, which directly undermines the rule of law. If we add to this that the Constitutional Court has not elected a president for a year now, it overturned its own decision to establish a function of the chairman as unconstitutional, we understand that we are still far from a stable rule of law state", Vujicic said.

Asked what the next steps are in those chapters, Vujicic answered it is urgent to move from the appointments on acting basis, and in order to do that, it is necessary to start a political dialogue because a two-thirds and three-fifths majority is necessary for the judicial appointments.

"Only then can we start with serious reforms that include results in numerous areas, such as corruption, organized crime, money laundering and many others in areas from Chapters 23 and 24," Vujicic said.

According to him, concrete results are needed in many fields. "Investigation of cases of high corruption, strengthening of independence and responsibility in the judiciary, more verdicts in the field of money laundering. It is necessary for the rule of law to function," said Vujicic.

Asked whether he believes in the possibility of reaching a political agreement between the government and the opposition, given that the situation regarding appointments on acting basis has been highlighted as one of the main problems in the judiciary, Vujicic said that it is necessary to find a solution.

"This is no longer a matter of politics but of all citizens of Montenegro. Therefore, the representatives of political parties are obliged to sit down and reach an acceptable solution through dialogue, which will unblock the elections in the judiciary. It is necessary to encourage professionals, people from the profession and professional organizations to apply for position openings that were strongly politically colored in the previous period and people were discouraged from responding to open calls," Vujicic said.

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