



10 YEARS SINCE THE OPENING OF CHAPTERS 23 AND 24

**Are we making progress or are we
standing still?**

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**10 YEARS SINCE THE OPENING OF CHAPTERS 23 AND 24
ARE WE MAKING PROGRESS OR ARE WE STANDING STILL?**

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TABLE OF CONTENTS

I. INTRODUCTION	4
II. CONTEXT.....	6
III. IMPORTANCE OF CHAPTERS 23 AND 24 OF THE EU ACQUIS.....	17
IV. ANALYSIS.....	25
V. CONCLUSIONS AND RECOMMENDATIONS	55

I. INTRODUCTION

Dear citizens,

Before you is another edition of the annual publication that the Civic Alliance publishes as part of the Independence Day edition. This time we are going through the pages that Montenegro has written during the past 10 years related to the fulfillment of the criteria of Chapters 23 and 24 for joining the European Union.

We analyze progress in the field of rule of law, corruption, human rights and all other fields that affect the quality of our lives. What did we do well, and what could we have done better? Why Montenegro did not join the EU after more than eleven years of negotiations, while neighboring Croatia completed the entire process in less than six years, even though it is a significantly larger country, which implies much more work in the integration process? What were the projections and promises of those in the most responsible positions, and what is the reality?

Unfortunately, the reality is in conflict with the ambitious announcements of our officials, who have been bidding for years on when Montenegro would accede to the European Union, each of them promising that during their mandate our country would open the doors to the EU. The parliamentary elections in August 2020 and the historic change of government brought about many positive expectations regarding the improvement of all those areas that concern an ordinary citizen, namely a state without crime, corruption, a state of the rule of law and a state that protects every citizen equally. However, compared to what has been achieved, citizens have not yet experienced real positive changes. Missed opportunities are now behind us as well as open doors of the EU that we unfortunately did not take advantage of. Therefore, this year we are reviewing progress in Chapters 23 and 24, to see in which areas we have fallen behind, where progress is slow and what is needed to advance this process.

What significantly affected the dynamics of the negotiation process are frequent changes in the negotiation structure, where each new structure starts almost from the beginning, not possessing institutional memory, which causes inertness among new members, but also negatively affects the quality of the negotiations. In addition to the changes in the negotiation structure, there were often changes in the personnel composition of these working bodies, which also affected their efficiency. Below we will certainly provide more information about the changes in the negotiation structure from the opening of the negotiations until today.

It is also interesting that we did not take advantage of the significant increase in citizens' support for Montenegro's membership in the EU, which, according to CEDEM data, increased from 54% in 2020 to as many as 75%, which unfortunately did not affect the enthusiasm of those responsible for improving and accelerating this process. Also, Montenegro was once considered a leader in EU integration, but apparently this is no longer the case.

In the following pages, we will try to translate numerous reports, recommendations and bureaucratic constructions into concrete measures that we need to implement in order to initiate the long-awaited necessary reforms in a more serious and comprehensive manner.

We hope that this publication will contribute to a better understanding of the situation we are in regarding the necessary reforms and that all of us as individuals will more clearly understand what individual contribution we can make through active participation in this process, but we also demand results from those most responsible.

The Civic Alliance team

II. CONTEXT

A BRIEF HISTORY OF THE EU

The devastating effects of the World War II left a sense for unity within Europe. In 1950, in an attempt to overcome such effects and prevent another war, European governments sought out to implement the Schuman Declaration, which proposed the creation of the **European Coal and Steel Community**. This community was established in 1951 under the Treaty of Paris, centered on France and Germany under the idea of pooling coal and steel production, which would in turn make war among these historic rivals “not merely unthinkable, but also materially impossible”.¹

From 1951, Schuman’s proposal began uniting countries across the continent of Europe, proving that “merging of economic interests would help raise standards of living and be the first step towards a more united Europe”.¹ At the time, the proposal was open to the six founding countries – Belgium, France, Germany, Italy, Luxembourg and Netherlands.² These same founding countries signed later on March 25th, 1957 the Treaty of Rome, which paved the way for the creation of the **European Economic Community (EEC) and the European Atomic Energy Community (EAEC)**. The EEC established a ‘common market’ for the free movement of goods, capital, services and people³, whereas the EAEC oversaw the nuclear energy market. The evolving from merely pooling coal and steel production to also establishing a common market and nuclear energy production to foster the economy, was welcomed by other countries within Europe, which wanted to be a part of it.



➤ **Image 1: Signing of the Treaty of Rome. Source (Wikipedia)**

1 European Union. Schuman Declaration May 1950. https://european-union.europa.eu/principles-countries-history/history-eu/1945-59/schuman-declaration-may-1950_en

2 Corporate Finance Institute (CFI). European Union (EU). 9 January 2023, <https://corporatefinanceinstitute.com/resources/economics/european-union-eu/>

3 The Treaty of Rome. 25 March 1957, https://ec.europa.eu/archives/emu_history/documents/treaties/rometreaty2.pdf

All of this heightened interest for a united Europe, derived primarily from the economic benefits that ensued from the established communities. Such heightened interest led to the signing of the Maastricht treaty, or also known as the **Treaty on European Union** on February 7th, 1992,⁴ which established the European Union as we know it today.



➤ **Image 2: Summit in Maastricht, Netherlands. Source: (European Commission)**

EU ACCESSION PROCEDURE: MONTENEGRO 2007-2023

The trend of acceding in the EU still continues to this day, with heightened interest from the region of the Western Balkans to join the family. In order to achieve accession, there are some steps that need to be taken by potential candidate and candidate countries (see pic. 3).

⁴ European Parliament. Treaty on European Union (TEU)/Maastricht Treaty. 7 February 1992, <https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/maastricht-treaty>

Main steps to EU accession



1 Country submits an application to the Council.



2 Commission submits an Opinion on the application.



3 EU Member States decide unanimously to grant the country candidate status.



4 After conditions are met, the accession negotiations are opened with the agreement of all Member States.



5 Commission proposes a negotiating framework as a basis for the talks.



6 During negotiations, the country prepares to implement EU laws and standards. All EU Member States must agree that it met all requirements.



7 Once negotiations on all areas are finalised, Commission gives its Opinion on the readiness of the country to become a Member State.



8 Based on this Opinion, EU Member States decide unanimously to close the negotiation process. The European Parliament must also give its consent.



9 All EU Member States and the candidate country sign and ratify an Accession Treaty which enables the country to become an EU Member State.

➤ **Image 3. – Main steps to EU accession (photo source: European Movement Ireland)⁵**

Montenegro since its independence on 21st of May, 2006 has always had the EU accession amidst the top of the policymaking agenda, at least theoretically. The first major step displaying Montenegro's commitment to the EU was the signature of the Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Montenegro, of the other part.⁶

The SAA was signed on 15th of October 2007, ratified on 13th of November 2007, and entered into force on 1st of May, 2010. This agreement represented a major milestone in the EU accession process, as it displayed willingness from both negotiating sides to enhance cooperation in various areas, including free trade, politics, economy, rule of law, regional cooperation and so forth.

⁵ European Movement Ireland. Are Albania and North Macedonia ready for EU membership? <https://www.europeanmovement.ie/are-albania-and-north-macedonia-ready-for-eu-membership/>

⁶ Stabilisation and Association Agreement: <https://www.consilium.europa.eu/en/documents-publications/treaties-agreements/agreement/?id=2007070>

CRNA GORA

Crna Gora potpisala sporazum sa EU

15. oktobar/listopad, 2007.



Luxembourg - Predsjednik Vlade Crne Gore, Željko Šturanović govori za vrijeme ceremonije potpisivanja Sporazuma sa EU. 15. Oktobar, 2007.

➤ **Image 4: Stabilization and Association Agreement signed. Source: Radio Free Europe**

In 2008, the Government of Montenegro adopted the 2008-2012 National Program for the Integration (NPI) of Montenegro into the EU. This document consisted of 635 pages, and covered the: political criteria, transition process, ability to assume obligations from the EU membership, administrative and judicial capacities for the implementation of Acquis Communautaire, national version of the Acquis Communautaire, and the financial assessment of its implementation.⁷

⁷ NPI: https://www.esiweb.org/pdf/montengro_National%20Program%20for%20Integration%202008%202012.pdf

On December 15th of 2008, Montenegro submits to the Council an application for EU membership. The Council on 23rd of April 2009 invited the Commission to issue an opinion regarding Montenegro's EU membership application. Two years after the submission of the application, namely on November 9th of 2010, the Commission issued a favorable opinion on Montenegro's application, identifying "7 key priorities that would need to be addressed for negotiations to begin, and the Council granted its candidate status."⁸ These 7 key priorities gave emphasis on the importance to commit to the accession criteria, also known as the Copenhagen criteria, which are of a political, economic and legal dimension. In the case of Montenegro these included the following key priorities:

- ✦ "Improve the legislative framework for elections in line with the recommendations of the OSCE-ODIHR and the Venice Commission; strengthen the Parliament's legislative and oversight role.
- ✦ Complete essential steps in public administration reform including amendments to the law on general administrative procedure and the law on civil servants and state employees and the strengthening of the Human Resources Management Authority and the State Audit Institution, with a view to enhancing professionalism and de-politicisation of public administration and to strengthening a transparent, merit-based approach to appointments and promotions.
- ✦ Strengthen rule of law, in particular through de-politicised and merit-based appointments of members of the judicial and prosecutorial councils and of state prosecutors as well as through reinforcement of the independence, autonomy, efficiency and accountability of judges and prosecutors.
- ✦ Improve the anti-corruption legal framework and implement the government's anticorruption strategy and action plan; establish a solid track record of proactive investigations, prosecutions and convictions in corruption cases at all levels.
- ✦ Strengthen the fight against organised crime based on threat assessment and proactive investigations, increased cooperation with regional and EU partners, efficient processing of criminal intelligence and enhanced law enforcement capacities and coordination. Develop a solid track-record in this area.
- ✦ Enhance media freedom notably by aligning with the case-law of the European Court for Human Rights on defamation and strengthen cooperation with civil society.
- ✦ Implement the legal and policy framework on anti-discrimination in line with European and international standards; guarantee the legal status of displaced persons, in particular Roma, Ashkali and Egyptians, and ensure respect for their rights. This will include the adoption and implementation of a sustainable strategy for the closure of the Konik camp."⁹

⁸ The EU and Montenegro: https://www.eeas.europa.eu/montenegro/european-union-and-montenegro_en?s=225

⁹ Communication from the Commission to the European Parliament and the Council: https://neighbourhood-enlargement.ec.europa.eu/system/files/2018-12/mn_opinion_2010_en_0.pdf



On November 30th of 2009, the Council approves the visa-free regime for Montenegrin citizens. The visa-free regime would mark a great day for Montenegro, as its citizens would be able to travel freely to EU countries. The decision was welcomed by Montenegro's politicians, officials, and analysts stating that the "Schengen wall" had fallen and that "we have obtained the first real right as European citizens: the freedom of movement".¹⁰

With regards to the Commission's opinion regarding the membership application, the government of Montenegro on February 17th of 2011 adopted nine action plans, the purpose of which was monitoring the implementation of the 7 key priorities that needed to be addressed in order to ensure accession negotiations. These action plans cover areas within the rule of law, public administration, human rights, public financial management, economic reforms, agriculture and rural development, environment and climate change, transport and energy. They are the following:

- ✦ Action Plan for Strengthening the Legislative and Control Role of the Assembly of Montenegro
- ✦ Action Plan for State Administration Reform
- ✦ Action Plan for Strengthening the Rule of Law
- ✦ Action Plan for the Fight Against Corruption
- ✦ Action Plan for the Fight Against Organized Crime
- ✦ Action Plan for the Media Field
- ✦ Action Plan for the Area of Civil Society
- ✦ Action Plan for the Field of Human Rights
- ✦ Action Plan for a Permanent Solution of the Issues of Internally Displaced Persons Residing In Konik Camp I i II¹¹

¹⁰ Canka, M. The partial fall of the Schengen wall. Link: <https://www.balcanicaucaso.org/eng/Areas/Montenegro/The-partial-fall-of-the-Schengen-wall-47900#:~:text=On%2030%20November%2C%20the%20Council,countries%20starting%20from%2019%20December.>

¹¹ 9 actions plans: <https://wapi.gov.me/download/339c2c69-6357-4ee5-8970-ead66cc4a287?version=1.0>

On October 12th of 2011, Montenegro's application for EU membership reached an important milestone, as the European Commission recommended that Montenegro should enter into the accession negotiation phase, affirming Montenegro's achievements. The EU Enlargement Commissioner Štefan Füle told the European Parliament's Foreign Affairs Committee that "*Montenegro has worked hard. We have seen real progress including in: judicial reform, revising the electoral law, media freedom, anti-discrimination and the fight against corruption and organised crime. I am therefore proposing today to open accession negotiations with Montenegro.*"¹² In the same year on December 9th, the Council welcomes the Commissions progress assessment achieved by Montenegro, and as such paves the way for the establishment of the negotiation structure.

On December 29th of 2011, the government of Montenegro appointed "Head of Mission to the EU Aleksandar Pejović as the Chief Negotiator for EU accession."¹³ A few months after, namely on February 2nd of 2012, during the session, the Cabinet concluded for the establishment of the EU negotiation team, which was composed of 6 bodies: "College for Negotiations on Accession of Montenegro to the European Union, State Delegation, Negotiating Team, Working Groups for Preparation of Negotiations on Individual Negotiating Chapters, Office of the Chief Negotiator, and the Secretariat of the Negotiating Team."¹⁴ The first two groups to be opened within the negotiation structure, were the working group for chapter 23 - judiciary and basic rights and chapter 24 - justice freedom and security.

Montenegro – EU accession negotiations effectively began on June 29th of 2012, after the Council endorsed the Commission's progress report assessment. Later that year, on December 18th, EU Acquis Chapter 25 on Science and Research was opened and provisionally closed.¹⁵ Additionally in the same manner, on April 15th of 2013, Chapter 26 on Education and Culture was opened and temporarily closed at the intergovernmental conference that was held in Brussels.

On June 27th of 2013, the government of Montenegro adopted National Action Plans for Chapter 23 and 24 as well as the screening process was completed. The screening process represents the initial step of the accession negotiations, as it provides the analytical examination of the EU acquis, which is conducted jointly by the European Commission and the candidate country. It covers 33 chapters of the EU acquis. The explanatory session and the bilateral session constitute the screening process. In Montenegro, the explanatory session was held on 26-27 March 2012, whereas the bilateral was held on 30-31 May 2012.¹⁶ On one hand, the explanatory session is the explanation of the EU acquis by the EC, in which administrative capacities and the alignment of

12 Government of Montenegro. European Commission recommends opening of accession talks with Montenegro. Link: <https://www.gov.me/en/article/109133--european-commission-recommends-opening-of-accession-talks-with-montenegro>

13 Government of Montenegro. Government appoints head negotiator for EU entry talks and new chief of police, takes steps to improve healthcare, public sector, economy. Link: <https://www.gov.me/en/article/110891--government-appoints-head-negotiator-for-eu-entry-talks-and-new-chief-of-police-takes-steps-to-improve-healthcare-public-sector-e>

14 Government of Montenegro. Montenegro establishes EU accession negotiation structure. Link: <https://www.gov.me/en/article/111353--montenegro-establishes-eu-accession-negotiation-structure>

15 Me4eu. Chapter 25 – Science and research. Link: <https://www.eu.me/en/chapter-25-science-and-research>

16 Ministry of European Affairs. EU accession negotiations: Analysis of benchmarks for Montenegro through comparison with Croatia and Serbia. Link: [file:///C:/Users/Dell/Downloads/K.A.+Eng%20\(1\).pdf](file:///C:/Users/Dell/Downloads/K.A.+Eng%20(1).pdf)

the national legislation with that of the EU are thoroughly discussed. On the other hand, the bilateral session of the screening process is the session where the candidate country presents where it stands in relation to each chapter of the acquis, highlighting its preparations to adopt and implement the EU acquis.¹⁷

In December 2013, the accession negotiations continued positively with two important events occurring. The first one, on December 18th, the negotiating parties officially opened negotiation chapters 5, 6, 20, 23, and 24. The second one, on 26th of the same month, Montenegro adopted the accession program for 2014-2018. The accession program is a valuable framework for gathering information, presenting reports, and outlining strategies. It not only provides an overview of the situation in Montenegro but also specifies the extent and speed of the reforms necessary to align Montenegro's laws with those of the EU.¹⁸



➤ **Image 5. Opening of chapters 23 and 24. Source: Parliament of Montenegro**

In 2014, the trend of opening negotiations chapters continued, as the parties opened nine more negotiating chapters. These include chapters 4, 7, 10, 18, 28, 29, 31, 32, and 33 of the acquis. Apart from the opening of chapters, the government of Montenegro adopted the Strategy for Informing the Public about the Accession of Montenegro to the EU 2014-2018. In addition to that, on October 8th of 2014, the European Commission published a Progress report regarding Montenegro for that year.

In 2015, Montenegro adopted the Accession Program of Montenegro for the period 2015-2018 and opened negotiation chapters 9, 14, 15, 16, 21, and 30. The EC published the annual Progress report for Montenegro for that year on November 10th.

¹⁷ EC. What is the screening process and how does it work. Link: https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Screening%20factsheet_0.pdf

¹⁸ Government of Montenegro. Cabinet discusses Montenegro's EU accession programme, national symbols, organs transplantation, further NGOs development. Link: <https://www.gov.me/en/article/134387--government-adopted-montenegro-s-eu-accession-programme>

In 2016, following the trend of the previous year, the 2016-2018 Accession Program of Montenegro to the EU was adopted and four more chapters were opened for negotiation, namely chapter 11, 12, 13, and 19.

In 2017, Montenegro initiated talks on chapters 1 and 22 of the negotiations, which concern the free movement of goods and regional policy coordination, respectively. Meanwhile, chapter 30, which deals with external relations, was temporarily closed. In addition to these, two more chapters were opened for negotiations, namely chapter 2 – Freedom of movement of workers and chapter 3 – right to establish a company and freedom to provide services.

In 2018, the government of Montenegro adopted the 2018-2020 Accession Program to the EU, opened two new chapters, namely chapter 17 – Economic and Assembly Union, and chapter 27 – Environment and Climate change. On May 24th of 2018, the government appointed Aleksandar Drljević as the new Chief Negotiator with the EU.

On 31st December 2019, the government of Montenegro again adopted the Program for the Accession of Montenegro to the EU for the period 2019-2020. There were no other events related to MNE-EU accession procedure during this year.



In 2020, a new methodology of negotiations with the European Union was introduced as well as the 2020-2022 Program for the Accession of Montenegro to the EU was adopted. In this year, the last remaining negotiation chapter, namely chapter 8 – Competition was officially opened. On December 7th, Zorka Kordić was appointed the new Chief Negotiator of the EU accession of Montenegro. The new methodology of Montenegro's negotiations with the European Union represented, inter alia, the division of 33 chapters into six clusters.

This change is the result of the revision of the negotiation framework for EU accession, which was adopted by the European Commission in February 2020. The goal was to improve the negotiation process, make it more dynamic and enable more effective monitoring of the progress of candidate countries. The new negotiation methodology implies the division of 33 negotiation chapters into six clusters, which focus on certain policy areas.

➤ **Image 6: Opening of the last chapter 8.**
Source: Radio Free Europe

The clusters are as follows¹⁹:

- ✦ Cluster 1: fundamentals (chapters 5, 18, 23, 24 and 32);
- ✦ Cluster 2: internal market (chapters 1, 2, 3, 4, 6, 7, 8, 9 and 28);
- ✦ Cluster 3: competitiveness and inclusive growth (chapters 10, 16, 17, 19, 20, 25, 26, 29);
- ✦ Cluster 4: green agenda and sustainable connectivity (chapters 14, 15, 21 and 27);
- ✦ Cluster 5: resources, agriculture and cohesion (11, 12, 13, 22 and 33);
- ✦ Cluster 6: external relations (chapters 30 and 31).

The two year period following year 2020 did not have any major events related to the EU accession procedure of Montenegro, as the world was hit by COVID-19 pandemic, resulting in a major shift of priorities in the policy-making agenda of countries around the world, including the EU and Montenegro. In July 2021, the Government adopted a document entitled "Information on progress in the process of negotiations according to the cluster approach", presenting the results achieved by clusters.²⁰ In 2022, on April 28th, the government appointed Jovana Marović, as the new Minister of European Affairs, tasked with coordinating the fulfillment of obligations from accession negotiations, harmonization of legislation with the EU acquis, and preparing the official Montenegrin version of the EU acquis.²¹ There are other obligations of the Ministry, but these constitute the primary ones. On November of the same year, after assuming the position, Jovana Marović resigned from all positions, including the position of the Minister of the European Affairs, pointing out that the reason of her resignation revolved merely around the political situation within the country.²² Currently, the Ministry of European Affairs functions without a minister, coordinated by Ana Novaković Đurović, Minister of Ecology, Spatial Planning and Urbanism.

It should be noted that Montenegro has repeatedly changed the negotiations structure for accession to the European Union. Namely, at the beginning of 2012²³, a structure was established for negotiations on the accession of Montenegro to the European Union, which was amended in 2014²⁴ and then in 2017²⁵. At the session held on 29 April 2021, the Constitutional Court of Montenegro passed a decision establishing that the provision of Art. 7, para 2 of the Decision on the establishment of a structure for negotiations on the accession of Montenegro to the European Union (*Official Gazette of Montenegro*,

19 Presentation: Montenegro between two reports of the European Commission. Is there any progress? <https://www.eu.me/dokumenti-pregovo-ri-o-pristupanju/##1583-1682-program-pristupanja-crne-gore-evropskoj-uniji>

20 Government of Montenegro; Information on the progress in the process of negotiations by cluster approach. <https://wapi.gov.me/download-pre-view/202414b1-2840-4691-a84d-a876a252951e?version=1.0>

21 Ministry of European Affairs of Montenegro. <https://www.gov.me/en/mep>

22 Danas. Jovana Marović, ministarka i potpredsednica u Vladi Crne Gore, podnela ostavku. Link: <https://www.danas.rs/svet/region/jovana-marovic-ministarka-evropskih-poslova-i-potpredsednica-ura-podnela-ostavku/>

23 Official Gazette of Montenegro, no. 9/2012 of 10 February 2012.

24 Official Gazette of Montenegro, no. 15/2014 of 25 March 2014.

25 Official Gazette of Montenegro, no. 19/2017 of 27 March 2017.

no. 9/12, 15/14, 19/17), which was adopted by the Government of Montenegro, at the time of its validity was not in accordance with the Constitution and laws.²⁶ The new Decision on establishing a structure for negotiations on the accession of Montenegro to the European Union was adopted in August 2022.²⁷ This decision only came into force in October 2022, although it was adopted in August. What is interesting is that the Collegium for negotiations on the accession of Montenegro to the EU, chaired by the Prime Minister, was held only in March 2023 in accordance with the new negotiation structure from October 2022. This, among other things, speaks about the dynamics of the body's work in the negotiation structure.

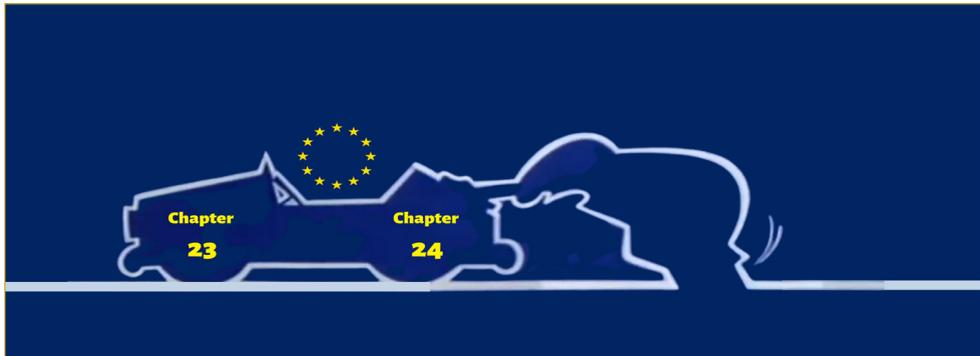
²⁶ Decision of the Constitutional Court, U-I no. 3/18 and 5/18 "Official Gazette of Montenegro, no. 68/2021" of 23 June 2021.

²⁷ Official Gazette of Montenegro, no. 112/2022 of 10 October 2022.

III. THE IMPORTANCE OF CHAPTER 23 AND 24 OF THE EU ACQUIS

The EU gives immense importance on the application of the rule of law, especially when it comes to acceding countries. This because, it aims to prevent another situation like that with Hungary and Poland, the actions of which have undermined the rule of law to its core, thus undermining the very principles upon which the Union was built. As has been stated by the European Commission President Ursula von der Leyen, endangering the principle of rule of law undermines the fundamental legal, political, and economic structure on which the Union operates.²⁸

Chapter 23 – Judiciary and fundamental rights and Chapter 24 – Justice, freedom and security are two of the most important chapters of the EU acquis that are the first to be opened and the last to be closed during the negotiation process. The implementation of these chapters is meant to assist acceding countries in establishing a society that functions on the rule of law. Committed to maintaining and further developing the Union as an area of justice, freedom and security, the EU puts profound emphasis on the harmonization and implementation of Chapter 23 and 24 from the side of candidate countries. The EU Common Position has identified 83 interim benchmarks, 45 within Chapter 23, and 38 within Chapter 24 of the acquis.



²⁸ Von der Leyen, Ursula. "A Union that strives for more: My agenda for Europe – Political guidelines for the next European Commission, 2019 – 2024", European Commission, July 16 2019. Link: https://commission.europa.eu/system/files/2020-04/political-guidelines-next-commission_en_0.pdf

CHAPTER 23 – JUDICIARY AND FUNDAMENTAL RIGHTS

Chapter 23 is concerned with the judiciary and fundamental rights. Establishing an independent and effective judiciary is crucially important. To maintain the rule of law, which is defined by Article 2 of the Treaty on European Union (TEU) as 'a shared value on which the Union is rooted'²⁹, it is essential that the courts are impartial, operate with integrity, and maintain high standards of adjudication. Achieving this requires a strong dedication to removing any external influences over the judiciary and providing sufficient financial resources and training. In addition to that, fair trial procedures must be guaranteed by law.

a) Judiciary

The European Union places significant emphasis on the judiciary sector, recognizing that a stable legal system is necessary for upholding the rule of law. This sector comprises five sub-areas: judicial independence, impartiality, accountability, professionalism, and efficiency, as well as the prosecution of war crimes committed by domestic authorities. It outlines the minimum requirements of the EU acquis in this negotiation chapter, which mainly consists of standards that the country must meet within its domestic judicial system to be fully compliant with the EU acquis. To successfully carry out these reforms, the candidate country must not only comply with legal acts but also achieve measurable results in their implementation.³⁰

b) Fight against corruption

This area has been a particular focus of the European Union since the opening of negotiations. The acquis in this area consists of UN and the Council of Europe conventions, as well as decisions and recommendations of the European Council. The candidate country must fully align with the acquis in this area, but also show a willingness to achieve visible results in both, prevention and fight against corruption. The most sensitive issues in this area are areas particularly vulnerable to corruption (public procurement, privatization, urbanism, education, health, local government and police), as well as financing of the political parties.²³

c) Fundamental rights

Fundamental rights are essential to both civilization and the rule of law, and their implementation must be protected and uninterrupted. This sector includes a range of conventions, protocols, charters, and declarations that the candidate country must incorporate into its legal system, ensuring their effective

²⁹ Official Journal of the European Union. The Treaty on the European Union. Link: https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF

³⁰ Ministry of European Affairs. Chapter 23 – Judiciary and fundamental rights. <https://www.eu.me/en/poglavlje-23-pravosud-je-i-temeljna-prava/>

enforcement. Particular attention is given to areas such as anti-discrimination, the right to a fair trial, the right to a quick trial, and the protection of personal data.²²

d) Rights of EU citizens

Montenegro, as a candidate country to the EU, needs to ensure that the conditions upon which EU nationals can exercise their rights are met. These rights include: “the right to live, work, study and get married in other EU countries,”³¹ the right to vote and stand for election to the European Parliament, right to vote and stand as a candidate at municipal elections, right to good administration, right of access to documents, European ombudsman, right to petition, diplomatic and consular protection,³² as well as the “EU works to keep Europeans’ personal data safe and empowers them as consumers.”²³

CHAPTER 24 – JUSTICE, FREEDOM AND SECURITY

Chapter 24 is concerned with justice, freedom and security. To effectively implement the increasing set of common regulations regarding border control, visas, external migration, asylum, police cooperation, the fight against organized crime and terrorism, drug enforcement, customs, and legal cooperation in criminal and civil matters, Member States must have the appropriate resources. This includes a well-integrated administrative capacity within law enforcement agencies and other relevant organizations that meet necessary standards. A trustworthy, efficient, and skilled police organization is especially crucial. The most comprehensive aspect of the EU’s justice, freedom, and security policies is the Schengen acquis, which involves the elimination of internal border checks within the EU.³³

a) Migration

Migration is an important sub-area within Chapter 24 of the acquis. The EU has played a key role in managing migration through various policies. The Pact on Migration and Asylum, legal migration and integration policies, as well as irregular migration and return policies³⁴ display the importance of managing migration within the EU agenda. On 23rd of September 2020, the European Commission in an attempt to establish a fairer approach towards migration and asylum, presented the Pact on Migration and Asylum. This pact is composed of sustainable policies revolving around three dimensions: a) the external dimension centered on fostering partnerships

31 European Union. Protection, rights and justice for EU citizens. Link: https://european-union.europa.eu/priorities-and-actions/actions-topic/justice-and-fundamental-rights_en#:~:text=EU%20citizens%20have%20the%20right,and%20empowers%20them%20as%20consumers.&text=Citizens%20have%20legal%20protection%20in,to%20the%20European%20arrest%20warrant.

32 European Commission. Citizen’s rights. https://commission.europa.eu/aid-development-cooperation-fundamental-rights/your-rights-eu/know-your-rights/citizens-rights_en

33 Chapters of the Acquis. Link: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en

34 European Commission. Migration and asylum. Link: https://home-affairs.ec.europa.eu/policies/migration-and-asylum_en

with countries of origin and transit, b) external borders and their robust management, as well as c) strengthening and establishing firm but fair internal rules that ensure solidarity to Member states dealing with migration pressure.³⁵ All in all, the goal of the Pact is to provide a long-term sustainable solution to the issue of irregular migration, offering inclusive policies for the integration of refugees, as well as fostering migration partnerships with countries of origin and transit.³⁶ In Montenegro, one of the main migration related issue is the fight against migration pressure,³⁷ which results primarily as a consequence of EU's robust management of external borders restricting migration flows.

b) Asylum

Every individual fleeing “persecution or serious harm in their own country has the right to ask for international protection.”³⁸ As such, “asylum is a fundamental right and granting it to people who comply with the criteria set in the 1951 Geneva Convention relating to the status of refugees.”²⁸ The European Union has claimed that it serves as “an area of protection for people fleeing persecution or serious harm in their country of origin.”³⁹ To achieve this claim, the EC has established the Common European Asylum System since 1999, which constitutes of one agency and five legal instruments. In 2020, the EC proposed reforms to the system through three main pillars; a) efficient asylum and return procedures, b) solidarity and fair share of responsibility and c) strengthened partnerships with third countries.²⁹ Montenegro asylum requests have been on the rise. This possibly as a result of the country's application for EU membership. While Montenegro has largely harmonized the national legislation when it comes to the field of asylum with that as provided the *acquis*, its major challenge remains on the viability of the asylum system within the country, meaning the preparation “capacities for the adequate reception of asylum seekers, their care and integration into Montenegrin society.”²⁷

c) Visa policy

The Schengen Area, which allows for border-free travel between its member countries, needs a unified visa policy in order to work effectively. This policy should make it easier for legal visitors to enter the EU while also improving security within the region. To address this need, the EU has implemented a visa policy that applies to transit through or short stays in Schengen countries for up to 90 days within a 180-day period, as well as

35 European Commission. Speech by Vice-President Schinas on the New Pact on Migration and Asylum. Link: https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_1736

36 European Commission. Pact on Migration and Asylum. https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum_en

37 Ministry of European Affairs. Chapter 24 – Justice, freedom and security. Link: <https://www.eu.me/en/poglavlje-24-pravda-sloboda-i-bezbjednost/>

38 European Parliament. Guaranteeing the right to asylum. Link: <https://www.europarl.europa.eu/about-parliament/en/democracy-and-human-rights/fundamental-rights-in-the-eu/guaranteeing-the-right-to-asylum>

39 European Commission. Common European Asylum System. Link: https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system_en

transit through the international areas of Schengen airports.⁴⁰ Montenegro will join the common visa policy, and within this the establishment of Visa Information System is of particular importance.⁴¹

“Given the continuous and deep political crisis, which is reflected in the absence of democratic reforms and weak institutions, as well as weakened negotiation structures, insufficiently measurable results and the absence of political negotiation meetings at the highest level, we could talk about blocking of negotiations” – 2 April 2023.

Source: Portal Analitika

Gordana Đurović, President of the Montenegrin Pan-European Union and former Minister for European Integration



d) External borders and Schengen

The creation of the Schengen area can be seen as one of the key achievements of the European Union. Through its establishment, the EU has managed to remove internal borders, thus enabling freedom of movement for, both citizens of EU Member States and legal visitors of few associated non-EU countries. Having abolished internal borders, the EU puts profound emphasis on the firmness of external ones. The firm external border control is done under the goal of ensuring security to those residing or travelling in the Schengen area. The Schengen Borders Code represents a “single set of rules for external border checks on persons”⁴² that EU Member States must adhere to (and with that candidate countries).

e) Judicial cooperation system in civil and commercial matters

The rising trend and demand towards greater freedom of movement for goods, services, capital, and people across national borders is continuing to grow. To address civil matters that have cross-border implications, the European Union is working to promote greater judicial cooperation between different legal systems. The EU's primary goals in this area are to establish legal ‘clarity’ and ensure that access to justice is both simple and effective. To achieve these goals, the EU is focused on identifying the appropriate legal jurisdiction, clarifying which laws apply, and developing effective procedures for recognizing and enforcing legal judgments.⁴³

40 European Commission. Visa Policy. Link: https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/visa-policy_en#:~:text=Generally%2C%20a%20short%2Dstay%20visa,remain%20subject%20to%20national%20procedures.

41 Visa information system. Link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02008R0767-20190611>

42 European Commission. Schengen, borders and visa. https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa_en

43 European Parliament. Judicial cooperation in civil matters. <https://www.europarl.europa.eu/factsheets/en/sheet/154/judicial-cooperation-in-civil-matters>

f) Judicial cooperation in criminal matters

Article 82 of the Treaty of the Functioning of the European Union (TFEU) gives legal basis to judicial cooperation in criminal matters.⁴⁴ While the implementation of the Schengen Area has plenty positive outcomes, it also has its setbacks, especially when speaking of transnational organized crime and other security related issues. As such, the EU has introduced the principle of mutual recognition which stands as a starting point in establishing judicial cooperation among Member States in criminal matters. The proper implementation of this principle implies that in the area of justice, freedom and security, “Member States must trust each other when it comes to complying with fundamental rights.”⁴⁵ Two of the main instruments in addition to the principle of mutual recognition, which aim to enhance judicial cooperation in criminal matters among Member States but also with non-EU countries are the EUROJUST and the European Judicial Network.²⁷

g) Police cooperation

A central field in strengthening internal security within the EU has police cooperation. “The EU Agency for Law Enforcement Cooperation (Europol) is a central plank”⁴⁶ within the broader spectrum of EU’s internal security. The objectives of the EU within the area of police cooperation are to ensure effective cross-border cooperation of the law enforcement agencies in order to “to prevent, detect and investigate criminal offences across the EU.”³⁵ Cooperation within this area mainly concerns combatting organized crime, euro counterfeiting, trafficking of persons, drug trafficking, money laundering and terrorism. Montenegro is part of various international treaties, however the Treaty of Prüm is particularly important for the country in the field of police cooperation, as it emphasizes cross-border cooperation on the abovementioned fields.⁴⁷

44 Treaty on the Functioning of the European Union. Link: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>

45 Lenaerts, K. The Principle of Mutual Recognition in the Area of Freedom, Security and Justice. <https://www.dirittounioneeuropa.eu/principle-mutual-recognition-area-freedom-security-justice#:~:text=In%20the%20AFSJ%2C%20the%20successful,the%20national%20judiciaries%20%5B13%5D>.

46 European Parliament. Fact Sheets on the European Union: Police Cooperation. Link: <https://www.europarl.europa.eu/factsheets/en/sheet/156/police-cooperation>

47 European Parliament. Working document: Treaty of Prüm. Link: https://www.europarl.europa.eu/meetdocs/2004_2009/documents/dt/660/660824/660824en.pdf

h) Fight against organized crime

As has been mentioned previously throughout the abovementioned paragraphs, combatting organized crime is amidst the top of the policy-making agenda of the EU. The presence of organized crime poses a significant danger to the well-being of European citizens, institutions, and businesses, as well as to the overall economy of the EU. As such it is important for Montenegro to align its legal framework with that as provided by the *acquis* on matters related to organized crime and to show continuous efforts in fighting organized crime, both within the country and broader.⁴⁸

i) Fight against terrorism

Similar to the fight against organized crime, the fight against terrorism is of paramount importance to the EU. It has been regarded European Council as a “top priority”.⁴⁹ Within this field, Montenegro has implemented several measures aimed at combatting terrorism, and it is anticipated that additional legislative changes and enhancements to the strategic framework in this field will occur in the near future.²⁷

“Everything that was done in the technical mandate completely blocked Montenegro. There is no structure for negotiations, there are no people inside... They called us the Cape of Good Hope, we were the hope of the Western Balkans, and now they certainly do not call us that. We are in a limbo from which I see no way out. I hope that we will get a glimpse of it after a new government is established, but I am also worried about that” – 8 May 2023.
Source: RTCG



Momčilo Radulović, President of the Council of the Agency for the Prevention of Corruption

j) Cooperation in the field of drugs

Cooperation in the field of drugs aims the prevention, repression and sanctioning of drug-related illegal activities. As such, harmonizing the normative framework and displaying constant cooperation in the field of drugs (smuggling, illegal production, and the sale and use of drugs) , is necessary for candidate countries willing to join the EU.

⁴⁸ European Council. The EU's fight against organized crime. 14 February 2022, <https://www.consilium.europa.eu/en/policies/eu-fight-against-crime/>

⁴⁹ European Council. The EU's response to terrorism. <https://www.consilium.europa.eu/en/policies/fight-against-terrorism/>

k) Fight against trafficking in human beings

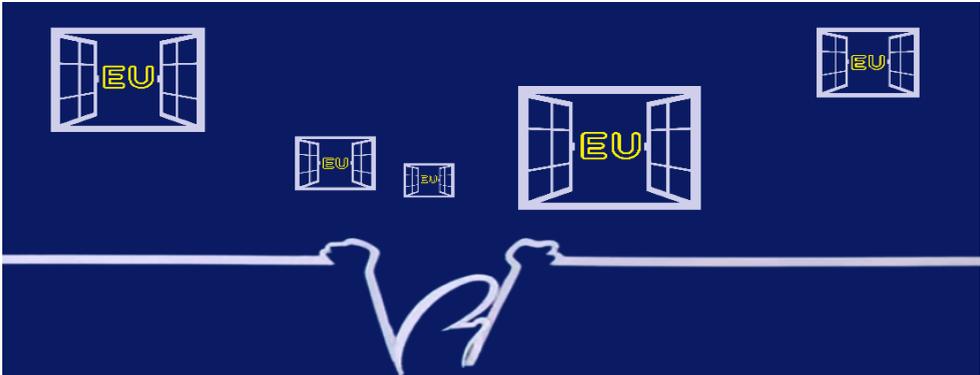
Trafficking in human beings is a crime affecting, both EU and non-EU citizens. The most common form of trafficking is sexual exploitation from which women and children suffer the most, followed by a constant rise of labor exploitation of predominantly men.⁵⁰ Nonetheless, this crime is highly intertwined with organized crime, which adds to the complexity of the issue, displaying thus the importance of addressing it properly. It is therefore vital for Montenegro to harmonize the legal framework with that of the EU and show a solid track record in combatting trafficking of human beings within the country.

l) Customs cooperation

Broader international cooperation is an important aspect for the European Union. It aims to protect the interests of its citizens and business worldwide. Currently, the EU has signed more than 50 international trade agreements with over 80 countries, providing for 'customs cooperation and mutual administrative assistance'. The aim of this is to enforce, support and simplify customs procedures, resulting in a mutual benefit to contracting parties in terms of doing business. In Montenegro, the primary objective of customs cooperation is to prevent and identify customs-related criminal acts and violations that go against the laws of the member countries and the Community law.²⁷

⁵⁰ European Commission. Together against trafficking in human beings. https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings_en

IV. ANALYSIS



Firstly, in the Analysis section of this report, European Commission's Montenegro Progress Reports on chapter 23 and 24 of the acquis from 2014 up to 2022 will be displayed. Secondly, the opinion of relevant stakeholders on the EU accession in general but also highlighting comments related to the negotiation process of chapters 23 and 24 of the acquis will be done. Thirdly, the public opinion on Montenegro's EU accession process will be shown. Lastly, concluding remarks and recommendations from the findings from the Progress Reports will be given.

EUROPEAN COMMISSION'S REPORTS ON MONTENEGRO

There are two types of reports that European Commission utilizes in the accession procedure of a country, namely a) Screening Reports and b) Progress Reports.

Initially, before the country becomes a candidate for EU Membership, EC produces Screening Reports, assessing whether the candidate country has, both legal and administrative capacities to implement the EU acquis. This assessment is done to each respective chapter within the acquis, identifying areas that need to be addressed by the candidate country per EU requirements.

In 2012, the EC published Montenegro Screening Report for Chapter 23 – Judiciary and Fundamental rights, and Chapter 24 – Justice, freedom and security.

Screening Report for Chapter 23

General remarks: „Montenegro has demonstrated good awareness of the EU's strategic and policy framework in this area and undertaken important reform efforts to align itself with the acquis and meet the European standards. However, further efforts are needed, in particular in fully ensuring judicial independence and in building up a solid track record of investigations and convictions in corruption cases.”⁵¹

EC recommendations:

- ✦ In relation to the judiciary, the EC recommended the adoption of one or more Action Plan(s) that would cover specific areas concerning the independence, impartiality, accountability, and professionalism/competence of the judiciary;⁴¹
- ✦ In relation to anti-corruption, the EC recommended the adoption of one or more Action Plan(s) that would ensure preventive and repressive action against corruption. Corruption in Montenegro according to the EC was prevalent in many areas and a serious cause of concern;⁴¹
- ✦ In relation to fundamental rights, the EC recommended the adoption of one or more Action Plan(s) that would establish key steps in a) enhancing media freedom, b) respecting and protecting minority groups, c) amending anti-discrimination laws, and d) strengthening the role of the Ombudsman by enhancing capacities, especially his role as a national prevention mechanism against torture.⁴¹

Screening Report for Chapter 24

General remarks: „Montenegro has demonstrated good awareness of the EU's strategic and policy framework in this area. Montenegro has taken positive steps to align its legislation with the acquis, notably through compliance with the visa liberalisation roadmap requirements. In several areas such as irregular migration, security of documents, and the fight against computer crime, Montenegro claimed full alignment with the EU legal framework. In other areas, Montenegro recognised the need for further efforts to ensure compatibility with the EU standards.”⁵²

EC recommendations:

- ✦ In relation to migration, Montenegro had predominantly been focused on aligning the national legal framework with the acquis on illegal migration, and as such needed to increase efforts in aligning the legislative framework with the acquis on legal migration as well. In light of this, the EC recommended the adoption of an Action Plan that would a) ensure the adoption of the legal framework related to migration per the acquis, b) establish a monitoring mechanism with

51 European Commission, Screening Report. https://neighbourhood-enlargement.ec.europa.eu/system/files/2018-12/20130218_screening_report_montenegro_ch23.pdf

52 European Commission. Screening Report: Chapter 24. https://neighbourhood-enlargement.ec.europa.eu/system/files/2018-12/20130218_screening_report_montenegro_ch24.pdf

regards to the implementation of the legislation, c) establish an evaluating mechanism related to the assessment of capacities of the Reception Centre for Irregular Migrants, d) strengthen capacities for addressing issues concerning vulnerable migrant groups, and e) “complete the network of bilateral readmission agreements with neighbouring countries”,⁴²

- ✦ In relation to asylum, the EC proposed the adoption of an Action Plan that would ensure the alignment of the country’s legislation per the *acquis* and capacity building and implementation;⁴²
- ✦ In relation to the visa policy, the EC recommended the adoption of an Action Plan that would address in particular issues related to the a) compatibility of the visa issued by Montenegro with the EU Visa Code, and b) technical and financial challenge of complying with the Visa Information System;⁴²
- ✦ In relation to external borders and Schengen, the EC recommended the adoption of an Action Plan that would ensure the implementation of the necessary legal amendments before joining the EU and Schengen area. Within this, Montenegro needed to prepare a comprehensive analysis of law enforcement, judicial, and vehicle licensing authorities’ infrastructure and business processes to access and use the Schengen Information System (SIS). In addition to that, Montenegro needed to develop a new strategy and action plan for integrated border management, risk analysis model for border management, and improve inter-agency cooperation, protection of external borders, and prevent cross-border traffic, while also introducing measures needed to be taken to improve the fight against corruption;⁴²
- ✦ In relation to judicial cooperation in civil and criminal matters, the EC recommended the adoption of an Action Plan, centering on the improvement of judicial cooperation in civil and commercial matters as well as judicial cooperation in criminal matters. To improve judicial cooperation in civil and commercial matters, Montenegro needed to propose measures to adopt existing regulations into their legislation and conduct an impact analysis to identify administrative, budgetary, staff, and training needs. Additionally, Montenegro needed to specify actions to upgrade their statistics for better monitoring of the effectiveness in handling international requests related to this area. To improve judicial cooperation in criminal matters, apart from outlining measures for legislative implementation and the impact assessment on the budget, administrative and technical requirements, Montenegro also needed to establish relevant institutions to improve cooperation in criminal matters, allowing direct collaboration with third-party courts. Additionally, Montenegro had to be prepared to organize training that takes into account legal developments in alignment with legislation. Furthermore, preparations needed to be made to finalize a cooperation agreement with Eurojust, with emphasis on safeguarding personal data protection;⁴²
- ✦ In the field of police cooperation and the fight against organized crime, the EC recommended the adoption of an Action Plan that fosters police cooperation and the fight against organized crime. In relation to police cooperation, Montenegro needed to a) ensure the signature of

cooperation agreement with Europol and “the posting of a liaison officer to The Hague”⁴², b) incorporate the required IT infrastructure for police cooperation, and c) cooperate on issues such as ensuring safety measures for football games, preventing vehicle-related offenses, and providing security for public figures. In relation to fight against organized crime, Montenegro needed to i) align, analyze and update the national legal framework with the *acquis* and implement the UNTOC and its protocols, while also imposing sanctions for non-compliance with legislation, ii) build the capacity of officials in investigating organized crime (primarily economic and financial crime) as well as increase inter-agency cooperation, iii) incorporate an IT software and hardware which identifies policies needed for data analysis on money laundering, iv) implement the recommendations of GRETA, the Council of Europe’s Group of Experts on Action against Trafficking in Human Beings, and v) recommend actions for the implementation of the strategy on light weapons and small arms;⁴²

- ✦ In relation to fight against terrorism, considering that Montenegro’s legislation was moderately compatible with the *acquis* on the matter, the EC recommended the adoption of an Action Plan that would a) introduce measures for the alignment of the national legislation with the *acquis* within this field, b) revise the policy framework to account for policy development at the EU level, and c) introduce measures to increase the security of “warehouses and explosives storage facilities”;⁴²
- ✦ In relation to cooperation in the field of drugs, the EC recommended the adoption of an Action Plan centered on a) increasing cooperation between law enforcement and judicial authorities in combatting drugs trafficking and abuse, while also improving international cooperation generally and with Europol particularly, b) improving national coordination, information exchange, as well as coordination among relevant bodies involved in the field of combatting drugs, c) increasing security and monitoring measures at the Port of Bar, d) allocating sufficient administrative and financial resources to EMCDDA, thus establishing active cooperation, e) updating the list of drugs constantly following European and international developments, and f) creating a new policy framework that conforms with the new EU policy framework, and incorporate an assessment mechanism for the implementation of the national strategy and action plan;⁴²
- ✦ In the field of customs cooperation, Montenegro’s legislation is partly aligned with the *acquis* in this area. Therefore, the EC recommended the adoption of an Action Plan that would i) “define terms of reference of experts to assist in preparing the strategy on customs IT infrastructure”, ii) develop a strategy that aims to “change the customs IT infrastructure”, and iii) “Ratify the Naples II Convention and draft a work plan to implement it”;⁴²
- ✦ In relation to the counterfeiting of the euro, Montenegro’s legislation is partly aligned with the *acquis* on the matter. In light of that, the EC recommended the adoption of an Action Plan that aims at the strengthening of capacities in enhancing cooperation with Europol, OLAF, and the European Central Bank in the area of counterfeiting of the euro.⁴²

After the country is granted candidate status and has entered the negotiation process with the EU, the European Commission begins producing Progress Reports on an annual basis. In comparison to the Screening Reports, Progress Reports assess the progress that the candidate country has made in implementing the acquis as well as the country's ability to meet the political and economic criteria for EU membership, thus giving an overall view on the implementation of the Copenhagen criteria. Progress reports cover a wide range of policies, and each chapter of the acquis is assessed in detail, in which, both shortcomings and recommendations to overcome such shortcomings are given by the Commission. Similarly, the implementation of the recommendations from previous years is also looked upon and as such if the country remains in the status quo in implementing the recommendations from the EC, namely if the country shows annual stagnation in some particular areas, then such reoccurring instances need to be analyzed, upon which conclusions and recommendations will be outlined for taking future action.

EC GENERAL REMARKS FROM PROGRESS REPORTS		
Year	Chapter 23	Chapter 24
2013	„Montenegro has made some progress in the area of the judiciary and fundamental rights.“ ⁵³	„Overall, Montenegro has made some progress in the area of justice, freedom and security.“ ⁴³
2014	„Overall, in the area of judiciary and fundamental rights progress has been uneven. In the area of judicial reform, some progress has been made. In the area of anti-corruption, progress has been limited. Some progress was made on fundamental rights.“ ⁵⁴	„Overall, Montenegro has made some progress in the area of justice, freedom and security.“ ⁴⁴

53 European Commission. Montenegro Progress Report 2013. https://neighbourhood-enlargement.ec.europa.eu/system/files/2016-12/mn_rapport_2013.pdf

54 Montenegro Progress report 2014. https://neighbourhood-enlargement.ec.europa.eu/2014-progress-report-montenegro_en

2015	„Montenegro is moderately prepared to apply the acquis and European standards in this area and has made overall some progress.“ ⁵⁵	„Montenegro is moderately prepared to implement the acquis correctly in this area. Some progress was made, through the continued implementation of the action plan for justice, freedom and security.“ ⁴⁵
2016	„Montenegro is moderately prepared to apply the acquis and European standards in this area and has made some progress overall.“ ⁵⁶	„Montenegro is moderately prepared to implement the acquis correctly in this area. Some progress was made, through the continued implementation of the action plan for justice, freedom and security but so far results are limited, in particular in the fight against money laundering, trafficking in human beings and cigarette smuggling.“ ⁴⁶
2017	No progress report is available	No progress report is available
2018	„Montenegro is moderately prepared to apply the acquis and European standards in this area and has made some progress overall.“ ⁵⁷	„Montenegro is moderately prepared to implement the acquis in this area. The legal and strategic frameworks are now largely in place. Some progress was achieved, in particular on the migration-related legal framework.“ ⁴⁷

55 https://neighbourhood-enlargement.ec.europa.eu/system/files/2018-12/20151110_report_montenegro.pdf

56 European Commission. Montenegro Progress Report 2016. 9 November 2016, https://neighbourhood-enlargement.ec.europa.eu/system/files/2018-12/20161109_report_montenegro.pdf

57 European Commission. Montenegro Progress Report 2018. 17 April 2018, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2019-05/20180417-montenegro-report.pdf>

<p>2019</p>	<p>„Montenegro remains moderately prepared to apply the acquis and European standards in this area but has made some progress overall.“⁴⁸</p>	<p>„Montenegro is moderately prepared to apply the acquis and European standards in this area. The legislative and institutional frameworks are now largely in place. Some progress was achieved in addressing last year's recommendations, in particular as regards improving capacity to deal with migration flows and improving cooperation with neighbouring countries on border management issues.“⁵⁸</p>
<p>2020</p>	<p>„Montenegro remains moderately prepared to apply the EU acquis and the European standards in this area and has made limited progress overall.“⁴⁹</p>	<p>„Montenegro is moderately prepared in the area of justice, freedom and security. The legislative and institutional frameworks are now largely in place. Some progress was achieved in addressing last year's recommendations, in particular as regards adopting standard operating procedures on financial investigations and strengthening the institutional capacity in the area of migration, asylum and border management.“⁵⁹</p>

58 European Commission. Montenegro Progress Report 2019. 29 May 2019, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2019-05/20190529-montenegro-report.pdf>

59 European Commission. Montenegro Progress Report 2020. 6 October 2020, https://neighbourhood-enlargement.ec.europa.eu/system/files/2020-10/montenegro_report_2020.pdf

<p>2021</p>	<p>„Montenegro remains moderately prepared to apply the EU acquis and the European standards in this area and has made limited progress overall.“⁶⁰</p>	<p>„Montenegro is moderately prepared in the area of justice, freedom and security. The legislative and institutional frameworks are largely in place. Some progress was achieved in addressing last year’s recommendations, in particular as regards the capacity to manage mixed migration flows and the integration of refugees.“⁶⁰</p>
<p>2022</p>	<p>„Montenegro remains moderately prepared to apply the EU acquis and the European standards in this area and has made limited progress overall. Limited progress was made in the area of the judiciary, with no progress on the implementation of key judicial reforms and a limited track record on judicial accountability.“⁶¹</p>	<p>„Montenegro is moderately prepared in the area of justice, freedom and security. The legislative and institutional frameworks are largely in place. Some progress was achieved in addressing last year’s recommendations, as Montenegro started revising its legal approach to financial investigations and took a number of steps to improve the efficiency of criminal investigations. However, last year’s recommendations remain overall largely valid.“⁶¹</p>

60 European Commission. Montenegro Progress Report 2021. 19 October 2021, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2021-10/Montenegro%202021%20report.PDF>

61 European Commission. Montenegro Progress Report 2022. 12 October 2022, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Montenegro%20Report%202022.pdf>

Summary of European Commission's general remarks for Chapter 23 – Judiciary and fundamental rights

As can be seen from above, Montenegro has relatively stayed in the status quo when it comes to progressing in the implementation of Chapter 23 of the acquis. Over the years it has made some incremental progress, which have not been particularly profound. What is important to highlight, is that Montenegro since 2020 has been displaying limited progress in implementing EC recommendations, which shows a slight decline in the overall trend of having some progress during the other years. In addition to that, the findings from the EC Progress Reports since the beginning of the negotiation process in 2013, display that Montenegro has remained moderately prepared to apply the EU acquis within the area of Chapter 23.

Summary of European Commission's general remarks for Chapter 24 – Justice, freedom and security

Similarly, yearly progress related to the implementation of Chapter 24 of the acquis has remained moderately constant, namely some progress has been made over the years. This progress however was not exponential, as it did not result in any major changes within the system. This in itself explains EC's comments on Montenegro being moderately ready for the application of the EU acquis in relation to this chapter. While theoretically, incremental progress over the years should lead to major changes, that has not been the case in relation to the application of the requirements of the acquis on Chapter 24. It is therefore necessary, to analyze the stagnant situation of Montenegro, regardless of the incremental progress made over the years, within Chapters 23 and 24 of the acquis, outlining the major roadblocks hindering effective progress and with respect to that recommend ways to move forward.

WHAT ARE THE STAKEHOLDERS SAYING ABOUT CHAPTER 23 AND 24 NEGOTIATION PROCESS?

In the following paragraphs to come, the statements and opinions of Montenegrin prime ministers, presidents of the European Commission (current and former), ambassador's to Montenegro, Chief Negotiator's of Montenegro with the EU, international experts, Head of the Working Group for Chapter 24, NGO representative, and the public on Montenegro's EU accession procedure, in particular its situation within the negotiation process for chapter 23 and 24, will be displayed.

a) PRIME MINISTERS OF MONTENEGRO

„We need to use the momentum and make a concrete step forward in the integration plan. All competent institutions must assume concrete responsibility for the realization of key priorities in order to meet the remaining provisional benchmarks in chapters 23 and 24.”⁶²

– 7th of October, 2022.

„Full delivery of results in Chapters 23 and 24 will be possible when all the institutions of the system have done their job, especially those directly in charge of fighting corruption.”⁶³

– 29th of June, 2021.



Dritan Abazović – Prime Minister of Montenegro (2022 – current)

62 DAN Portal. Abazovic: Institutions to take responsibility for meeting temporary benchmarks. <https://www.dan.co.me/vijesti/politika/abazovic-institucije-da-preuzmu-odgovornost-za-ispunjenje-privremenih-mjerila-5140041>

63 Analytics Portal. Abazović: Results in Chapters 23 and 24 possible when all institutions of the system do their job. <https://www.portalanalitika.me/clanak/abazovic-rezultati-u-poglavljima-23-i-24-moguci-kada-sve-institucije-sistema-budu-radile-svoj-posao>

„The strategic priority of this Government is the rule of law and the implementation of the principle of zero corruption. We are determined to implement comprehensive reforms from Chapters 23 and 24 and accelerate activities through a focused planning process and the implementation of dynamic plans for Chapters 23 and 24. I believe that in this way we will show that Montenegro remains steadfastly on the European course, and that our results will prove the transformative power of European integration and improve the lives of our citizens.”⁶⁴
– 29th of September, 2021.



Zdravko Krivokapić – Former Prime Minister of Montenegro (2020 – 2022)

64 Analitika Portal. Krivokapić: Rule of law is a strategic priority of the Government and the guiding principle of European integration. Link: <https://www.portalanalitika.me/clanak/krivokapic-vladavina-prava-je-strateski-prioritet-vlade-i-vodilja-evropske-integracije>

„Montenegro’s European perspective is quite certain. Strong messages were sent about that perspective and about the expectations that Montenegro will strongly continue its European integration, that it will respond to what are the current challenges and needs in that process, primarily in the field of strengthening the rule of law, which includes further reform of the judiciary, the fight against crime and corruption and of course the issue of media freedom. And we talked a lot about how to provide not only Montenegro but the entire Western Balkans with a certain economic perspective, especially in the context of the consequences caused by the coronavirus.”⁶⁵
– 14th of July, 2020.



Duško Marković – Former Prime Minister of Montenegro (2016 – 2020)

65 Vijesti. Marković: Evropska perspektiva Crne Gore sasvim izvjesna. Link: <https://www.vijesti.me/vijesti/politika/451005/markovic-uspjesna-posjeta-briselu-eu-priprema-vrijedan-paket-pomoci-regionu>

„We have opened 22 chapters, and the initial benchmarks have been met in seven chapters, most of which are considered the most demanding. By creating the preconditions for opening those chapters, Montenegro has shown that its administration is ready to carry out even the most complicated tasks.”⁶⁶ – 24th of December, 2015.

„Since the opening of Chapters 23 and 24, 47 reform laws have been adopted, thus effectively completing the normative framework in this area. We have also focused on the formation of special institutions - the Special Prosecutor’s Office, specialized units for the fight against corruption and organized crime. Numerous positive developments are evident in the work of the judiciary. Our judiciary is among the best in Europe, together with German, Austrian and Ukrainian, in terms of the percentage of solutions for the influx of civil cases.”⁶⁷

– 24th of December, 2015.

„Integration is the way to strengthen the stability of the region and that is why it is important to preserve the open-door policy. This is important both for Europe and for the stability of the Balkans.”
“Montenegro and other aspirant countries can fulfill their obligations on the way to the EU and NATO only with the understanding and help of European partners.” “We have 100% compliance with EU views. We achieved almost complete compliance with the EU acquis in this area.”⁶⁷
– 6th of May, 2015.



Milo Đukanović – Former Prime Minister of Montenegro (2012-2016)

66 RTCG. A successful year despite parliamentary obstructions. 24 December, 2015. <https://rtcg.me/vijesti/politika/114013/godina-uspjesna-uprkos-opstrukcijama-parlamenta.html>

67 Ministry of European Affairs. Steinmeier: We would like to see more examples like Montenegro. 6 May, 2015. <https://www.eu.me/stajnmajer-voljeli-bi-da-ima-vise-primjera-kao-sto-je-crna-gora/>

b) PRESIDENTS OF THE EUROPEAN COMMISSION

„Montenegro is the most advanced country in the EU accession negotiations. And we want that to continue. You (president) owe it to your people, we owe it together to our people. We, especially, owe it to those young people here in Montenegro, who dream of a European future. And they are right if they have that dream, we want that really to come true.”⁶⁸ – 29th of September, 2021



„The political dialogue is now necessary for Montenegro to make progress. To make progress on the rule of law, interim benchmarks and to move forward on the EU path. This also means making sure that there is no backtracking on earlier achievements. You have come a long way. You have done a great job. There was hard work behind it. It is the Montenegrin people who achieved that. So we have to be very careful that there is no backsliding on the early achievements, but that we trust the political forces and society to find the necessary consensus to overcome divisions and to preserve Montenegro as the multi-ethnic and tolerant country you are well-known for.”

- 29th of September, 2021

Ursula von der Leyen – President of the European Commission (2019 – present)

⁶⁸ European Commission. Statement by President von der Leyen on the occasion of her official visit to Montenegro. 29 September, 2021, https://neighbourhood-enlargement.ec.europa.eu/news/statement-president-von-der-leyen-occasion-her-official-visit-montenegro-2021-09-29_en

„The year 2025 is not a date that promises something, it is just a perspective we need to move towards. Reforms need to be implemented, some reforms may not have been as intensively applied as they should have, but the prime minister has convinced me with his optimism. I also note that Montenegro has made a lot of progress and that together we can and will do great things.”⁶⁹

– 27th of February, 2018



Jean-Claude Juncker - Former President of the European Commission (2014 – 2019)

⁶⁹ European Union External Action. European Commission President Jean-Claude Juncker visits Montenegro. 27 February, 2018. https://www.eeas.europa.eu/node/42430_en

c) AMBASSADORS TO MONTENEGRO

„The focus is now on the provisional benchmarks for Chapters 23 and 24.” “So there is nothing new, but only a stronger focus on the fact that Montenegro is at the forefront of this process and has opened all chapters. In that context, we must understand that the focus is on the rule of law, democracy, the fight against corruption, freedom of the media.”⁷⁰ – 24th of June, 2021



H.E. Dr. Robert Weber – Former German Ambassador to Montenegro

70 Aktuelno. Weber: The DF boycott brings a challenge and a crisis. 24 June, 2021, <https://www.aktuelno.me/english/weber-the-df-boycott-brings-a-challenge-and-a-crisis/>

„The process has slowed down (referring to Montenegro's EU accession progress), but it is important that there is no backsliding or stagnation.”⁷¹

– 13th of October, 2022.



„The first step out of the crisis - fill the four vacant seats in the Constitutional Court as soon as possible!”⁷² – 24th of January, 2023.

H.E. Peter Felten – German Ambassador to Montenegro (2022 – present)

71 Mina News. Felten: The EC report should not be discouraging for citizens. 13 October, 2022, <https://mina.news/vijesti-iz-crne-gore/felten-izvjestaj-ek-da-ne-bude-obeshrabrujuci-za-gradane/>

72 DAN. Felten: Montenegro has turned from a leader in the EU accession process into a problem. 24 January, 2023, <https://www.dan.co.me/vijesti/politika/felte-crna-gora-se-od-lidera-u-procesu-pridruzivanja-eu-pretvorila-u-problem-5157859>

„France is here to help Montenegro on a technical level as well, by cooperating with the prosecution, providing expertise to your administration and continuing the cooperation of the Ministry of European Affairs with the General Secretariat for European Affairs (SGAE) at the Cabinet of the Prime Minister of France.”⁷³ – 6th of June, 2022.



„That’s what President (Emmanuel) Macron told President (Jakov) Milatović with the wish that during his mandate there would be significant progress in the field of European integration. In order for that to happen, a functional parliament and a functional government are necessary. This is not just about with our good intentions. It is necessary for Montenegro to be able to make decisions and the sooner that happens, the faster Montenegro will be able to return to the European path. Rapid progress is within reach, it’s up to you to see.”⁷⁴ – 29th of April, 2023.

H.E. Christian Thimonier – Ambassador of the French Republic to Montenegro

⁷³ Me4.eu. France sees Montenegro as a serious candidate for EU membership. 6 June 2022, <https://www.eu.me/francuska-vidi-cmu-goru-kao-ozbiljnog-kandidata-za-clanstvo-u-eu/>

⁷⁴ Euronews. French ambassador in Podgorica: Montenegro should return to the European path. 29 April, 2023, [https://www.euronews.rs/evropa/region/85975/francuski-ambasador-u-podgorici-crna-gora-bi-trebalo-da-se-vrati-na-evropski-put/](https://www.euronews.rs/evropa/region/85975/francuski-ambasador-u-podgorici-crna-gora-bi-trebalo-da-se-vrati-na-evropski-put/vest)vest

d) CHIEF NEGOTIATOR’S WITH THE EUROPEAN UNION

„The fact is that we really paid special attention to everything that was on the plan of fulfilling the obligations we have in order to fulfill 83 temporary standards for these two chapters.” “It is also a fact that work was done to improve the law when it comes to fundamental human rights, reforms in the area of the legal system, strengthening the capacity of defenders of human rights and freedoms.” “We have the largest number of processed applications from asylum seekers, and this shows that what we have done together with the European Commission in the past years is yielding good results. You will agree that at this time, when migration is really shaking the EU, it is very important to show that we have a built system.”⁷⁵ – 28th of July, 2016.



Aleksandar Andrija Pejović – Montenegro’s former Chief Negotiator with the European Union (2011 – 2018)

⁷⁵ Sukovic, D. Pejović on chapters 23 and 24: Montenegro has so far implemented 80 percent of the activities.

Antena M. 28 July, 2016, <https://www.antenam.net/politika/3881-pejovc-cg-do-sada-realizovala-80-odsto-aktivnosti-ka-da-su-posrijedi-poglavlja-23-i-24>

„The opening of the last negotiation chapter was a positive signal and encouragement for us to continue at a more intensive pace towards closing the chapters. The rule of law must remain in the focus of the negotiating structure, because, especially at this stage of negotiations, progress in chapters 23 and 24 will determine overall dynamics of negotiations.”⁷⁶ – 25th of September, 2020.



Aleksandar Drljević – Montenegro’s former Chief Negotiator with the European Union (2018 – 2020)

⁷⁶ European Western Balkans. Popa: Montenegro will continue to have unequivocal EU support. <https://europeanwesternbalkans.com/2020/09/25/popa-montenegro-will-continue-to-have-unequivocal-eu-support/>

„The application of the strategic and legislative framework in various areas of Chapters 23 and 24 recorded uneven effects, since we have been most successful so far in the fight against organized crime (the number of organized crime cases that were investigated and prosecuted doubled last year, and the number of cases which were judged in the courts almost tripled), but also international cooperation in the field of justice and international police cooperation, which, among other things, contributed to the record seizures of narcotics in 2021.”⁷⁷ – 30th of January, 2022.



Zorka Kordić – Montenegro’s Chief Negotiator with the European Union (2020 – present)

⁷⁷ The Government of Montenegro. KORDIĆ FOR THE STANDARD: Internal readiness of Montenegro for EU membership by 2024 - priority selection of leading people in the judiciary and prosecution. 30 January 2022, <https://www.gov.me/clanak/kordic-za-standard-unutrasnja-spremnost-cg-za-clanstvo-u-eu-do-2024-prioritet-izbor-celnih-ljudi-u-provosudu-i-tuzilastvu>

e) INTERVIEWS

INTERVIEW #1:

Respect for European standards for the protection of human rights is a *condicio sine qua non* for belonging to the family of democratic European states. In this context, the execution of judgments of the European Court of Human Rights takes a special place, as this court is a corrective legal mechanism for improper adjudication at the domestic level. Bearing in mind the principle of subsidiarity, the court in Strasbourg is not a court of fourth instance, which gives domestic courts even greater responsibility because the focus of protection of human rights and freedoms is primarily on them. In order to do the job properly, it is necessary to have judges who, in addition to having knowledge of domestic law, understand and have excellent knowledge of European legal



standards and follow the development of the ECtHR practice, whose judgments are the source of law in the member states of the Council of Europe, including Montenegro as the youngest member. We need an independent and impartial judiciary, a successful fight against corruption and crime, and education at all levels of society. We need relevant knowledge and to develop awareness of the values and the system that we strive for. The path of transition is difficult for all actors, both for institutions and for individuals. With each new judgment of the Court in Strasbourg, Montenegro is closer to the European Union because, to start with, the legal standards set by the ECtHR should be fulfilled, and then we should count on further European integration. That is why we often hear that 'through Strasbourg, you go to the European Union'.

IVANA JELIĆ, JUDGE OF THE EUROPEAN COURT OF HUMAN RIGHTS

INTERVIEW #2:

The EU is more determined than before to move on and consolidate its influence in the Western Balkans, Tzifakis stated. However, in that same respect he does not think that all EU member states equally share the urge to quickly and decisively complete the region's EU accession. Some EU countries are more concerned about the "deepening" dimension of EU integration, he noted. Similarly, he said that there is no new reform dynamic in the Western Balkans, as semi-authoritarian Western Balkan leaders continue their rule in a "business as usual" mode. As a result, Western Balkan societies are entrapped between indifferent EU member states and regional leaderships with reform aversion, he concluded.



At the Western Balkans level, similar patterns can be found when speaking of the EU negotiation process in Chapters 23 and 24. In relation to this, Tzifakis stated that if we reviewed the Commission's annual progress reports, we would notice that, with some variation, all Western Balkan countries face the same challenges in the rule of law sector such as weak judiciaries, endemic corruption, weak independent institutions, and lack of media freedom.

The successful implementation of the rule of law, especially in countries where it is merely theoretically existent, requires a combination of a few factors. As Tzifakis noted, it requires a different mentality where local leaderships take ownership of reforms and carry them out with the support of civil society in order to modernize their countries and improve political-economic conditions for the citizens. He added that rule of law reforms should not be about ticking boxes and satisfying EU bureaucrats and that the region as a whole (including Montenegro) should move from procedural compliance with EU conditions to the voluntary internalization of liberal democratic rules of norms.

Taking under account the slow and relatively stagnant process of the Western Balkans as whole when speaking of accession into the EU, a process this which Montenegro leads, Tzifakis was asked on the potential ways forward. In relation to that he stated that the defeat of Đukanovic and his withdrawal from Montenegro's central political scene after three decades has generated some hope about the prospects of the country's EU accession. Additionally, he said that Montenegro can indeed become a "success story" in the region if a large pro-reform coalition of political and social forces emerges in the country's political system that moves on with determination to carry out the necessary reforms.

NIKOLAOS TZIFAKIS - JEAN MONNET CHAIR IN EU FOREIGN POLICY AND THE WESTERN BALKANS

INTERVIEW #3:

Montenegro is still in the best position to be the first to join the EU. The war in Ukraine and the new geopolitical reality can influence us to speed up the accession process, but only if we fulfill what is expected of us in order to “deserve” membership. We have missed years and opportunities, and therefore there is no justification for further delaying the fulfillment of the most demanding conditions from the “European agenda”, which will primarily enable the functioning of the rule of law, and better living conditions for our citizens. We are at least four years of dedicated work and a sincere will far to reform ourselves from meeting the conditions in the accession process.



The war in Ukraine has returned the enlargement process to the priorities of the EU, but apart from rhetorical commitment and several important decisions for our neighbors, there are no essential changes in the approach, and we are still looking for a framework that would enable more concrete benefits for the citizens of Montenegro (and Western Balkans) and for strengthening democracy. The European Union has had a lot of ups and downs in the implementation of the enlargement policy, which has influenced the question of its credibility, but also the fact that we are still waiting for more decisive steps and the inclusion of the countries of the Western Balkans in its policies.

Given that we have been negotiating membership for 11 years and have not received final benchmarks under Chapters 23 and 24, any potential improvements must be seen as insufficient. Comparing the situation in the country in 2012 and today, we can talk about greater transparency, better laws in some areas, better procedures. However, the rule of law is still a concept that is almost utopian, and its absence enables the selective application of laws in all areas.

Montenegro is stuck in the process of negotiations, and in order to enter its final phase, it must fulfill temporary criteria related to the appointment of judicial office holders, the improvement of media laws, the improvement of the work of the Agency for the Prevention of Corruption, the processing of war crimes, the processing of cases of attacks on the media and a number of other conditions. I insist that this is the most important thing in the process, because without progress in 23 and 24 there is no overall progress in the negotiation process. Of course, in parallel with this, work should be done on meeting the final benchmarks in other chapters, especially within chapter 27, which refers to environmental protection and climate change, and there are a total of eight of them.

We are about halfway through the translation of the EU legal acquis, but it is not half the work done, because there is additional work to be done regarding the verification of the translation, due to professional terminology. The Ministry of European Affairs (MEA) has foreseen funds in the 2023 budget for these jobs, but I am not aware to what extent this is being implemented now. The main challenges are strengthening the capacity of the Directorate for translation within the MEA (filling all systematized positions), engaging specific profiles, but also finding a sustainable model for quality control. Through various funds, the European Union allocated more than 500 million euros for reforms in Montenegro, part of which was allocated to numerous sectors that affect the rule of law. Likewise, the member states provide significant expert support by area, and in accordance with the analysis of needs, which was made on the basis of inputs to the institutions.

JOVANA MAROVIĆ – FORMER MINISTER OF EUROPEAN AFFAIRS

INTERVIEW #4:

Not a day goes by, in the last ten or more years, without someone mentioning negotiation chapters 23 and 24, as well as “temporary measures” in the public space, although, unfortunately, the topic they are talking about often has no closer connection with these two, perhaps the most important negotiation chapters in the euro-integration process. I see the reason for such performances in the speaker’s great desire for Montenegro to be a part of the “European family of nations” as soon as possible and the need to speed up and bring our unjustifiably long negotiation process to an end. And that is impossible without meeting temporary criteria.



The temporary benchmarks for Negotiating Chapter 23 (PP 23) represent guidelines for the actions of all institutions dealing with the integration process. But also wider. Temporary benchmarks are a “ticket” for entering the European Union, but a “ticket” that can only be earned through sincere commitment and connection. The work of the Working Group for PP 23 is based on a faster and more efficient flow of information, which is delivered by representatives of institutions, i.e. members of the Working Group. In addition, colleagues from the civil sector give a special “note” to the discussions and work of the Working Group, and without their presence the work of the Working Group for PP 23 would be meaningless.

But despite a clearly established institutional structure, at the level of the entire country, which should serve us for a faster and more efficient European integration process, the fact is that our negotiations with the European Union have been going on for ten years, and that the progress is modest compared to the expectations of all of us, but also of the majority of citizens. Even I expected more. But one should be realistic and aware of what scope the Working Group for PP 23 itself can reach?

The Working Group does not have any jurisdiction over the impartiality or independence of the work of the institutions, i.e. their representatives who are members of the Working Group, as well as over the dynamics of their work.

We are here to establish better frameworks for the fulfilment of the temporary standards, but also to make the greatest efforts to finally reach a satisfactory level of the rule of law and the legal state. The working group will continue to make its modest contribution in the mission of earning the already mentioned “card”. And we will continue to hope that Montenegro, with our help, will become the first next member state of the European Union.

BOJAN BOŽOVIĆ – HEAD OF THE WORKING GROUP FOR CHAPTER 23

INTERVIEW #5:

For the needs of this publication, when referring to the implementation process of interim benchmarks related to Chapter 24, Radonjić stated that he appreciates that the majority of interim benchmarks, out of a total of 38 that were set out in Chapter 24, were fulfilled since the opening of negotiations within this chapter in December of 2013. He said that additional efforts are primarily needed in the areas of police cooperation and the fight against organized crime.



Strategically, the legislative and institutional framework has been largely reformed in accordance with European standards, as evidenced by the fact that over 150 legal texts have been amended or adopted in this chapter since the beginning of the negotiations, and new institutions such as the Special State Prosecutor's Office, which works in collaboration with the Special Police Department, have been established according to Radonjić.

However, when it comes to implementing European values and best practices on the ground, there is significant room for improvement. In relation to **migration**, Radonjić stated that the Working Group recommends continuing to communicate regularly with countries of origin, and exploring possible ways of cooperating with these countries to address readmission issues.

In the field of **asylum**, Radonjić said that the working group discussed the EC's concerns regarding the challenges faced by persons under international protection in accessing jobs, social services, and learning the Montenegrin language and additional efforts are being made to provide Montenegrin language courses and help these individuals integrate into the labor market, he added.

In the area of **police cooperation and the fight against organized crime**, he states that despite some progress, last year's EU recommendations regarding police cooperation and the fight against organized crime, mostly remained in force.

In relation to the **visa policy and external borders and Schengen**, Radonjić stated that Montenegro has continued to align with the EU's visa policy, but it is not yet fully aligned.

In the area of **judicial cooperation system in civil and criminal matters**, progress has been made, but there are ongoing calls to join certain international agreements, which negatively impact the overall situation.

For the successful implementation of Chapter 24, Radonjić stated that it is crucial to have strong political determination and will, especially at the highest level to carry out key reforms in this area.

MILOŠ RADONJIĆ – HEAD OF WORKING GROUP FOR CHAPTER 24

INTERVIEW #6:

The role of NGO's is of particular importance. Maraš stated that non-governmental organizations (NGOs) in Montenegro are one of the groups in society that have contributed the most to all positive processes in the field of European integration, as well as integration into the NATO alliance. He added that NGOs, jointly with independent media, have consistently pointed out key social problems that hindered integration and whose resolution was necessary for progress. However, both then and now, the government has mostly responded to these proposals with criticism, clearly demonstrating a lack of political will to fundamentally change society for the better, merely to pursue petty partisan interests, he remarked.



Maras states that the majority of the negative issues that society once fought against continue to be significant problems today and that the dysfunction within institutions, state capture by political parties, collusion with organized crime are just a few of the abnormalities that keep this society bound by narrow interests.

During a certain period, Maraš was a member of the Working Group for Chapter 23, and at that time, according to him cooperation was dynamic, primarily driven by the civil sector. He believes that cooperation process continues to improve as it distances itself from political decision-makers and moves towards technocrats responsible for the process itself. However, in the end the results primarily depend on decision-makers and their political will, he stated.

He stated that “just as before, when obstruction was carried out by the Democratic Party of Socialists (DPS) and its partners, it seems to be the case today that parties in the new government are more inclined to satisfy their own interests rather than consider the bigger picture and allow society as a whole to thrive.”

Simply put, at this moment, no political entity appears willing to relinquish the privileges of power, particularly party-based employment and the appointment of individuals with questionable qualifications, despite the predominantly negative impact it has on the process, he added. In the end, he concluded that the fight against corruption, rule of law, media freedom, and human rights remain crucial areas in which Montenegro requires fundamental reforms.

VUK MARAŠ – DIRECTOR OF BALKAN INVESTIGATIVE RESEARCH NETWORK (BIRN)

INTERVIEW #7:

In the last ten years, Montenegro has significantly improved the legislative and strategic framework of public policies important for the position of persons with disabilities. However, despite this, we have witnessed that the legal regulations are not implemented adequately, and persons with disabilities still do not have good conditions at the workplace, the possibility to live independently, to have equal opportunities and to fully participate in the life of their community on an equal basis with others.



Bearing in mind that European integration is a strategic goal of the Government of Montenegro, in the coming period it is necessary to focus activities on improving the accessibility of public facilities and public areas, access to social protection, justice and legal protection. By implementing different sets of actions and initiatives, conditions would be created for the independent life of persons with disabilities and life outside of institutions, active participation in the community, equal opportunities for education, work and employment, access to health care and other services, as well as the possibility of independent adoption a decision about one's own life.

It is also necessary to continue harmonizing legal regulations with the UN Convention on the Rights of Persons with Disabilities. In order to monitor the adoption of new, i.e. improvement and implementation of existing regulations, it is necessary to put into operation the Council for the Care of Persons with Disabilities as soon as possible. In addition to representatives of the Government, representatives of non-governmental organizations dealing with this topic should also participate in it. Given that the Council has not been functioning for several years, and knowing that with its proposals and suggestions brought together by representatives of the government and representatives of non-governmental organizations, it can very well influence decision-makers and the creation of policies in this area, the start of work of this body as soon as possible deadline represents one of the most significant steps for the position of persons with disabilities.

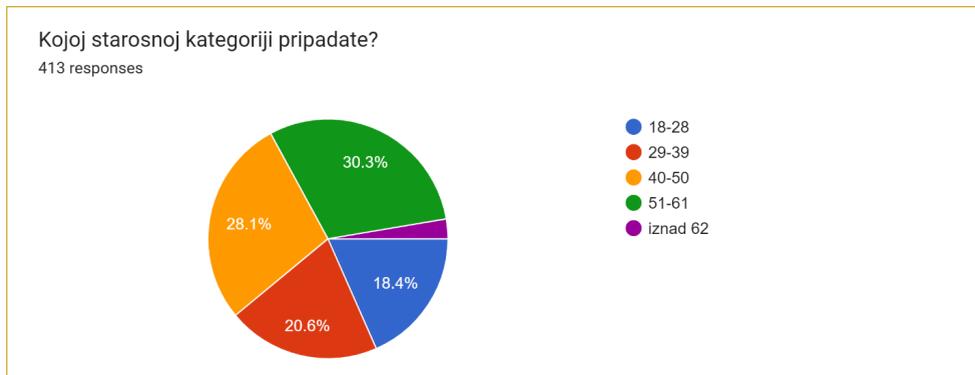
DEJAN BAŠANOVIĆ – SECRETARY GENERAL OF THE ASSOCIATION OF PARAPLEGICS IN MONTENEGRO

f) PUBLIC OPINION – QUESTIONNAIRE RESULTS

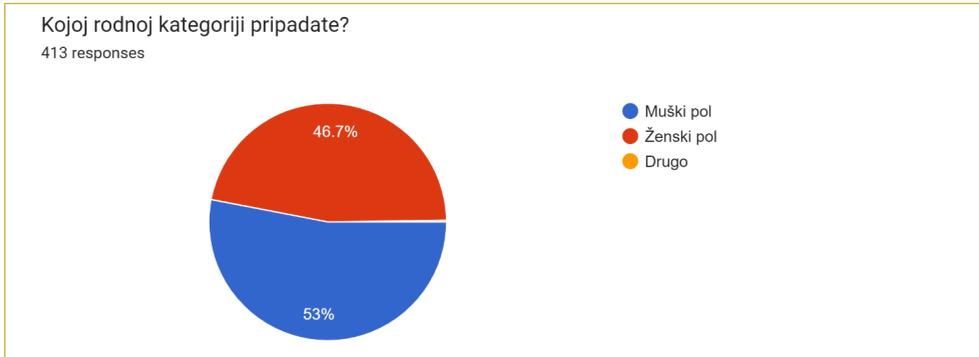
In order to get a complete view of Montenegro's EU accession procedure, in particular its situation within Chapters 23 and 24, it was necessary to obtain the public opinion on the matter. As such, the distribution of online questionnaires was done, primarily through the social media platforms of the organization. A total of 413 individuals responded to the questionnaire.

The first three questions were composed under the intent of obtaining the demographics of the respondents. The majority of the respondents falls into the 51-61 age category (30.3%), followed by the 40 – 50 age category (28.1%), 29 – 39 age category (20.6%), 18 – 28 age category (18.4%), and the remaining over 60 age category (2.7%) (see fig. 1) From 413 respondents, 53% are male, 46.7% are female, and 0.2 % other respondent (see fig. 2). With regards to the region where they are located in Montenegro, 47.5% were located in the central region, 38.3% were located in the southern and 14.3% in the northern region (see fig. 3).

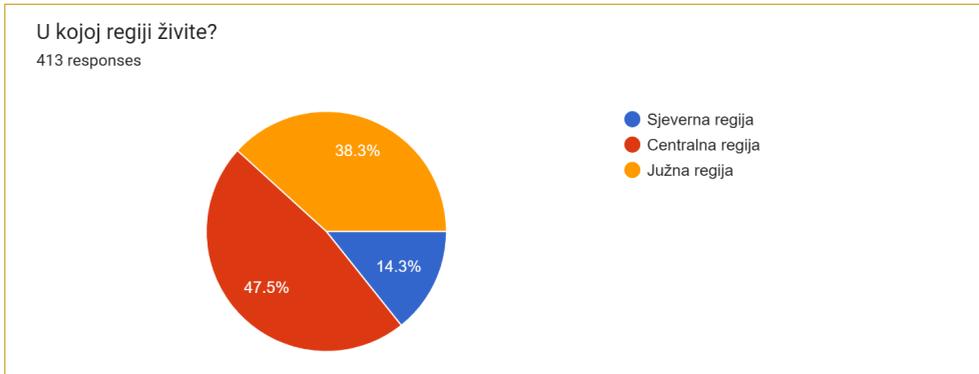
The demographic results display that there was more or less equal representation in terms of age, gender and the living region, with lesser representation of a) respondents of over 62 age category and b) respondents residing in the northern region of the country.



➤ **Figure 1. – What age category do you belong to?**

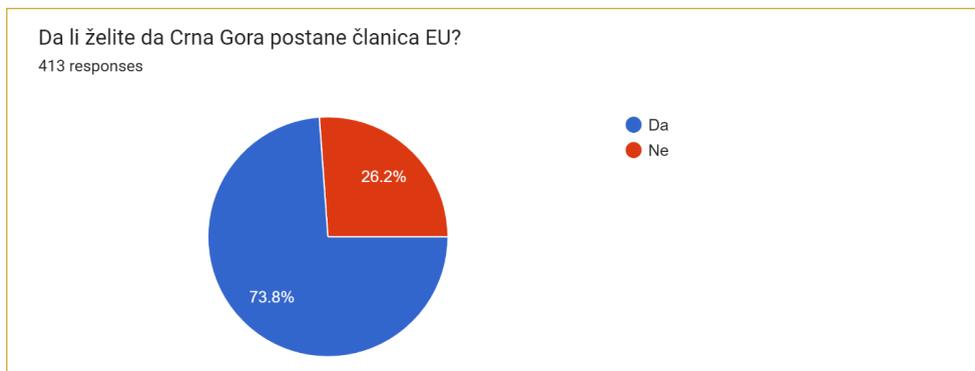


➤ **Figure 2. – What gender category do you belong to?**

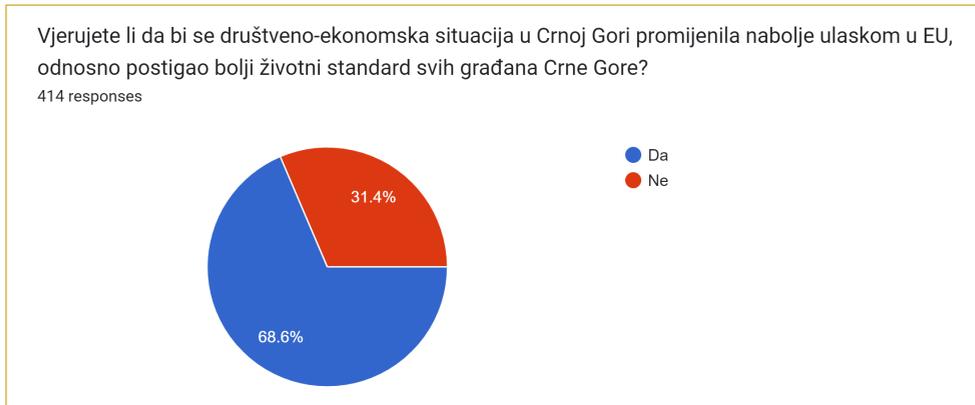


➤ **Figure 3. – Which region do you live in?**

While the answers obtained from 413 respondents do not necessarily represent the general public opinion of Montenegro, they stand as a great indicator of showing potential trends on a particular matter. This being said, in relation to their willingness of seeing Montenegro become a member of the EU, 73.8% responded that they would like to see Montenegro in the EU, whereas the remaining 26.2% would not (*see fig. 4*). As can be seen, the positive public opinion on joining the EU remains solid. A main reason on this positive trend, could possibly be connected to the respondents belief that the socio-economic situation of Montenegro would change for the better upon accession to the EU, out of which 68.8% responded that it would, whereas the remaining 31.2% responded that it would not (*see fig. 5*).



➤ **Figure 4. – Do you want Montenegro to become a member of the EU?**

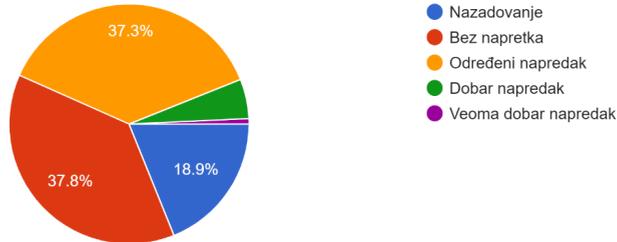


➤ **Figure 5. – Do you believe that the socio-economic situation in Montenegro would change for the better by joining the EU, that is, a better standard of living for all Montenegrin citizens would be achieved?**

In relation to Chapter 23, specifically on the progress that has been made within this Chapter since its opening for negotiations in 2013, 37.7% said that there was no progress, 37.3% said there was some progress, 18.9% said that there was backsliding, 5.3% said that the progress was good, and 0.7% said there was very good progress (see fig. 6).

Kako ocjenjujete napredovanje Crne Gore u poglavlju 23 “Pravosuđe i temeljna prava” u posljednjih 10 godina? (izaberite jedan od ponuđenih odgovora)

413 responses

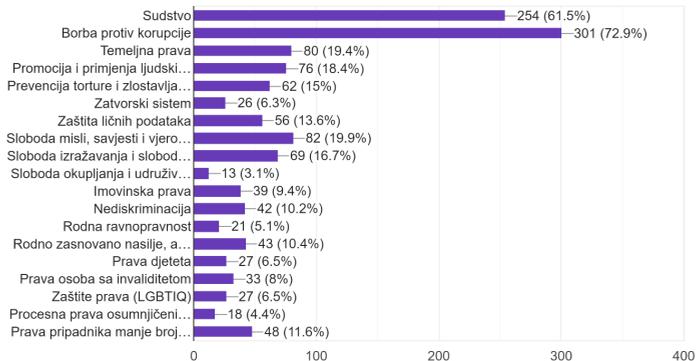


➤ **Figure 6. – How do you assess the progress of Montenegro in chapter 23 “Judiciary and fundamental rights” in the last 10 years? (choose one of the given answers)**

Additionally, when asked on their opinion regarding the most demanding sub-areas of Chapter 23 that Montenegro needs to work upon in the upcoming period, the majority said that the fight against corruption (72.9%) and the judiciary (61.5%) will stand as the most demanding areas which need to be addressed properly (see fig. 7). The public also believes there are other areas that will pose significant challenges for Montenegro. However, these are significantly lesser in degree than the fight against corruption and the judiciary according to them.

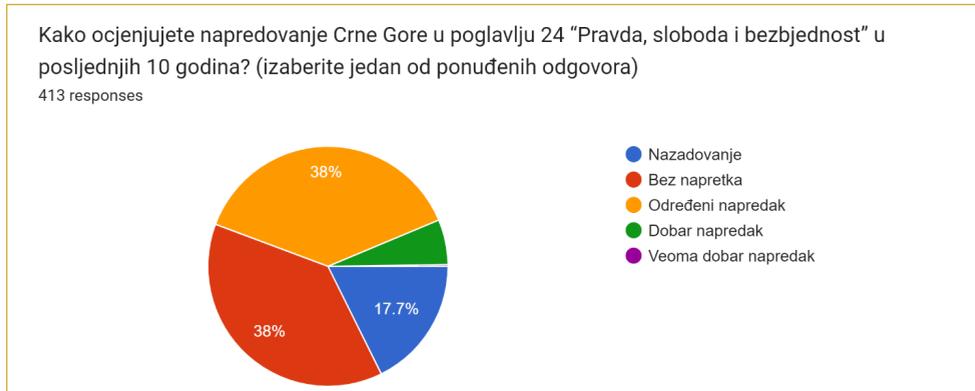
Koju oblast u okviru poglavlja 23 “Pravosuđe i temeljna prava” smatrate najizazovnijom u narednom periodu za Crnu Goru? (izaberite najviše tri odgovora od ponuđenih odgovora)

413 responses



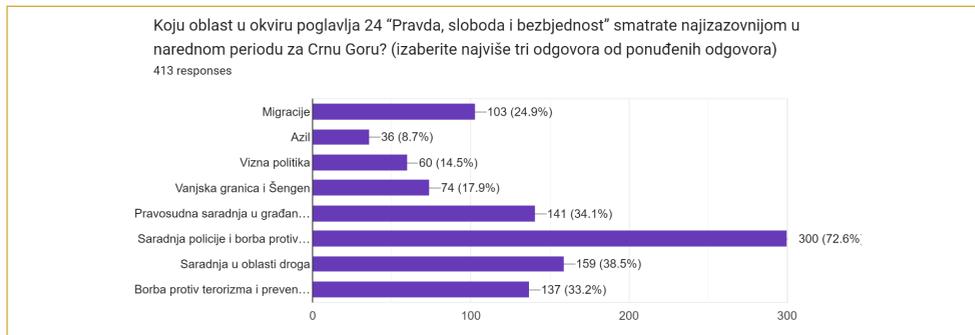
➤ **Figure 7. – Which area within chapter 23 “Judiciary and fundamental rights” do you consider to be the most challenging for Montenegro in the coming period? (choose a maximum of three answers from the answers offered)**

The public's opinion regarding Montenegro's progress within Chapter 24 for the past 10 years is equally divided between two groups (in terms of percentage). This being said, 38% of respondents have said that there was no progress, 38% have said there was some progress, 17.7% have said there was backsliding, and only 6.1% have said there was good progress over the past 10 years in relation to Chapter 24 (see fig. 8).



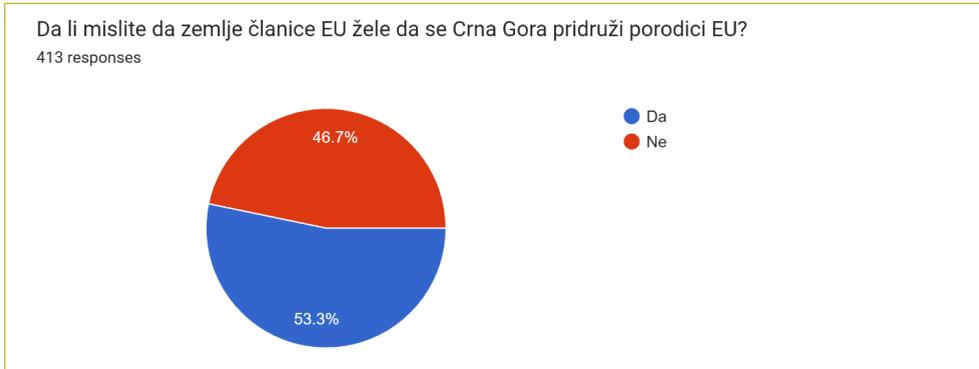
➤ **Figure 8. – How do you assess Montenegro's progress in Chapter 24 "Justice, freedom and security" in the last 10 years? (choose one of the given answers)**

Police cooperation and fight against organized crime are seen as the most challenging areas in the eyes of the public for Montenegro in the upcoming period, according to questionnaire results. Specifically, 72.6% have said that these two areas will be the most demanding, followed by 38% that have said cooperation in the field of drugs, 34.1% have said judicial cooperation in civil and criminal matters, 33.2% have said combating terrorism and preventing radicalization leading to violent extremism and terrorism, as well as smaller percentages in other remaining sub-areas within Chapter 24 (see fig. 9).

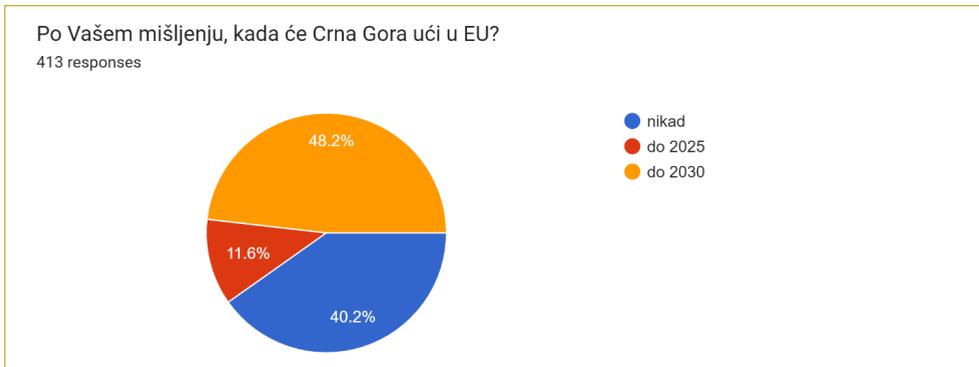


➤ **Figure 9. – Which area within chapter 24 "Justice, freedom and security" do you consider to be the most challenging for Montenegro in the coming period? (choose a maximum of three answers from the answers offered)**

In relation to the public's opinion on whether EU Member States want Montenegro to join the EU family, 53.3% have said yes, whereas the remaining 46.7% did not share the same opinion (see fig. 10). In addition to that, when speaking of Montenegro's actual accession period, 48.2% of respondents believe that Montenegro will accede by 2030, 40.2% respondent with 'never', and the remaining 11.6% said that Montenegro will accede by 2025 (see fig. 11).



➤ **Figure 10. – Do you think that EU member states want Montenegro to join the EU family?**

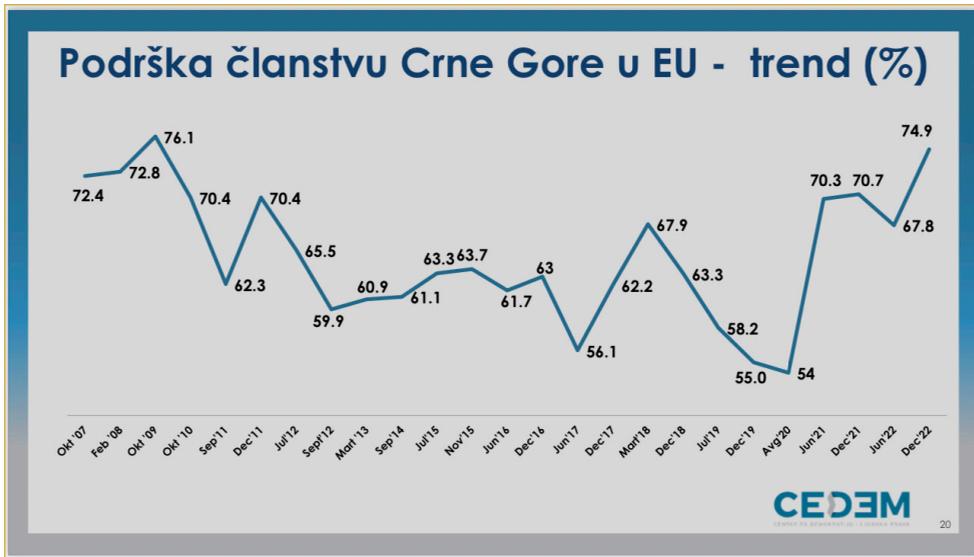


➤ **Figure 11. – In your opinion, when will Montenegro enter the EU?**

Summary of questionnaire results

Referring to the abovementioned statement, even though the answers obtained from 413 respondents do not necessarily represent the general public opinion of Montenegro, they stand as a great indicator of showing potential trends on a particular matter. It can be said that Montenegro's EU accession

pathway is still welcomed by the public, and that the majority believe that Montenegro will eventually accede into the EU, if not by 2025 then most likely by 2030. An interesting outcome of this interview was also the majority opinion on whether EU states want Montenegro to join the EU family, which was divided by a thin threshold, displaying that there is a significant percentage of respondents that do not believe that member states want to see Montenegro in the EU. In addition to that, going back to Chapters 23 and 24, the public's opinion is highly in alignment with what has been shown by the EC Progress Reports – i.e. most of them believed that over the span of 10 years since the negotiations began in relation to Chapters 23 and 24, there was little to no progress in both of these chapters. Within these, the fight against corruption, judiciary, police cooperation and the fight against organized crime represent the major challenges that Montenegro will need to address properly in the coming period.



V. CONCLUSION AND RECOMMENDATIONS

This report began by elaborating on the Context of Montenegro's EU accession procedure, giving a brief overview of the European Union and how it came to be, after which a focus on the accession procedure of Montenegro was given. Within this, important milestones were displayed, beginning with the year 2007 up until 2022 (as this is the last year that information could be derived from). After the Context section, the importance of Chapters 23 and 24 of the EU acquis when speaking of Montenegro's EU accession procedure was displayed and elaborated upon. The elaboration began by examining Chapter 23 and Chapter 24 individually through their respective sub-areas and what these mean in terms of implementation for Montenegro according to EU standards.

In the Analysis section, which represents the main part of this report, a few areas were covered. Firstly, a detailed view upon European Commission reports regarding Montenegro was conducted. Both Screening (2012) and Progress Reports (2013-2022) were analyzed. By analyzing the Screening Report of 2012, which was the last one to be developed by the EC, as Montenegro began accession negotiations one year after, namely in 2013, an overall overview on Montenegro's readiness to apply the acquis within its legal framework was given, out of which EC recommendations related to Chapters 23 and 24 were clearly outlined. In relation to Progress Reports, these covered the period from 2013 up until 2022, and were focused on the EC's assessment of Montenegro's annual progress in the implementation of necessary reforms within Chapters 23 and 24 of the acquis. The information obtained from EC Progress Reports concluded that since the opening of accession negotiations with regards to Chapters 23 and 24, Montenegro has stayed primarily on a constant trajectory, with limited progress in the implementation of interim benchmarks for both Chapters. Similarly, considering the limited progress over the years, the EC has remarked that Montenegro remains moderately prepared to apply the EU acquis in relation to Chapters 23 and 24.

Additionally, in the Analysis section, it was of paramount importance to display what the various stakeholders were saying in relation to these two chapters and the EU accession pathway in general. In order to obtain an overall picture regarding this, this part of the Analysis was divided between a) what the prime ministers (4 in total) have said over the years since the accession negotiations began, b) what the presidents of the European Commission (2 in total) have said, both current and former, c) what different ambassadors to Montenegro (3 in total) have stated, and d) what the last three Chief Negotiator's of Montenegro with the EU (3 in total) have said. In addition to these, in order to enrich this part even further, e) interviews were conducted with three individuals, all of which have different expertise on the topic of EU accession and Chapters 23 and 24, and f) the public opinion was obtained through electronically distributed questionnaires. The information obtained from the mixed-research methodological approach is of paramount importance, as it has provided clarification on i) what has been done, ii) why we have predominantly remained in the status quo, and iii) the ways forward in relation to the implementation of Chapters 23 and 24 since the beginning of the negotiations process.

The main issues in the implementation of interim benchmarks from Chapters 23 and 24 of the *acquis*, as according to the findings from the Analysis section of this report revolve around:

- ✦ **the judiciary**, in which reforms have been stagnant, specifically when speaking of the last judicial appointment at the Constitutional Court, the process of which is reliant on the majority vote in the Parliament. This process of appointment is problematic itself as it is very political in nature, and as such may hinder the independence, impartiality and integrity of the judiciary. In addition to this, concerns remain on the effectiveness of institutions and the strengthening of Judicial and Prosecutorial Councils.
- ✦ **the fight against organized crime and corruption**, which has been an integral issue for Montenegro over the years. The limited progress within this field displays that efforts need to be enhanced in order to fulfill the Commission's recommendations in their entirety. Within this area, the Commission particularly welcomed the work of the Anti-Corruption Agency (ACA), but stressed the need to increase its capacities and ensure impartiality and integrity in the future. When it comes to the fight against organized crime, while there has been some progress made, efforts need to be enhanced and the EC recommendations from the previous year still apply. Specifically, "the track record of court decisions on tobacco smuggling and money laundering, the use of financial investigations and the capacity to confiscate the proceeds of crime need to be strengthened"⁵¹, according to the EC.
- ✦ **freedom of expression**, in particular **media freedom** has shown limited progress by the side of Montenegro in relation to the adoption of the EC recommendations. While there were improvements on the legal framework regarding the protection of journalists and media workers, the judicial follow-up on cases of particular importance is rather ineffective and needs to be addressed properly. Montenegro needs to increase efforts in establishing a solid legal system for the full protection of journalist and workers within the media industry, which is in alignment with the legal framework and the media policy of the EU *acquis*.
- ✦ **fundamental rights**, emphasizing on the protection of the human rights of vulnerable groups, i.e. Roma and Egyptian population, persons with disabilities and LGBTQ community. These groups were particularly vulnerable towards hate speech, discrimination and hate-related crimes. Increased number in femicides, violence against children and gender-based violence are matters of profound concern that need to be addressed in the upcoming period.⁵¹

Limited progress has been made in other sub-areas within Chapters 23 and 24, and efforts need to be increased within those areas as well. The above-mentioned however, represent the key areas that need to be addressed properly and in timely manner, so that Montenegro can ensure the effective continuation of the EU accession process. Therefore, in light of the above-mentioned, we recommend the following:

Note: The recommendations have been aligned with the Commission's recommendations deriving from the annual progress reports on Montenegro, the implementation of which as has been pointed out many times throughout this report, remains particularly valid in accelerating accession negotiations within Chapters 23 and 24 of the acquis.

JUDICIARY

- ✦ ensure the establishment of necessary conditions for the appointment of key judicial positions based on merit, which includes members of the Judicial Council, the Supreme State Prosecutor, and judges at the Constitutional Court;
- ✦ address all of the Council of Europe Group of States against Corruption (GRECO)⁷⁸ and Venice Commission⁷⁹ outstanding recommendations in order to effectively ensure the professionalism and autonomy of the judiciary;
- ✦ enhance the “independence, accountability, integrity and impartiality of the justice system by improving the institutional performance and operational capacity of the Judicial and Prosecutorial Councils” and by effectively reviewing and implementing “the disciplinary and ethical framework for judges and prosecutors to strengthen its objectivity, proportionality and effectiveness”⁵²;
- ✦ adoption and the implementation of new measures for the “rationalization of the judiciary”⁵², as well as the implementation of the ICT strategy with the aim of increasing the efficiency of the judiciary.

FIGHT AGAINST CORRUPTION

- ✦ examine the existing legal framework and enhance the capacities of institutions in order to prevent and combat corruption effectively. Additionally, focus on improving financial investigations, the seizure and confiscation of assets, in alignment with international standards, the EU acquis, and best European practices;
- ✦ improve the track record on corruption, including high-level corruption, by imposing effective sanctions, and take concrete measures to improve the use of plea bargain agreements in exceptional cases for a more transparent, credible, deterrent and consistent sanctioning policy and criminal justice response⁵²;

78 GRECO. Fifth evaluation round on Montenegro. Council of Europe, 25 October 2022, <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-ii/1680a8a106>

79 Venice Commission. Montenegro. Council of Europe, <https://www.venice.coe.int/webforms/documents/default.aspx?country=120&year=all&other=true>

- ✦ implement a new strategic framework that includes the incorporation of integrated mechanisms to prevent and combat corruption, thus ensuring overall consistency, and enhancing coordination and cooperation among institutions.

FIGHT AGAINST ORGANIZED CRIME

- ✦ sustain the improvement of the effectiveness of criminal investigation by creating a compatible system with a unified search function and expanding the workforce of investigators and experts in critical domains like financial investigations, cybercrime, forensics, and specialized investigative techniques;
- ✦ resolve the prolongation of trials and the postponement of cases in organized crime proceedings, while fostering better cooperation between courts and the prosecution regarding fundamental legal principles like money laundering and evidence quality.
- ✦ strengthen the “strategic monitoring of the criminal justice system by establishing a centralized database of organized crime and high-level corruption, collected from all relevant authorities, for analysis and policy-making purposes.

FUNDAMENTAL RIGHTS

- ✦ revise the legal framework to increase protection against discrimination, domestic violence, hate crimes and speech, and to promote the fundamental rights of vulnerable groups in particular, in alignment with international standards, conventions and the best European practices;
- ✦ increase collaboration among institutions to achieve effective and efficient protection against various forms of discrimination, improved access to justice, complete enjoyment of procedural rights, and free legal assistance for victims of human rights violations and crimes. This is particularly important for vulnerable groups such as children, women, minority communities (including Roma and Egyptians), and persons with disabilities;
- ✦ guarantee the full functionality of the Constitutional Court and promote consistent interpretation of European Court of Human Rights (ECtHR) case law, European human rights standards, and international norms across the entire court system of Montenegro.

FREEDOM OF EXPRESSION: MEDIA FREEDOM

- ✦ enhance the effective protection of journalists and other media personnel by ensuring comprehensive and efficient judicial pursuit of threats and assaults, including unresolved cases from the past.
- ✦ facilitate the process of revising media legislation and developing a media strategy by taking part in inclusive dialogues with media representatives and civil society. In doing so, also ensure that these efforts align with the EU acquis and European standards that are of relevance to this topic.

THE GOVERNMENT OF MONTENEGRO

- ✦ European integration must be at the top of the priorities of the 44th Government of Montenegro.
- ✦ Immediately after the election of the new Government, determine the negotiating structure, appoint the main negotiator and intensify the work of all working bodies in the negotiation structure and regularly report to citizens on what has been achieved.
- ✦ Set a deadline for closing all chapters by the end of 2024.
- ✦ Sanction all responsible persons who, through their inaction or ignorance, make it difficult to fulfill obligations of Montenegro in European integration process.
- ✦ Create all the conditions for a more effective fight against corruption and organized crime within its competences.
- ✦ Make a full contribution to judicial reforms by proposing legal solutions that are in line with the EU standards.
- ✦ Lobby in member countries for the EU enlargement
- ✦ Undertake all activities within the scope of their competences, and all with the aim of fulfilling all obligations from the EU agenda in order for Montenegro to fulfill all conditions for the EU membership by the end of the full mandate of the 44th Government Montenegro.

THE PARLIAMENT OF MONTENEGRO

- ✦ The Parliament of Montenegro, which will be constituted after the extraordinary Parliamentary elections in 2023, must take a more active role in the EU integration process in accordance with its competences and make maximum use of its control function.
- ✦ The state's interests must come first for MPs, and there must be no lack of honest dialogue between them in order to reach an agreement on all open issues, such as, among other things, the selection of credible and professional people for the highest positions in the judiciary.
- ✦ After the extraordinary Parliamentary elections in 2023, the Committee for European Integration of the Parliament of Montenegro must take a more active role in the process of European integration and not as in the current convocation when it held only 16 sessions, the last one on 27 July 2022.
- ✦ Organize control, consultative hearings and thematic sessions in order to determine the causes for possibly weaker results in European integration and to address the responsibility for such a situation.
- ✦ Adoption of conclusions after holding control, consultative hearings and thematic sessions and monitoring their implementation.
- ✦ Calling to accountability of all those who are responsible for the possible bad situation of European integration.
- ✦ Through the adoption of legal solutions, which are in accordance with the EU standards, make a full contribution to the reform of the judiciary.



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