IMPULSE

Friedrich Ebert Stiftung

Montenegro in Focus

A Frontrunner Without a Functioning Rule of Law

Montenegro on its EU path

Montenegro is widely regarded as the most advanced EU candidate country in the Western Balkans. It applied for EU membership in 2008, received candidate status in 2010, and formally opened accession negotiations in 2012, marking a key milestone in its European trajectory.

Between 2012 and 2026, Montenegro opened all 33 negotiating chapters, signalling strong formal alignment with the EU framework. However, progress in closing them has been slow and uneven. So far, only 14 chapters in 14 years (around 42%) have been provisionally closed, with limited acceleration in recent years despite renewed EU enlargement momentum.

The Government's ambition to close all remaining chapters by the end of 2026 appears increasingly unrealistic, even in this favourable geopolitical context and amid the European Commission (EC) renewed emphasis on enlargement, where Montenegro continues to be presented as a key test case for a credible accession process. Failure to meet this objective would primarily reflect a lack of genuine commitment on the part of the ruling majority, rather than constraints imposed by EU institutions or Member States.

Namely, at the core of this gap between ambition and delivery are persistent structural challenges, particularly in political stability and the rule of law, including judicial independence, anti-corruption performance, and the fight against organised crime. Although Montenegro continues to receive strong encouragement from Brussels and formally reiterates its commitment to EU integration, concerns persist about the consistency and depth of political will within governing structures, which are characterised by multiple veto players. Reform implementation is often patchy, with a modest track record in both key rule-of-law areas and institutional strengthening, accompanied by the widespread misuse of public resources for party and particular interests.

In parallel, the role of opposition actors and civil society, especially critical voices, remains constrained in meaningful participation in reform processes. As a result, EU integration is often perceived as partially formalistic and, at times, instrumentalised in domestic political competition rather than pursued as a substantive reform agenda.

Formal Reform Without Institutional Transformation

The rule of law is a central condition of Montenegro's EU integration, covering judicial independence, anti- corruption mechanisms, and institutional accountability. Although extensive reforms aligned with EU standards have been adopted, the EC and civil society continue to highlight a gap between formal compliance and practical implementation.

This gap is especially visible in the judiciary, where decades of reform have created a largely complete framework, but not stable independence, efficiency, or public trust.

More than two decades after judicial reforms began, Montenegro has largely built the legal and institutional basis for an independent judiciary, yet changes remain mostly formal rather than substantive. The process has included constitutional amendments, the establishment of Judicial and Prosecutorial Councils, and multiple strategies and action plans. Still, key structural issues persist, including low public trust, slow proceedings, inconsistent case law, weak accountability, and political influence.

Reforms have been largely driven by EU incentives, while domestic political will has been inconsistent. As a result, the judiciary is still widely seen as slow, inefficient, and vulnerable to external influence.

Judicial System Under Structural Strain

With the revised EU accession methodology in 2020, Chapters 23 and 24 became the "heart" of negotiations, reflecting the central role of the rule of law. The Fundamentals cluster, which includes these chapters, is opened first and remains open throughout the process.

Judicial reform in Montenegro is assessed against the EU acquis and standards of independence, accountability, efficiency, professionalism, access to justice, and quality. Progress requires full implementation of reforms, stronger institutional capacity, and credible guarantees of independence and accountability, in line also with Venice Commission recommendations.

In this context, the 2024 IBAR was an important political signal, but not proof of deep structural change. It reflected technical compliance and encouragement more than lasting improvements in independence, efficiency, and accountability.

Despite the formal framework, structural weaknesses persist. Institutional deadlocks have repeatedly disrupted the system, most notably during the Constitutional Court crisis, when the Court became non-functional due to a lack of quorum caused by retirements and delayed parliamentary appointments. This led to partial paralysis of constitutional review, including electoral disputes, and exposed the vulnerability of key institutions to political stalemate.

Judicial appointments still require broad parliamentary majorities, often resulting in prolonged vacancies, politicised bargaining, and delays in the functioning of courts and prosecution services. Courts also face backlogs, limited human resources, and uneven workload distribution, further reducing efficiency and public trust. The prosecution service faces similar challenges.

Addressing these constraints requires a calibrated approach. While comprehensive vetting has been discussed, it carries too high risks of politicisation and inefficiency. Priority should instead be given to strengthening existing accountability mechanisms, particularly disciplinary and criminal procedures, along with targeted pre-appointment integrity checks for sensitive judicial positions.

Judicial performance is further limited by material and infrastructural deficiencies - insufficient financial, spatial, and technical resources. This calls for a more coherent framework on the status and remuneration of judicial officeholders, aligned with independence standards, alongside stable funding and investment in infrastructure and digital capacity.

Challenges also persist in ethical and disciplinary accountability. Overlap between ethical breaches and disciplinary offences can lead to inconsistent application and weaken legal certainty. This requires clearer legal distinctions, more precise definitions of misconduct, proportionate sanctions, and stronger oversight bodies.

Judicial transparency continues to be applied unevenly in practice. Despite formal commitments, access to information and decisions is not consistently ensured. Improvements should focus on standardised publication practices, better public access, and stronger communication capacities within the judiciary, including staff and leadership training.

These systemic issues are also reflected in the case-law of the European Court of Human Rights. Between 2009 and 2025, the Court delivered 82 judgments concerning Montenegro, finding at least one violation in 78 cases (95%). Most violations relate to the right to a fair trial, especially excessive length of proceedings and non-enforcement of judgments, as well as property rights. While not leading in absolute numbers, Montenegro ranks among the highest per capita, highlighting the structural nature of the problem. Civil society warns that without consistent implementation, stronger accountability, and institutional learning, Strasbourg will remain the main corrective mechanism.

Finally, the 2024–2027 Judicial Reform Strategy, intended to meet Chapter 23 benchmarks, remains limited in scope, with insufficient analytical depth, weak measurability, and unclear institutional responsibility, reinforcing the gap between formal reforms and real outcomes.

Governance Gaps and Weak Accountability

Reforms of key judicial governance bodies (Judicial Council and Prosecutorial Council) remain largely incomplete and have yet to deliver tangible structural change. Recent changes to its composition have raised concerns, as they risk weakening institutional continuity and reducing the role of experienced judicial professionals.

Financial independence of the judiciary remains weak and continues to undermine institutional resilience. Judicial salaries are not aligned with the responsibility of office, while budgetary allocations remain insufficient, unpredictable, and slow to respond to operational needs. This affects the attractiveness of judicial careers, stability, and resistance to undue influence.

Judicial efficiency is a chronic issue. Courts operate under persistent caseload imbalances, with incoming cases exceeding resolved ones, leading to backlogs. Alternative dispute resolution mechanisms, intended to reduce court workload, remain underdeveloped and largely ineffective in practice. These problems are worsened by weak institutional coordination and inadequate case management practices. Cooperation between courts, prosecution, and law enforcement is fragmented, and case allocation systems are not sufficiently optimised. The lack of systematic case complexity assessment in line with European Commission for the Efficiency of Justice (CEPEJ) standards further limits effective workload management in a rational and transparent manner.

Concerns about the impartiality and consistency of prosecutorial practice persist, undermining public trust. The absence of clear criteria for case prioritisation, along with limited transparency in decision-making, fuels perceptions of selective justice. As an example, the lack of response to findings of the State Audit Institution (SAI) further illustrates weak accountability, as audit findings, even in extreme cases, are not translated into corrective action by the prosecution service. This is aggravated by insufficient safeguards against external, including political, influence. Accountability mechanisms, though formally expanded, remain largely ineffective. Their application is inconsistent, and results are rarely measurable or followed up.

The use of pre-trial detention remains excessive and misaligned with international standards, where it should be a measure of last resort. The 2025 European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Preliminary Observations highlight prison overcrowding and a sharp rise in detainees, now 56% of the prison population and doubled since 2022. The Committee also notes overuse of detention and underuse of alternatives, placing pressure on an already strained system. This is also leading to severe violation of human rights, as in practice, detention is increasingly the rule rather than the exception. This underscores the need to shift towards non-custodial measures, strengthen rehabilitation and reintegration capacities, and ensure full implementation of CPT recommendations under Chapter 23 and avoiding any extension of the maximum detention period from three to five years, as it was request from some of the ruling parties.

Anti-Corruption System Under Political and Operational Constraints

Anti-corruption institutions are formally established, but enforcement remains limited, particularly in high-level corruption cases. The Agency for Prevention of Corruption (APC) continues to face serious concerns regarding its independence, enforcement capacity, and its focus on administrative compliance rather than substantive accountability and deterrence.

For more than a year and a half, the Agency operated without a director holding a full mandate. The previous director was dismissed and is subject to judicial proceedings, while the acting director repeatedly failed to gain majority support in the governing Council and was perceived as close to one ruling party. Although the appointment of a fully mandated director was an EU accession benchmark for Montenegro and has now been completed, it remains to be seen to what extent the new person will be independent in practice.

Additional concerns relate to governance integrity, including allegations of conflict of interest involving a Council member, which further undermines public confidence. These weaknesses are reflected also in low levels of trust and limited cooperation among public officials. A significant number of senior officials have not granted APC access to their bank accounts, including all top-level judicial office holders. Similarly, only around 30% of municipal presidents (8/25), about 40% of ministers (13/32), and roughly one third of MPs (27/81) have authorised such access, significantly limiting effective oversight and transparency.

In addition, APC has not established itself as a credible actor in whistleblower protection. Concerns about inadequate handling of corruption reports within public administration further discourage reporting and weaken protection mechanisms.

Finally, the acting leadership has appeared more focused on investigating former office holders than addressing risks within current structures, limiting its preventive role. This will also be an early test for the new director.

The Special State Prosecutor's Office has increasingly relied on encrypted communications from the SKY ECC platform as evidence in cases of organised crime and high-level corruption. While this has strengthened investigative capacity, challenges remain regarding admissibility in court and converting intelligence into convictions. A significant share of such material is also leaked to the media, which may negatively affect proceedings. High-level corruption cases are often characterised by widely publicised details from initial investigations, followed by delays and weak judicial outcomes.

In addition, the police remain highly politicised, a trend further reinforced by recent amendments to the Law on Internal Affairs. These changes, widely criticised by civil society and the opposition, significantly expand ministerial powers while weakening procedural safeguards for police officers. The broadly and vaguely defined grounds for disciplinary measures and dismissal create significant scope for arbitrary application and potential misuse. Furthermore, the amendments were adopted without meaningful public consultation, undermining transparency and the inclusion of professional expertise. The EC has emphasised the need for robust safeguards against undue political influence in police recruitment and disciplinary procedures, although this was not strongly enforced in a way that would prevent such legislative outcomes. Also, recent developments further reinforce concerns that the current legal framework could be used for politically motivated restructuring of the police service.

These systemic weaknesses contribute to persistently low public trust in the judiciary and anti-corruption institutions, driven by perceptions of inequality before the law and the perceived protection of those in power and those close to them.

EU Integration Without Substantive Transformation

Montenegro has achieved a certain degree of formal alignment with EU legal standards and developed a comprehensive legislative and institutional framework for the rule of law. However, a persistent gap remains between formal compliance and substantive results. While political commitment to EU integration is regularly reaffirmed, it increasingly clashes with deep structural weaknesses in the judiciary and broader institutions, as well as the influence of veto players within the ruling majority, which often slows or blocks reforms. At the same time, public support for EU integration has shown a notable decline, falling from 83% in 2025 to 69%, a drop of 14%. The role of civil society remains constrained, with visible attempts of authorities to marginalise it due to its critical stance.

At its core, the rule of law represents both the central condition and the most fragile component of the accession process. Despite formal alignment, implementation is uneven and often reduced to procedural compliance rather than genuine institutional transformation.

The judiciary most clearly reflects this disconnect. Despite nearly 25 years of reform, including constitutional changes and institutional restructuring, fundamental challenges persist in independence, efficiency, and public trust. The system continues to be vulnerable to political influence in appointments, alongside institutional blockages, prolonged proceedings, inconsistent jurisprudence, weak accountability mechanisms, weak enforcement of judgments, episodes of institutional paralysis, and a high rate of violations found by the European Court of Human Rights.

In recent years, there has also been a growing "medialisation" of justice, characterised by highly publicised arrests and intensive media coverage, often involving former office holders, which risks influencing proceedings and undermining the presumption of innocence, while final convictions remain relatively rare.

Furthermore, anti-corruption efforts continue to produce limited results in high-level cases, with a notable absence of proceedings involving current office holders, while reforms remain fragmented and strongly shaped by political dynamics.

Although the 2020 EU accession methodology placed the rule of law at the centre of the process, progress remains uneven and fragile. Positive developments, including the 2024 IBAR, should be interpreted primarily as procedural milestones rather than indicators of deep structural change.

Overall, the accession process of Montenegro is characterised by formal progress that often outpaces substantive change, raising concerns that EU integration risks becoming a technical exercise rather than a driver of genuine and sustainable transformation.

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