

2025 Rule of Law Report - targeted stakeholder consultation

Fields marked with * are mandatory.

Introduction

The annual Rule of Law Report lies at the centre of the Annual Rule of Law Cycle, which acts as a preventive tool, deepening multilateral dialogue and joint awareness of rule of law issues. So far, five editions of the Rule of Law Report have been published since 2020.

As every year, the Commission would like to invite the stakeholders to provide contributions to the 2025 Rule of Law Report. On the basis of these contributions and on-going developments, further targeted questions may be shared at a later stage of preparation of the 2025 Rule of Law Report, in particular in the context of country visits, or bilateral contacts.

The Commission invites stakeholders to provide contributions which include:

- (1) information on measures taken to implement the recommendations addressed to the Member State in the 2024 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter and**
- (2) any other significant developments since January 2024^[1] and up to the date of submission falling under the ‘type of information’ outlined below.**

The input should consist of a short summary, if possible in English, covering the areas referred to below. Legislation or other documents may be referenced with a link. Contributions should focus on significant developments since the last Rule of Law Report both as regards the legal framework and its implementation in practice.

If you would like to provide further specific **input related to the single market dimension in the Rule of Law report**, you can also respond to the additional targeted consultation available [here](#).

^[1] Unless the information was already submitted in the input for the previous Rule of Law Reports.

Type of information to be included:

Under each of the four pillars, the replies should include references to the following types of information:

A) Legislative developments

- Newly adopted legislation
- legislative drafts currently discussed in Parliament
- legislative plans envisaged by the Government

B) Policy developments

- Implementation of legislation
- evaluations, impact assessment, surveys
- white papers/strategies/actions plans/consultation processes
- follow-up to reports/recommendations of Council of Europe bodies or other international organisations
- important administrative measures
- generalised practices

C) Developments related to the judiciary / independent authorities

- important case law by national courts
- important decision/opinions from independent bodies/authorities
- state of play on terms, nominations and expired mandates for high-level positions (e.g. Supreme Court, Constitutional Court, Council for the Judiciary, Prosecutor General, heads of independent authorities included in the scope of the request for input[2])

D) Any other relevant developments

- National authorities are free to add any further information, which they deem relevant; however, this should be short and to the point.

Please also indicate whether the developments reported are linked to the implementation of reforms and investments under the RRP, where applicable. To simplify your answers to the questionnaire, **if there are no developments, it is sufficient to indicate this** and the information covered in the contributions for the previous Rule of Law Reports does not need not be repeated.

[2] Such as: media regulatory authorities and bodies, national human rights institutions, equality bodies, ombudsman institutions, supreme audit institutions and, where they exist, transparency authorities.

About you

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
- ☒ Civil society organisation/NGO
- ☐ International organisation
- ☐ Judicial association or network
- ☐ Media organisation or association
- ☐ Public authority or network of public authorities

☐ Other

* Organisation name

250 character(s) maximum

International Commission of Jurists - European Institutions (ICJ-EI)

Main Areas of Work

- ☒ Justice System
- ☐ Anti-corruption
- ☐ Media Pluralism
- ☐ Checks and Balances
- ☐ Other

Please insert an URL towards your organisation's main online presence or describe your organisation briefly:

500 character(s) maximum

<https://www.icj.org/regions/icj-european-institutions/>

Transparency register number

Check if your organisation is in the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making

941916711102-62

* Country of origin

Please indicate the country of origin of your organisation

- ☐ Austria
- ☒ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy
- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta

- ☐ Netherlands
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Slovak Republic
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden
- ☐ Other - please specify

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Surname

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*** Publication of your contribution and privacy settings**

You can choose whether you wish for your contribution to be published and whether you wish your details to be made public or to remain anonymous.

- ☐ Anonymous - Only your type of respondent, country of origin and contribution will be published. Organisation name, URL, transparency register number, first name and surname given above will not be published. **To maintain anonymity, please refrain from mentioning the name of your organisation and any details from which your organisation can be identified in the rest of your contribution.**
- ☒ Public - Your personal details (name, organisation name, transparency register number, country of origin) will be published with your contribution).
- ☐ No publication - Your contribution will not be published. Elements of your contribution may be referred to anonymously in documents produced by the Commission based on this consultation.

☒ I agree with the personal data protection provisions.

[Specific privacy statement targeted stakeholder consultation 2025 rule of law report.pdf](#)

Questions on horizontal developments

In this section, you are invited to provide information on general horizontal developments or trends, both positive and negative, covering all or several Member States. In particular, you could mention issues that are common to several Member States, as well as best practices identified in one Member State that could be replicated. Moreover, you could refer to your activities in the area of the four pillars and sub-topics (an overview of all sub-topics can be found below), and, if you represent a Network of national organisations, to the support you might have provided to one of your national members.

Overview topics for contribution

[List of topics - 2025 Rule of Law Report.pdf](#)

Please provide any relevant information on horizontal developments here

5000 character(s) maximum

Questions for contribution

Under each pillar, you are invited to provide information on measures taken to implement the recommendations addressed to the Member State in the 2024 Rule of Law report, as well as developments with regard to the points raised in the respective country chapter of the 2024 Rule of Law Report and any other significant developments since January 2024 and up to the date of submission[3]. Please always include a link to and reference relevant legislation/documents (in the national language and/or where available, in English). **Significant developments** can include challenges, positive developments and best practices, covering both legislative developments or implementation and practices.

Information provided in reply to the first question under each pillar, related to the follow-up to the recommendations, does not need to be repeated in subsequent parts of the questionnaire, but can be cross-referenced in the subsequent questions, where relevant. All other questions are not limited to the recommendations, but as in previous years, cover the entire scope of the Report.

[3] Unless already covered in the input for the previous Rule of Law Reports.

Member State/enlargement country covered in contribution [only one choice possible]

If you wish to submit information concerning several Member States/enlargement countries, please fill in the questionnaire separately for each country. There is no limit to the number of contributions submitted by a single participant.

- ☐ Albania
- ☐ Austria
- ☐ Belgium
- ☐ Bulgaria
- ☐ Croatia
- ☐ Cyprus
- ☐ Czechia
- ☐ Denmark
- ☐ Estonia
- ☐ Finland
- ☐ France
- ☐ Germany
- ☐ Greece
- ☐ Hungary
- ☐ Ireland
- ☐ Italy

- ☐ Latvia
- ☐ Lithuania
- ☐ Luxembourg
- ☐ Malta
- ☒ Montenegro
- ☐ Netherlands
- ☐ North Macedonia
- ☐ Poland
- ☐ Portugal
- ☐ Romania
- ☐ Serbia
- ☐ Slovakia
- ☐ Slovenia
- ☐ Spain
- ☐ Sweden

I. Justice System

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the justice system (if applicable)

5000 character(s) maximum

A. Independence

Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

(The reference to 'judges' concerns judges at all level and types of courts as well as judges at constitutional courts)

5000 character(s) maximum

According to the Constitution of Montenegro, the Judicial Council is responsible for selecting judges, and the procedures are regulated by the Law on the Judicial Council and Judges. Eligibility criteria are outlined in the Law on Courts. Judges' appointment follows a national public call for applications, with candidates required to hold a law degree, pass both the State and bar exams, and have the required legal work experience, which varies by court level.

Judges are appointed for the first time based on their performance in two key areas: the written test, or their score on the bar exam, in accordance with the relevant regulations; and for candidates who score above a set threshold, their performance during the interview conducted by the Judicial Council. Additionally, the Judicial Council determines the assignment of selected candidates to receive twelve-month initial training at the Basic Court in Podgorica. Once the training is successfully completed, the Judicial Council formally appoints the candidates as judges of the Basic Court.

The lengthy judicial appointment process has been identified as a factor contributing to the shortage of judges and unfilled vacancies. While the latest draft amendments to the law on the Judicial Council and Judges had proposed to reduce training from eighteen to six months, the final adopted law in June 2024 shortened this period to twelve months (<https://www.gov.me/en/documents/e1eefcdb-c0f4-4628-a1db-1b1530a22eee>, art. 54). Broader procedural reforms, however, are not addressed in the Judicial Reform

Strategy 2024-2027. Additionally, the current practice of announcing vacancies without specifying court assignments has faced criticism for lacking transparency and efficiency.

With regards to the Constitutional Court, each of the seven judges is elected with a two-thirds majority of the Parliament. This involves a proposal by the President for two judges and a competent working body of the Parliament for the other five. However, if a two-thirds majority is not reached in the first round, a second vote follows after one month, where only a three-fifths majority is required to elect a judge to the Constitutional Court. This serves as an “anti- deadlock” mechanism to avoid a blockade of new appointments due to political contestation.

Montenegro has been affected by a persistent inability to elect new Constitutional Court judges resulting in a shutdown of the Constitutional Court’s operations between September 2022 and February 2023, as it no longer met the quorum of four required to make judgments, with only three out of seven judges in place. In February 2023, under pressure from the European Commission, which threatened to suspend accession negotiations, three new judges were elected. Both the Venice Commission and the European Commission have stressed the need to have all seven judges in place, emphasizing that filling the remaining vacant position is essential for a well-functioning court. The UN Special Rapporteur has also underscored this need, urging Members of Parliament to prioritize the interests of the country over political considerations. In November 2023, more than three years after the process of appointing judges to the Constitutional Court began, the last vacant position was also filled.

The Constitutional Court’s inability to function resulted in a large case backlog. In the interim, the Venice Commission exceptionally provided its own opinion on the constitutionality of amendments to the Law on the President before the Constitutional Court could do so, concluding that the amendments were unconstitutional. Although the Government proceeded with the amendments, the Constitutional Court recently declared them unconstitutional retroactively.

As for the Supreme Court, the position of President of the Supreme Court, elected by the Judicial Council with a qualified majority of two-thirds, recently faced multiple challenges. The former Supreme Court President served beyond the two-term limit and was later arrested on charges of abuse of office and involvement in a criminal organization. Since her resignation in December 2020, Montenegro struggled to elect a new President of the Supreme Court due to internal disagreements. The process had stalled as a consequence of some judges refusing to vote, leading to eight rounds of voting without success. The position was finally filled in November 2024. The lack of transparency and accountability in this process, however, has been a significant contributing factor to the ongoing deadlock.

In its report of September 2024, the ICJ recommended that Montenegro make the judicial career more accessible and appealing to new judges while maintaining a high standard of quality in their training.

For further details and references to relevant legislation and documentation see the ICJ report uploaded or here: <https://www.icj.org/montenegro-icj-report-call-for-comprehensive-judicial-reforms/>.

Irremovability of judges, including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

5000 character(s) maximum

Montenegro’s Constitution establishes judicial duty as permanent. Judges leave service at their request, upon reaching retirement age, or if sentenced to unconditional imprisonment. Dismissal occurs for offenses making them unfit, unprofessional or negligent in their duty performance, or in the case of permanent incapacity.

Court presidents' tenure, as outlined in the Law on the Judicial Council and Judges, ends upon term expiry, judicial office termination, resignation, or court dissolution/merger. Presidents, including Supreme Court President, may serve only two consecutive terms.

Despite this, in 2019, the Judicial Council elected several court presidents to additional terms despite serving the maximum, including a Supreme Court President serving a third term. GRECO criticized this practice for over-concentration of power. Following pressure, the Supreme Court President resigned in 2020. Such breaches undermine judicial stability and predictability.

Constitutional Court judges serve 12-year non-renewable terms and their President is elected for a non-renewable three-year term.

In its September 2024 report, the ICJ recommended enforcing term limits for court presidents and implementing strategies to appoint successors on time, to avoid interim solutions.

Judges in Montenegro are typically assigned to the court where they were appointed but can be temporarily deployed to another court for up to one year with their consent to address judicial backlogs, recusal of judges, or other justified reasons. This deployment is decided by the Judicial Council upon a request from the president of the court needing assistance, following consultations with all relevant parties.

Judges may also be transferred without consent during court reorganizations reducing positions. The Venice Commission has emphasized the need for protection against involuntary transfers to lower courts to prevent improper use, including for political or other improper reasons. The latest amendments to the Law on the Judicial Council and Judges addressed these concerns by permitting transfers without consent only within the same jurisdiction and instance during court reorganizations, while ensuring salary retention (<https://www.gov.me/en/documents/e1eefcdb-c0f4-4628-a1db-1b1530a22eee>, art.85).

The ICJ recommended to Montenegro in its report of September 2024 to protect judges from being transferred to lower courts without their consent.

The Constitution regulates the termination of judicial service when judges meet the age requirements for retirement. However, there is a legal gap regarding the specific retirement age for judges, leaving the general Law on Pension Insurance, which applies to all public officials, to also govern judges' retirement. In 2020, the retirement age was lowered to 66 for men and 64 for women, triggering a wave of judicial retirements. Judges could also take early retirement with financial incentives, further reducing their numbers. Between 2020-2023, 106 judges—one-third of the judiciary—retired, including 52 taking early retirement. This created numerous vacancies and disrupted the system. Some argued this loss weakened judicial experience, while others saw it as an opportunity to refresh the judiciary. However, the sudden change caused unpreparedness and ongoing challenges.

In 2021, the Judicial Council terminated several judges for reaching the new retirement age, including a Supreme Court judge. In 2023, the Administrative Court overturned one such termination as discriminatory, reinstating the judge. Despite this, similar actions persisted, leading to legal uncertainty and threatening judicial independence. The Constitutional Court later ruled the retirement provisions unconstitutional, requiring legislative amendment.

In response to criticism from the Venice Commission, the latest draft amendment to the Law on the Judicial Council and Judges specified that judges, court presidents, and the president of the Supreme Court must retire at the age of 67. This amendment addressed the disparity introduced in 2020 between the retirement ages for men and women, which was discriminatory and violated international human rights law, including principles of non-discrimination, equality, and equal protection under the law as enshrined in the CEDAW and the ICCPR. The CCJE also emphasized that non-discrimination and gender inequality are fundamental values in Europe, particularly within the judiciary. Discrimination in the judiciary compromises judicial independence. However, the law adopted in June 2024 did not include the amendment setting the retirement

age, leaving the issue unresolved.

The ICJ recommended to Montenegro in its report of September 2024 to adopt a specific law that establishes uniform retirement age rules for judges, separate from those for other public officials.

For further details and references to relevant legislation and documentation, see ICJ's report uploaded.

Promotion of judges and prosecutors (incl. judicial review)

5000 character(s) maximum

According to the Constitution of Montenegro, the Judicial Council is responsible for the promotion of judges. The procedures are regulated by the Law on the Judicial Council and Judges. The 2014-2018 strategy of the Montenegrin government introduced new appraisal and promotion processes for judges and prosecutors.

The recently amended version of the Law on the Judicial Council and Judges provides that a ban on promotion may be inflicted as a sanction depending on the severity of the misconduct (<https://www.gov.me/en/documents/e1eefcdb-c0f4-4628-a1db-1b1530a22eee>, art. 109).

For further details and references to relevant legislation and documentation see the ICJ report uploaded (<https://www.icj.org/montenegro-icj-report-call-for-comprehensive-judicial-reforms/>).

Allocation of cases in courts

5000 character(s) maximum

The allocation of cases on a random basis is provided for by the Law on Courts and implemented automatically through the judicial information system (JIS). However, limitations remain in very small courts, and the system has not been introduced in the misdemeanour courts. In 2021, a significantly smaller number of cases (114) were allocated among the courts, including 86 cases at the level of basic courts and 28 cases between the two high courts. Although clear criteria for case reallocation are still needed, this reduction represents an improvement, ensuring the right to a lawful judge. Furthermore, the Judicial Reform Strategy 2024-2027 aims to implement a case allocation system in all courts by 2027.

In line with the operational objective of the Judicial Reform Strategy 2024-2027, which aims to optimize the judicial network by implementing the plan to reduce it by 50 percent by 2027, and following recommendations from the European Commission, further optimization of the judicial system is advisable. This could include the potential abolition of small courts and a revision of the judicial map, allowing for increased specialization of judges, and improving the situation regarding potential corruption and nepotism.

For further details and references to relevant legislation and documentation see the ICJ report uploaded (<https://www.icj.org/montenegro-icj-report-call-for-comprehensive-judicial-reforms/>).

Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

5000 character(s) maximum

The Judicial Council, established under the Montenegrin Constitution, oversees judicial independence. Under Article 126 of the Constitution, it is an autonomous, independent authority responsible for securing “the autonomy and independence of the courts” and individual judges. Articles 127 and 128 of the Constitution and the Law on the Judicial Council and Judges regulate its composition and functioning. The Council comprises a president and nine members, including the Supreme Court President, four judges

elected by the Conference of Judges (ensuring equal representation across courts), four reputable lawyers elected by the Parliament via public invitation, and the Minister of Justice.

The mandate of a Judicial Council member ends upon cessation of the office on which their membership is based, resignation, or a final conviction resulting in unconditional imprisonment. Resignations are acknowledged in writing, while final and enforceable convictions automatically terminates mandates. The Council records terminations of mandates and informs the appointing authority. Members of the Judicial Council may also be dismissed for unconscientious or unprofessional behavior, such as statutory duties violations, or criminal convictions compromising their ability to serve. For judge members, a disciplinary sanction can also lead to dismissal. The dismissal process adheres to the same procedures used for establishing disciplinary liability for judges, with the Council initiating and seeking appointing authority approval.

The Special Rapporteur on the Independence of Judges and Lawyers expressed concern about the Council's composition and functioning. Having only four judge members out of ten members elected by their peers undermines judicial control over appointments, contravening international standards requiring judge majorities. The vague criteria for appointing lay members (selected by Parliament) create conditions ripe for political influence. Additionally, electing the Council President from non-judicial members exposes the Council to political pressure. The ex officio role of the Minister of Justice, though limited in some areas, risks political interference, particularly since the Constitution does not restrict the Minister's role in critical decisions like judicial appointments and promotions.

The Special Rapporteur's concerns echo those of both the Venice Commission and GRECO, both emphasizing the need for reforms to align the Council fully with international standards.

The ICJ's April 2024 mission to Montenegro highlighted stakeholder awareness of these deficiencies. An illustrative case occurred two years prior, when the Prime Minister, acting as the Minister of Justice, voluntarily suspended his position on the Judicial Council to avoid any potential conflict of interest - a move praised by the EU as reducing political interference in the judiciary's independence but also illustrating structural risks of such membership.

Concerns also persist about the impartiality of appointed Judicial Council members, particularly regarding their actual or perceived political affiliations. Montenegro has reduced the "cooling-off" period between political activity and potential appointment to the Judicial Council from ten to five years.

Acknowledging the existing deficiencies within the Judicial Council, the Judicial Reform Strategy 2024-2027 adopted by the government sets an objective to make the Judicial Council fully operational and complete by 2027. The strategy foresees the Judicial Council being supported by appropriate human, financial, and infrastructure resources to ensure timely procedures related to appointment, evaluation, and disciplinary liability.

In its report of September 2024, ICJ recommended that Montenegro:

- Exclude the Minister of Justice as an ex officio member of the Judicial Council as a matter of priority in order to strengthen the independence of the Council. In the meantime, and at the very least, the Minister of Justice should not be involved in the work of the Judicial Council, including appointments, or disciplinary proceedings.
- Ensure that the majority of the members of the Judicial Council are judges elected by their peers.
- Consider appointing at least one lawyer who is also a leading member of civil society as a Judicial Council member.
- Review the Constitution to ensure that the President of the Judicial Council is elected by the Council itself from among its judge members. The President of the Supreme Court should be prohibited from appointment as President of the Judicial Council.

- Review the definition of “eminent/reputable lawyer”, with a view to excluding active politicians and representatives of the legislative or executive branches of government from participation.

For further details, see the ICJ report uploaded (<https://www.icj.org/montenegro-icj-report-call-for-comprehensive-judicial-reforms/>).

Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

5000 character(s) maximum

Montenegro's disciplinary framework for judges includes a Disciplinary Panel (composed of 3 Judicial Council members: two judges and one “eminent lawyer”) for minor and severe offences and the Judicial Council for the most severe cases. Disciplinary liability procedure begins with a motion filed by authorized individuals/bodies. The June 2024 law on the Judicial Council and Judges removed the Commission for the Code of Ethics as an initiator, allowing only Judicial Council members to submit proposals, and obligating court presidents to notify the Council of suspected offenses (<https://www.gov.me/en/documents/e1eefcdb-c0f4-4628-a1db-1b1530a22eee>, art 110).

Previously, Judicial Council members could both initiate and decide disciplinary cases. The new law now prohibits initiators or potentially biased individuals from participating in judgments, ensuring fairness (art. 120).

Decisions must be drafted and submitted within 15 days and can be appealed to the Supreme Court. The amended law mandates closed voting on disciplinary decisions, except where the judge under review requests a public discussion (art. 32a). The Judicial Council has inconsistently published decisions online. The European Commission has previously advocated for anonymized public records of decisions to enhance judicial accountability.

Judicial misconduct is categorized as minor, severe, or most severe. Sanctions range from warnings to dismissal, but judges are exempt from penalties for misinterpreting laws or evidence, aligning with international recommendations. Concerns remain about sanctions proportionality, as dismissal should be reserved for evident incapacity. The dismissal of Judicial Council members for minor infractions is disproportionate, with many decisions lacking sufficient justification.

The Code of Ethics for Judges promotes independence, impartiality, and integrity, but enforcement has been inconsistent. Limited investigations and structural issues within the Ethical Commission hinder progress. Recommendations include establishing effective remedies for Ethical Commission of the Judicial Council decisions and creating clearer distinctions between ethical and disciplinary violations. The issue of the absence of an appeals mechanism within the Ethical Commission of the Judicial Council has now been addressed by the amended law (art.107c).

Judges in Montenegro have functional immunity under the Constitution, protecting them from liability for judicial decisions unless criminal acts are involved. Detention for judicial offenses requires Judicial Council approval, with expedited procedures for organized crime and high-level corruption cases. However, challenges persist in balancing transparency, confidentiality, and proportionality in disciplinary and criminal cases.

Corruption remains a key threat to Montenegro's judiciary. Public distrust stands at 57.6%, with issues including inadequate investigations, impunity, and politicized judicial appointments. Nepotism, clientelism, and low salaries exacerbate these risks. Transparency International ranked Montenegro 63rd globally in its 2023 Corruption Perception Index.

Asset declaration enforcement is weak; the Agency for the Prevention of Corruption verifies only submission compliance, with failures leading to minor penalties. Judicial and Prosecutorial Councils enforce disciplinary measures inconsistently, and ambiguous distinctions between ethical and disciplinary violations further

undermine accountability.

Housing credits for judges foster dependencies, with reports of secretive loans and reduced-cost housing persisting despite a 2014 prohibition. These practices compromise judicial independence and have been criticized by the Venice Commission, which called for phasing out discretionary benefits.

In 2021, only 4 disciplinary proceedings against judges were initiated, resulting in 3 dismissals and one salary reduction. In 2022, 35 motions related to asset declaration failures were filed, but all judges were acquitted, despite violations of anti-corruption laws. In contrast, prosecutors faced penalties for similar breaches, raising concerns about fairness and credibility. Judicial solidarity further limits accountability, with only 4 disciplinary sanctions imposed over 7 years. The European Commission has highlighted the need for a consistent, credible integrity breach detection system. Montenegro's Judicial Reform Strategy 2024-2027 proposes legislative amendments to strengthen accountability and establish an efficient disciplinary framework.

In its September 2024 report, the ICJ recommended that Montenegro:

- Conduct more thorough, unannounced judicial inspections to enhance oversight and accountability.
- Require the Judicial Council to provide detailed, transparent justifications for decisions and to publish disciplinary decisions online.

For further details see the ICJ report uploaded.

Independence/autonomy of the prosecution service

5000 character(s) maximum

Independence of the Bar (chamber/association of lawyers) and of lawyers

5000 character(s) maximum

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

5000 character(s) maximum

The ICJ carried out a three-day mission to Montenegro from 8 to 10 April 2024 and was informed by various actors about attacks in the media, by politicians or by other influential actors, which may pose risks to the personal security of judges; deter them from acting independently; and lead to the undermining of the overall trust in the judiciary by the general public.

Since the change of government in 2020, high-ranking political officials in Montenegro have increasingly made public statements that undermine judicial independence. Such statements have criticized the judiciary as a whole and targeted specific judges and their decisions. The UN Special Rapporteur on the Independence of Judges and Lawyers, following her mission to Montenegro from 19 to 26 September 2023, also highlighted the troubling trend of politicians using isolated cases to broadly demonize judges or portray the judiciary as corrupt and inefficient.

Politicians have sometimes taken credit for judicial actions, implying political control over the judiciary, or placed judges handling politically sensitive cases under scrutiny to influence their decisions. Notable instances include Prime Minister Dritan Abazović accusing a judge of being responsible for the actions of criminals he released, and former Justice Minister Vladimir Leposavić suggesting political solutions to ongoing legal cases.

For further details and references to relevant legislation and documentation see the ICJ report uploaded (<https://www.icj.org/montenegro-icj-report-call-for-comprehensive-judicial-reforms/>).

B. Quality of justice

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined in the introduction)

Accessibility of courts (e.g. court/legal fees, legal aid, language)

5000 character(s) maximum

The 2013 constitutional amendments marked a significant step in this regard, leading to the establishment of a legal aid system and the adoption of the Law on the Judicial Council and Judges by the Parliament. Building on this foundation, the Judicial Reform Strategy 2024-2027 prioritizes further improvements to legal aid and access to justice.

The UN Special Rapporteur on the Independence of Judges and Lawyers, Margaret Satterthwaite, released a report following her visit to Montenegro from September 19 to 26, 2023. The report addresses key issues, among which access to legal aid and court accessibility. Based on her extensive fact-finding mission, there is a need for urgent legislative reforms, improved working conditions, and enhanced access to justice, particularly for marginalized communities.

During the ICJ's mission to Montenegro in April 2024, some observers suggested that courts in Montenegro are used more frequently for conflict resolution compared to other countries, potentially indicating a higher level of accessibility to the judicial system.

For further details and references to relevant legislation and documentation see the ICJ report uploaded (<https://www.icj.org/montenegro-icj-report-call-for-comprehensive-judicial-reforms/>).

Resources of the judiciary (human/financial/material), remuneration/bonuses/rewards for judges and prosecutors, including observed changes (significant and targeted increase or decrease over the past year) (Material resources refer e.g. to court buildings and other facilities. Financial resources include salaries of staff in courts and prosecution offices.)

5000 character(s) maximum

Montenegro faces a severe shortage of judges, largely due to mass retirements triggered by the 2020 Law on Pensions, which lowered the retirement age and incentivized early retirement. Compounded by limited interest from new candidates, this has led to numerous judicial vacancies and a growing case backlog.

In 2022, Montenegro had 263 full-time judges (42.4 per 100,000 inhabitants), nearly double the European average of 22.2, according to CEPEJ. Despite this, judicial efficiency remains low due to insufficient administrative staff, inadequate equipment, and a high case volume (claimed by the Ministry of Justice but unverified by the ICJ). In 2023, over 18% of judicial positions were unfilled. The Judicial Reform Strategy 2024-2027 aims for full staffing by 2027.

The Supreme Court has been severely affected, operating with only 6 judges instead of the mandated 19 until March 2022, when 11 judges were elected, increasing the number to 17 under then Acting President Vesna Vučković.

The profession's unpopularity stems from lengthy training, poor working conditions, low remuneration during training, unpredictable court placements, and eroding public trust. For example, the Basic Court of Podgorica advertised 41 vacancies in late 2023 but received only 9 applications. Similarly, in the Constitutional Court 23 positions, including those for legal advisors and assistants, remain vacant, reflecting broader difficulties in attracting judicial staff.

The ICJ has recommended that Montenegro increase the number of sitting judges to ensure access to justice for all, and make the judicial career more attractive.

Judges in Montenegro receive salaries and benefits under the Law on the Judicial Council and Judges. Additionally, their benefits include life insurance, rental subsidies, and unemployment benefits. Judicial salaries range between 1.9 to 4.6 times the national average, placing Montenegro in Europe's lower-middle range, according to CEPEJ. High-risk positions, such as those in the Supreme State Prosecutor's Office, receive a 45% basic salary allowance. However, starting salaries for judges remain low, deterring interest in the profession.

The amendments to the law submitted in 2023 aligned judicial remuneration with the public administration scheme, basing salaries on experience and court rank. The UN Special Rapporteur and the Venice Commission however criticized the inadequacy of judicial salaries and emphasized the need for a distinct remuneration scheme to uphold judicial independence and prevent corruption. The law on the Judicial Council and Judges now includes provisions to ensure judges' financial independence, guaranteeing salaries and pensions that reflect their responsibilities and dignity (<https://www.gov.me/en/documents/e1eefcdb-c0f4-4628-a1db-1b1530a22eee>, art. 2a). The right of judges to salary, compensation, and other benefits will be regulated according to a judicial income law (art. 5, 142a), expected to be adopted by early 2025 to meet international standards.

Despite partial compliance with international norms, issues such as low entry-level pay, delayed judicial appointments, and retirement age changes contribute to judicial shortage, threatening stability and independence. Adequate and secure remuneration is vital to strengthening Montenegro's judiciary and maintaining public trust.

The ICJ's September 2024 report recommended that Montenegro:

- Raise judicial salaries at all levels, especially for lower and basic courts.
- Adopt a separate law or provision on judicial remuneration distinct from that of public officials.

Montenegro allocates 0.8% of its GDP to the judiciary, the highest in Europe and well above the 0.45% European average. The Judicial Reform Strategy 2024-2027 aims to raise this to 1%, prioritizing resource allocation to improve efficiency and effectiveness. However, practical deficiencies persist, particularly in lower courts, including inadequate workspaces, technical equipment, IT systems, and insufficient support staff.

While funding comes from the national budget, the judiciary has limited control over allocation. The Judicial Council only acts as a budget proposer, with final decisions made by the Government and Parliament. International standards advocate greater judicial involvement in budget preparation to uphold judicial independence and reduce political pressures.

Funds, while significant, are often directed towards visible renovations rather than addressing operational needs. This misallocation stems from insufficient understanding of lower courts' needs and focusing on political benchmarks. The Judicial Reform Strategy seeks to address these issues by prioritizing technological upgrades, increasing support staff, and improving court operations to align resources with the judiciary's fundamental needs.

For further details and references to relevant legislation and documentation see the ICJ report uploaded.

Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)

5000 character(s) maximum

The Judicial Council determines the assignment of selected candidates to receive initial training at the Basic Court in Podgorica (art. 51 of the Law on the Judicial Council and Judges) which consists of two parts, a theoretical component and a practical one. According to Article 53 of the Law on the Judicial Council and Judges, candidates must start their employment at the Basic Court during this training period. Once the training is successfully completed, as outlined in Article 54, the Judicial Council formally appoints the candidates as judges of the Basic Court.

Recent amendments to the law reduced this traineeship from the initial 18 months to 12 months (<https://www.gov.me/en/documents/e1eefcdb-c0f4-4628-a1db-1b1530a22eee>, art. 54). The current procedures for the selection and appointment of judges remain extensive, involving training and a lengthy qualification process, which includes passing a bar exam, serving two years as a court counsellor, and undergoing further exams before a potential 12-month traineeship. While maintaining high standards is crucial, the process must also be coherent and accessible to attract new qualified professionals. The lack of incentives continues to discourage potential candidates.

In its September 2024 report, the ICJ recommended that Montenegro should aim to make the judicial career more accessible and appealing to new judges while maintaining a high standard of quality in their training.

For further details and references to relevant legislation and documentation see the ICJ report uploaded (<https://www.icj.org/montenegro-icj-report-call-for-comprehensive-judicial-reforms/>).

Digitalisation (e.g. use of digital technology, including electronic communication and AI tools, within the justice system and with court users, procedural rules, access to judgments online)

5000 character(s) maximum

Use of assessment tools and standards (e.g. ICT systems, including AI-based systems, for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

5000 character(s) maximum

Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.

5000 character(s) maximum

The Law on Courts establishes Montenegro's multitiered judicial system, which includes both courts of general jurisdiction and specialized courts. General jurisdiction courts include several levels: misdemeanour courts, basic courts, high courts, the Court of Appeal, and the Supreme Court. Specialized courts consist of the Commercial Court, the Administrative Court, and the High Court of Podgorica, which handles high-level corruption cases. The Constitutional Court operates independently of this judicial hierarchy and is regulated by the Constitution and the Law on the Constitutional Court. The Constitution explicitly prohibits the establishment of martial courts and extraordinary courts, ensuring that justice is administered through established legal channels. Within this framework, military justice primarily falls under the jurisdiction of basic courts and high courts, with the Appellate Courts and the Supreme Court also playing significant roles in the military justice system.

Misdemeanour courts, located in Bijelo Polje, Budva, and Podgorica, handle misdemeanour offences across Montenegro. The High Misdemeanour Court oversees appeals from these courts.

Montenegro has 15 basic courts (Osnovni sud), which have general jurisdiction over civil, criminal, labour law cases and other legal matters. These courts are distributed across various municipalities in Montenegro, covering the entire country. Decisions from basic courts can be appealed to the high courts, which also have original jurisdiction in serious criminal cases.

High courts (Viši sud) are established in Bijelo Polje and Podgorica. The High Court in Bijelo Polje covers the territories of the basic courts in Bijelo Polje, Berane, Zabljak, Kolašin, Plav, Pljevlja, and Rožaje. The High Court in Podgorica covers the territories of the basic courts in Podgorica, Bar, Danilovgrad, Kotor, Nikšić, Ulcinj, Herceg Novi, and Cetinje. High courts serve as appeal instances for basic courts. These courts also handle certain first-instance cases, depending on the nature of the case and the level of jurisdiction. For example, they have jurisdiction over the most serious criminal offences, particularly those punishable by more than 10 years of imprisonment. This includes crimes such as manslaughter, rape, unauthorized drug production, and significant offenses against State security, such as organizing anti-constitutional activities and threatening national sovereignty.

The High Court in Podgorica additionally considers cases related to organized crime, high-level corruption, money laundering, terrorism, and war crimes, with a special division dedicated to these matters.

The Court of Appeal, based in Podgorica, has jurisdiction over appeals against first-instance rulings of high

courts and commercial courts. It also resolves jurisdictional conflicts and carries out other duties as stipulated by law.

The Supreme Court of Montenegro (Vrhovni sud) serves as the highest court of appeal in Montenegro. It reviews decisions from the high courts and provides final interpretations of the law.

The Administrative Court (Upravni sud) handles disputes arising from administrative decisions made by public authorities, which include State bodies, State administration bodies, local self-government units, local government bodies, institutions, and other entities exercising public powers.

The Commercial Court of Montenegro handles disputes among commercial entities, entrepreneurs, and legal entities involved in economic activities, covering a wide range of issues such as company law, bankruptcy, intellectual property, competition, maritime, and air navigation disputes.

The Constitutional Court (Ustavni sud) is responsible for reviewing the constitutionality of laws, ensuring compliance with the Montenegrin Constitution, and protecting human rights and freedoms.

For further details and references to relevant legislation and documentation see the ICJ report uploaded (<https://www.icj.org/montenegro-icj-report-call-for-comprehensive-judicial-reforms/>).

C. Efficiency of the justice system

(Under this topic, you are not required to give statistical information but should provide input on the type of information outlined under section 2)

Developments related to efforts to improve the efficiency of the justice system (e.g. as regards length of proceedings)

5000 character(s) maximum

Backlog of cases:

Various factors and conditions in the judicial system have led to a significant backlog of unresolved cases across all courts in Montenegro. ICJ's mission to Montenegro of April 2024 was told that judges usually have between 300 and 900 cases per judge (in the most burdened courts) to resolve with little support from additional staff.

After restoring its quorum in February 2023, the Constitutional Court was left with a docket of over 3,000 constitutional complaints and more than 250 initiatives for reviewing the constitutionality of laws and other legal acts. In the first quarter of 2023, Montenegrin courts had a total of 79,027 pending cases, with 6,946 of these pending for more than three years. Despite some reduction in the backlog of enforcement cases, there were still 1,560 pending enforcement cases in the first quarter of 2023. Moreover, the Administrative Court faces a high volume of cases related to the length of proceedings, with concerns raised about potential abuse of the law. While numerous requests have been made, only one case of abuse was identified, resulting in a decision reversal.

Several factors appear to have led to this high backlog, including the overall lack of support judges have in their work and the need to handle administrative work related to their cases. Shortage of personnel and staff, technical issues, lack of digitalization, and limited courtroom availability have also exacerbated the problem. Some observers have suggested that Montenegro's frequent use of courts for conflict resolution compared to other countries, reflects the general accessibility of courts but adds to the burden. The Judicial Reform

Strategy 2024-2027 aims to address these challenges, focusing on improving human resources, financial resources, ICT infrastructure, and case management.

Lengthy proceedings and non-implementation of ECtHR judgement:

Previously, cases in Montenegro were resolved within six months, but now the process often takes two to three years. The mission heard that the next hearing is frequently scheduled for the last day of procedural deadline, contributing to delays. A major issue identified is the backlog caused by the “ping-pong” effect, where the Administrative Court repeatedly returns decisions to first-instance courts, prolonging proceedings. The law on administrative procedure has been amended to allow the Administrative Court to return a decision to the lower court only once. Additionally, the court is empowered to make decisions without returning the case to the lower court, except when the nature of the case requires it, thereby reducing the occurrence of the previous “ping-pong” effect.

One of the main reoccurring issues in judgments and communicated cases by the European Court of Human Rights (ECtHR) concerns the excessive length of judicial proceedings in Montenegro. This includes prolonged proceedings before the Constitutional Court, with 28 new applications filed in early 2024, all concerning delays in court proceedings. Among cases pending before the ECtHR, key issues include prolonged proceedings before the Constitutional Court and Administrative Court, lack of enforcement, and lengthy criminal proceedings. Violations of ECHR Article 3 involving allegations of police torture and ill-treatment also highlight systemic issues. Additionally, inconsistent case-law, as reflected in *Bagoje v. Montenegro*, remains a concern.

Overall, the courts in Montenegro appear unable to administer cases efficiently, owing to insufficient human resources, critical housing conditions of the High Court and numerous loopholes in procedural rules. These shortcomings result in frequent adjournments, long trials (lasting up to five years) and the allocation of cases to non-specialised judges, which need to be addressed as a matter of priority.

For further details and references to relevant legislation and documentation see the ICJ report uploaded (<https://www.icj.org/montenegro-icj-report-call-for-comprehensive-judicial-reforms/>).

Any other developments related to the justice system - please specify

5000 character(s) maximum

Over the years, there has been a delay and backlog in judicial appointments, that constitutes a serious obstacle to the effective functioning of at least the higher-level Montenegrin judiciary. In recent years, the political climate in Montenegro has become highly polarized, and the government has failed to cooperate in resolving various actions necessary for the administration of justice, including high-level judicial appointments. This obstacle has been particularly consequential for the Constitutional Court, which requires a qualified majority for the election of its judges.

Montenegro has recently made significant progress in its judicial reform by adopting amendments to the existing Law on the Judicial Council and Judges, following extensive revisions and multiple drafts. This reform has been actively supported by international actors, such as the Council of Europe's European Commission for Democracy through Law (Venice Commission) and the EU.

Since 2007, Montenegro has implemented several reforms to improve the independence of its judiciary. Key reforms include the 2013 constitutional amendments designed to enhance the rule of law by reducing political influence in the judiciary. These amendments introduced more transparent and merit-based appointment processes for prosecutors and high-level judicial officials. Additionally, they led to the

establishment of a legal aid system and the adoption of the Law on the Judicial Council and Judges by Parliament. To align with these constitutional changes, the Montenegrin government also enacted amendments to the Law on Courts. Further reforms undertaken in 2015 and 2016 aimed at bolstering the independence of the judiciary.

Strategic plans adopted by the Montenegrin government have played a crucial role in the ongoing improvements to the judicial system. The 2014-2018 strategy focused on improving judicial independence, impartiality, and accountability by establishing the Judicial and Prosecutorial Councils, enhancing the organizational structure, and streamlining court procedures. This period also saw the introduction of appraisal and promotion processes for judges and prosecutors, along with initiatives to ensure ethical standards and transparency. From 2019 to 2022, efforts by the government concentrated on further professionalizing the judiciary, increasing transparency in judicial appointments, improving public confidence, and ensuring financial independence. Notable reform initiatives by the Ministry of Justice during this period included strengthening the enforcement of court sentences, random assignment of cases, and reducing case backlogs.

Following these previous initiatives, the Ministry of Justice of Montenegro has recently adopted the Judicial Reform Strategy 2024-2027. The objective of the Strategy is to “further strengthen the rule of law by strengthening independence, accountability, professionalism, and efficiency of the judiciary as well as improving access to justice and legal security in the process of exercising the protection of rights and freedoms of citizens and increasing trust in the judicial system”. The strategy addresses priorities and benchmarks outlined in the EU accession negotiations, particularly Chapter 23. Key measures include improving the legal framework guaranteeing the independence and impartiality of the judiciary, reforming appointment systems, ensuring financial independence, adhering to ethical principles, and strengthening disciplinary mechanisms. Additionally, the strategy focuses on developing judicial expertise, reducing case backlogs, enhancing judicial management and information systems, improving access to legal aid, and upgrading judicial infrastructure.

The amendments to the Law on the Judicial Council and Judges, adopted by the Montenegrin Parliament in June 2024, align the legal framework more closely with EU standards. Following several submissions by the Montenegrin government to the Venice Commission, these changes demonstrate a strong commitment to improving the legal system. The revised law incorporates many of the Venice Commission’s most critical recommendations, demonstrating a clear effort to implement these suggestions and align Montenegro’s judicial reforms with European standards.

While significant progress has been made in establishing an appropriate legislative framework, the actual implementation of laws and procedures continues to pose challenges. The pro-EU party, Europe Now (PES), was elected in 2020: the new government has expressed its intent to transform the judiciary, aiming to make it more independent and impartial.

For further details and references to relevant legislation and documentation see the ICJ report uploaded (<https://www.icj.org/montenegro-icj-report-call-for-comprehensive-judicial-reforms/>).

II. Anti-Corruption Framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission’s attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the anti-corruption framework (if applicable):

5000 character(s) maximum

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

List any **changes** as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention, detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic and with foreign authorities. Indicate any relevant measures taken to effectively and timely cooperate with OLAF and EPPO

5000 character(s) maximum

Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption

5000 character(s) maximum

Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators

5000 character(s) maximum

B. Prevention

Measures to enhance integrity in the public sector (including as regards incompatibility rules, revolving doors, codes of conduct, ethics)

5000 character(s) maximum

Measures to enhance general transparency of public decision-making (including rules on lobbying, asset and interest disclosure rules, gifts policy, transparency of political party, financing)

5000 character(s) maximum

Measures to prevent conflicts of interest in the public sector. Please specify the features and scope of their application (e.g. categories of officials concerned, types of checks and corrective measures depending on the category of officials concerned)

5000 character(s) maximum

--> For the three previous points, **please also provide information and figures on their application/enforcement**, such as number of detected breaches/irregularities of the various rules in place and the follow-up given (investigations, sanctions, etc.)

Measures to ensure whistleblower protection and encourage reporting of corruption, including their application (i.e. number of reports received, and the follow-up given)

5000 character(s) maximum

Specific measures to enhance transparency, integrity and accountability in sectors with high risks of corruption, with a view to monitor and prevent corruption and conflict of interests, and where applicable measures to prevent and address corruption committed by organised crime groups.

Such high-risk sectors could include: public procurement, including construction, transport/infrastructure, defence, cohesion, agriculture, environment, healthcare, citizen/residence investor schemes, large-scale investments of national interest and the spending of EU funds, urban planning.

5000 character(s) maximum

C. Repression

The legal framework on the criminalisation and sanctions for corruption and related offences, including foreign bribery

5000 character(s) maximum

Official data on the number of investigations, prosecutions, final judgments and the application of sanctions for corruption offences (differentiated by offence if possible). Please indicate whether the cases: involve legal persons; are related to the implementation of EU or national funds; involve high level corruption. Please indicate which data is publicly available and how policy-making is informed by the data

5000 character(s) maximum

Potential obstacles identified in law or in practice to the investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, cross-border cooperation, pardoning)

5000 character(s) maximum

Information on effectiveness of criminal and non-criminal measures and of sanctions (e.g. recovery measures and administrative sanctions) on both public and private offenders

5000 character(s) maximum

Any other developments related to the anti-corruption framework - please specify

5000 character(s) maximum

III. Media pluralism and media freedom

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding media pluralism and media freedom (if applicable)

5000 character(s) maximum

A. Media authorities and bodies

(Cf. Article 30 of Directive 2018/1808)

Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies

5000 character(s) maximum

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

5000 character(s) maximum

Existence and functions of media councils or other self-regulatory bodies

5000 character(s) maximum

B. Safeguards against government or political interference and transparency and concentration of media ownership

Measures taken to ensure the fair and transparent allocation of state advertising

5000 character(s) maximum

Safeguards against state / political interference, in particular:

- safeguards to ensure editorial independence of media (private and public)
- specific safeguards for the independence of heads of management and members of the governing boards of public service media (e.g. related to appointment, dismissal), safeguards for their financial and operational independence (e.g. related to reporting obligations and the allocation of resources) and safeguards for plurality of information and opinions
- information on specific legal provisions and procedures applying to media service providers, including as regards granting/renewal/termination of licenses, company operation, capital entry requirements, concentration and corporate governance

5000 character(s) maximum

Transparency of media ownership and public availability of media ownership information, including on direct, indirect and beneficial owners

5000 character(s) maximum

C. Framework for journalists' protection, transparency and access to documents

Rules and practices guaranteeing journalists' independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists

5000 character(s) maximum

Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

5000 character(s) maximum

Access to information and public documents by public at large and journalists (incl. transparency authorities where they exist, procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities, possible obstacles related to the classification of information)

5000 character(s) maximum

Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

5000 character(s) maximum

Any other developments related to media pluralism and freedom - please specify

5000 character(s) maximum

IV. Other institutional issues related to checks and balances

Please provide information on measures taken to follow-up on the recommendations received in the 2024 Report regarding the system of checks and balances (if applicable)

5000 character(s) maximum

A. The process for preparing and enacting laws

Framework, policy and use of impact assessments and evidence based policy-making, stakeholders'[1]/public consultations (including rules and practices on the transparent participation of civil society to policy development and decision-making processes), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase

[1] This includes also the consultation of social partners

5000 character(s) maximum

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

5000 character(s) maximum

Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight

5000 character(s) maximum

Regime for constitutional review of laws

5000 character(s) maximum

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

(Cf. the website of the European Court of Auditors: <https://www.eca.europa.eu/en/Pages/SupremeAuditInstitutions.aspx#>)

5000 character(s) maximum

Statistics/reports concerning the follow-up to recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

5000 character(s) maximum

C. Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

5000 character(s) maximum

Judicial review of administrative decisions: short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

5000 character(s) maximum

Rules and practices related to the application by all courts, including constitutional jurisdictions, of the preliminary ruling procedure (Art. 267 TFEU)

5000 character(s) maximum

Implementation of final judgments by the public administration and State institutions and follow-up given to supranational judgments, including decisions from the European Court of Human Rights, as well as available remedies in case of non-implementation

5000 character(s) maximum

D. The enabling framework for civil society

Measures regarding the framework for civil society organisations and human rights defenders (e.g. legal framework and its application in practice incl. registration, transparency and dissolution rules)

5000 character(s) maximum

Rules and practices having an impact on the effective operation and safety of civil society organisations and human rights defenders. This includes measures to protect them from attacks – verbal, physical or on-line –, intimidation, legal threats incl. SLAPPs, negative narratives or smear campaigns, measures capable of affecting the public perception of civil society organisations, etc. It also includes measures to monitor threats or attacks and dedicated support services, as well as available remedies

5000 character(s) maximum

Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)

5000 character(s) maximum

E. Initiatives to foster a rule of law culture

If there have been developments related to initiatives to foster a rule of law culture, please specify, which (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, contributions from civil society, education initiatives, etc.)

5000 character(s) maximum

Any other developments related to the system of checks and balances - please specify

5000 character(s) maximum

Supporting document upload

If you would like to submit any supporting document(s) to your contribution, please upload your file(s) here
7f7e2a8a-a254-4b26-a26d-870e49bf0cc0/Report_Beyond-the-benchmarks-Dilemmas-of-effective-judicial-reforms-in-Montenegro.pdf

Contact

rule-of-law-network@ec.europa.eu