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2024 Rule of Law Report
Country Chapter on the rule of law situation in Montenegro

Accompanying the document

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

The justice system of Montenegro is undergoing an intensive phase of reforms, involving the adoption and revision of a comprehensive package of laws, aimed at addressing systemic issues of independence, accountability and impartiality in the judiciary and the prosecution, and at further alignment with European and international standards. In May, Montenegro adopted a new judicial reform strategy 2024-2027. Significant delays in high-level judicial appointments have had an impact on the judicial system, however, by now only a new President of the Supreme Court remains to be appointed. The promotion and enforcement of ethics and professional standards among judges and prosecutors remains a challenge. The effectiveness of the judiciary is hampered by the lack of strategic investment in human resources, ICT and infrastructure. Serious challenges exist regarding the efficiency of justice, where the length of proceedings for administrative cases has further increased.

A new 2024-2028 strategy for the fight against corruption was adopted in June 2024, along with its 2024-2025 Action Plan. Montenegro criminalises most forms of corruption. The track record of investigations and prosecutions in cases of high-level corruption is stable, but the lack of trials and final decisions contributes to a perception of impunity. The Special Prosecution Office (SPO) has significantly improved its performance over the past years, although its human resources are insufficient to cope with its workload. While numerous institutions have specific codes of conduct, the Government's Code of Conduct is ineffective, pending the adoption of the Law on Government with disciplinary penalties. The new legislation on lobbying was adopted on 6 June. The legal framework regulating political parties' funding is hampered by shortcomings in its scope, clarity and implementation.

Montenegro adopted in June a comprehensive legislative package on media pluralism and media freedom, consisting of amendments to the Law on the National Public Broadcaster (RTCG), a new Audiovisual Media Services Law, and a new Media Law. It introduces improvements on transparency of media ownership and other systemic areas, aiming to align it with the EU *acquis*. The new legislation grants new powers to the Agency for Audiovisual Media Services (AAVMS) addressing the long-standing challenge of its effectiveness to enforce the regulatory framework by granting it with comprehensive sanctioning instruments, including the power to impose fines in case of violations of the law. Information on all public sector payments made to media outlets, including institutional advertising, is limited. The appointment of the Director-General of the RTCG by the RTCG Council has been challenged in court. While access to information and public documents is legally guaranteed in Montenegro, it has limitations in practice. The authorities generally provide effective law enforcement and institutional responses to new cases of violence against journalists, but there was no effective judicial follow-up of emblematic past cases.

While the Ombudsperson's Office has enhanced its capacity to handle complaints and improve the quality of decisions, the absence of systematic follow-up to its recommendations undermines the efficiency of its work. Despite an established framework for inclusive legislative processes, challenges remain concerning inadequate public consultations. The implementation of the Strategy for Cooperation of State Administration Bodies and Non-Governmental Organisations 2022-2026 has not yet led to improvement in respect of civil society.

I. JUSTICE SYSTEM

The judicial system of Montenegro consists of twenty-five courts of both general and specialised jurisdiction and is organised in a three-tiered system¹. The first instance courts of general jurisdiction comprise 15 basic courts dealing with civil, labour, and criminal cases. Two high courts adjudicate appeals against decisions of basic courts but also have competences as first instance courts². There are two courts of specialised jurisdiction, the Commercial Court and the Administrative Court. The Appellate Court decides on appeals against first-instance decisions of high courts, as well as on appeals against decisions of the Commercial Court. Montenegro has a two-tiered misdemeanour court system comprised of three basic misdemeanour courts and one high misdemeanour court. The Supreme Court is the highest court and deals with all types of litigation. The Constitutional Court is responsible for protecting the constitutional order, and human rights and freedoms³. The independence of the judiciary and the autonomy of the prosecution service are enshrined in the Constitution⁴. The Judicial and Prosecutorial Councils are responsible for ensuring the independence of the courts and the autonomy of the prosecution service and are competent for the appointment and careers of judges and prosecutors⁵. The Prosecutorial Council is a self-governance body, whose members are appointed by Parliament. Procedural safeguards aimed at preserving the autonomy and independence of State Prosecutors are regulated by law, including the procedures for giving instructions to prosecutors from the prosecution service and withdrawing cases from them⁶. Working arrangements with the European Public Prosecutor's

¹ Input from Montenegro for the 2024 Rule of Law Report, p. 1.

² This concerns criminal proceedings punishable by law by imprisonment over 10 years, organised crime, high-level corruption, money laundering, terrorism and war crimes. Article 16 of the Law on courts of Montenegro, 2015.

³ The Constitutional Court has seven judges, elected by the Parliament of Montenegro with qualified majority; two judges are nominated by the President of Montenegro and five by the relevant parliamentary body. The President of the Constitutional Court is elected for amongst the judges for the period of three years. Constitution of Montenegro, Article 153.

⁴ Constitution of Montenegro, Article 118, Article 135.

⁵ The Constitution of Montenegro, the Law on the Judicial Council and Judges and the Law on the State Prosecution Service regulate the Judicial and Prosecutorial Councils. As laid out in Article 127 of the Constitution, the Judicial Council is composed of a president and nine members, which include (i) the President of the Supreme Court; (ii) four judges to be elected and released from duty by the Conference of Judges, taking into account equal representation of courts and judges; (iii) four lay members from reputable lawyers elected and released from duty by the Parliament at proposal of the competent working body of the Parliament upon announced public invitation; (iv) Minister in charge of judicial affairs. The Prosecutorial Council secures the independence of the State Prosecutor's Office. It is composed of 11 members: (i) the President (the Supreme State Prosecutor *ex officio*); (ii) five prosecutorial members (prosecutors elected by their peers according to the quotas of representation of different levels and types of prosecution offices); (iii) four lay members, including two eminent lawyers, one experienced attorney proposed by the Bar Association, and one distinguished lawyer nominated by NGOs, elected by Parliament by a simple majority of votes; and (iv) one member delegated by the Ministry of Justice. Law on State Prosecution Service, Article 18.

⁶ The Law on State Prosecution Service prescribes that, for the uniform application of the law, mandatory instructions for work may be issued. Mandatory instructions for work include general instructions and instructions for handling individual cases. General instructions are issued by the Supreme State Prosecutor, and the head of the state prosecution can initiate their adoption. General instructions are given in written form. Instructions for handling individual cases are given by: 1) the Supreme State Prosecutor for state prosecutors from the Supreme State Prosecution Office, for the Chief Special Prosecutor, for heads of higher and basic state prosecutions; 2) the Chief Special Prosecutor for special prosecutors from the Special

Office (EPPO) are in place⁷. The Montenegrin Bar Association is an autonomous and self-regulating professional body responsible for overseeing the registration of lawyers and regulating their professional conduct, including handling disciplinary proceedings⁸.

Independence

The level of perceived judicial independence in Montenegro is low among the general public and very low among companies. Overall, 35% of the general population and 28% of companies perceive the level of independence of courts and judges to be ‘fairly or very good’ in 2024⁹. The main reason cited by companies for the perceived lack of independence of courts and judges is the perception of interference or pressure from the Government and politicians¹⁰.

The legal framework guaranteeing the independence and impartiality of the judicial system has been revised. The European Commission and the Venice Commission highlighted that the previously applicable laws, namely the Law on the Judicial Council and Judges, and the Law on the State Prosecution Service, had to be brought in line with European standards on the composition, appointment, promotion, and professional evaluation of judges¹¹. In April 2024, as part of the work to meet the interim benchmarks¹², Montenegro submitted draft amendments to the Law on Judicial Council and Judges to the Venice Commission for an urgent opinion, which was delivered in May¹³. These amendments were adopted by Parliament in June 2024. Both, the Law on Judicial Council and Judges, and the Law on State Prosecution Service are now broadly in line with European standards¹⁴. At present, one of the key issues to be remedied is the role of the Minister of Justice as an *ex*

Prosecution Office; 3) the head of the higher state prosecution for state prosecutors from that prosecution and heads of basic state prosecution offices within their area of jurisdiction; 4) heads of basic state prosecutions for state prosecutors from those prosecution offices.

⁷ A cooperation agreement between the EPPO and the Supreme State Prosecutor Office was signed in 2022. EPPO (2022), Press Release 22.09.2022, – EPPO signs working arrangement with Supreme State Prosecutor’s Office of Montenegro.

⁸ Input from Montenegro for the 2024 Rule of Law Report, p. 5.

⁹ Eurobarometer survey FL540, conducted among the general public between 14 February and 27 February 2024, and Eurobarometer survey FL541, conducted among companies between 14 February and 5 March 2024. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

¹⁰ Eurobarometer survey FL541, conducted among companies between 14 February and 5 March 2024.

¹¹ In its previous Opinions, the Venice Commission outlined several elements for Montenegro to address in order to bring the current rules in line with European standards. The issues concerned the manner of regulating the work-related rights of the judges, including the retirement age and pension rights; limiting the use of the temporary anti-deadlock mechanisms for key appointments to specific exceptional events; bringing the evaluation and disciplinary proceedings of judges in line with European Standards and reinforcing the independence of the Judicial Council and the legal guarantees to avoid undue political influence. Venice Commission Opinion CDL-AD(2023)011; CDL-REF(2023)016; CDL-AD(2022)050. This was also part of the 2023 Communication on enlargement policy, Montenegro report, p. 22-23.

¹² Interim benchmarks were set out in the EU common position to open accession negotiations for Montenegro by the EU Member States. In line with the revised methodology, Chapters 23 and 24 are part of the fundamentals. It is only after these interim benchmarks are met, that Montenegro can start closing other negotiating chapters and move forward in the accession process.

¹³ Venice Commission Opinion CDL-PI(2024)007.

¹⁴ European Commission (2024) Interim benchmark assessment Report on Montenegro.

officio member of the Judicial Council with comprehensive voting rights, save for “disciplinary proceedings related to accountability of judges”¹⁵, which would require a constitutional amendment¹⁶. Another relevant standard regarding the composition of the Judicial Council is that judges chosen by their peers must make up at least half of its members. Since *ex-officio* judge members do not count in this regard, in the present composition of the Judicial Council, the number of judges selected by their peers are still less than half¹⁷. Draft amendments to the Law on the State Prosecution Service were prepared to strengthen the independence of the Prosecutorial Council and they were sent to the Venice Commission, in April 2024, for an opinion¹⁸. These amendments, which were adopted by Parliament in June 2024, concern in particular the procedure for appointing the non-judge members of the Prosecutorial Council, in order to mitigate the risks of politicisation of the Prosecutorial Council resulting from the current simple majority mode of election in Parliament¹⁹. The Constitution does not prescribe the composition of the Prosecutorial Council and the method of election of its members. In the view of the Venice Commission, such an explicit indication would be a more sustainable solution²⁰.

Significant delays in high-level judicial appointments have ultimately had an impact on the judicial system, although by now only a new President of the Supreme Court remains to be appointed. Following a long period of political standstill²¹, during which a

¹⁵ Constitution of Montenegro, Article 128 (3). See also Venice Commission Opinion CDL-AD(2022)050 with further references. Moreover, GRECO recommended that the Minister of Justice should not feature in the composition of the Judicial Council, or at least that his/her right to take part in voting on career related issues (transfer, appointment, dismissal, appraisal) should be limited. In its 2020 4th Evaluation Round on Corruption prevention in respect of members of parliament, judges and prosecutors, GRECO recommended (i) taking additional measures to strengthen the Judicial Council’s independence – both real and perceived – against undue political influence, including by abolishing the *ex-officio* participation of the Minister of Justice in the Council, by providing for no less than half of the Council’s membership to be composed of judges who are elected by their peers and by ensuring that the presiding function is given to one of those judicial members, p. 4.

¹⁶ Montenegro has committed to withdraw the presence of the Minister of Justice from the Council. The Minister is no longer taking part in the meetings of the Judicial Council since 9 February 2024 and has issued on 24 May 2024 a formal Decision by which he recuses himself from participating in the work of the Judicial Council, to offer the necessary legal guarantees pending the outstanding legislative and constitutional changes to bring the Constitution in line with European Standards including Venice Commission and GRECO recommendations with regard to the composition of the Council. Finally, the Prime Minister informed in a letter to the European Commission of the Government’s support to this decision, which was recorded in the official minutes of the Government’s session on 24 May 2024, and which counts with cross-party consensus.

¹⁷ Not less than half the members of such councils should be judges chosen by their peers from all levels of the judiciary and with respect for pluralism inside the judiciary. Council of Europe (2010), Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe on judges: independence, efficiency and responsibilities, paragraph 27; The *ex officio* judges do not count as peer elected judges. Venice Commission opinion (CDL-AD(2020)035), paragraph 44. For composition of the Judicial Council, see footnote 5 above.

¹⁸ Venice Commission Opinion CDL-REF(2024)011.

¹⁹ Venice Commission Opinion CDL-AD(2021)0302021; CDL-AD(2021)030; CDL-PI(2021)008; CDL-AD(2021)012. 2023 Communication on EU Enlargement policy, Montenegro Report, pp. 22-23.

²⁰ Venice Commission Opinion CDL-PI(2024)012, paragraph 23.

²¹ Until October 31, 2023, when Prime Minister Spajić’s new Government assumed office, Montenegro endured a prolonged period of political stagnation and profound polarisation. During this time, a caretaker Government governed, as the Parliament struggled to muster a stable majority. 2023 Communication on EU Enlargement policy, Montenegro Report, pp. 3.

number of high-level posts were vacant or occupied *ad interim* beyond the legal time limit²², on 27 February 2023 Parliament appointed three judges to the Constitutional Court, reinstating the Court's decision-making quorum of four judges. The absence of quorum since September 2022, had not only undermined the Court's efficiency and ability to function properly, but had also led to delays in confirming election results, raising concerns about its role within the country's fundamental democratic structures²³. In November 2023, Parliament appointed the seventh judge to the Constitutional Court, restoring its full composition. In addition, in December 2023, three lay members (i.e. non-judges) to the Judicial Council were appointed by Parliament²⁴, replacing those whose mandate expired in 2018, including the Council's acting president²⁵. Since 2018, the Judicial Council had been operating despite the expiration of the mandate of part of its members based on a temporary anti-deadlock mechanism. The Judicial Council appointed its new President in December 2023. In January 2024, the Parliament appointed a new Supreme State Prosecutor. The only remaining high-level judicial appointment is a new full-time President of the Supreme Court, whose appointment by the Judicial Council is pending since December 2020. In addition, many judicial and prosecutorial vacant positions still need to be filled²⁶. Currently, there are 58 vacant judicial positions and 56 vacant prosecutorial positions (out of 329 positions for judges and 141 positions for prosecutors)²⁷. Furthermore, stakeholders reported instances of undue influence and public attacks on the legal profession caused by derogatory public comments by Government officials, and targeting individual lawyers and the State Prosecutor's Office, which may contribute to undermining the public trust in the judiciary²⁸.

The promotion and enforcement of ethics and professional standards among judges and prosecutors remains a challenge. Montenegro is expected to amend the disciplinary and ethical legal framework for judges and prosecutors and to strengthen the accountability of judges and prosecutors²⁹. Since August 2022, the Ethical Commission of the Judicial Council has not fulfilled its duties by refraining from issuing decisions on any of the 19 pending

²² These extended mandates reflected adversely on the independence, legitimacy, accountability, professionalism and stability of the judiciary. 2023 Communication on EU Enlargement policy, Montenegro Report, pp. 21-27. OHCHR (2023), Press release 26.09.2023, Montenegro: Failure to ensure judicial independence hindering access to justice, says UN expert.

²³ Prior to the restoration of the quorum, the Constitutional Court was unable to adjudicate appeals regarding the local election results held on 23 October 2022. This hindered the establishment of local governments in specific municipalities and compromised the full and effective legal protection of voting rights. 2023 Communication on EU Enlargement policy, Montenegro Report, p. 10.

²⁴ These three members were elected as members of the Judicial Council from the group of lawyers, at the session of the Parliament on 21 December 2023.

²⁵ The President of the Judicial Council and the deputy were elected at the constituent session of the Judicial Council of Montenegro on 29 December 2023.

²⁶ Mina News (2024), Press release 10.03.2024, Korać: I expect that we will receive a proposal for a candidate for the president of the Supreme Court.

²⁷ Judicial Court of Montenegro (2023), Annual work report on the Judicial Council and total statement in the Court for 2023; 2023 Annual Report of the Prosecutorial Council (2024); Information received in context of the country visit to Montenegro from the Ministry of Justice.

²⁸ Successive press releases by the Bar Association from 6 July 2023, 17 July 2023, 24 January 2024 and 2 February 2024, claiming undue influence, attacks on the legal profession and targeting of individual lawyers and the State Prosecutor's Office as a whole, including in response to statements made by the Minister of Internal Affairs and Minister of Justice. Information received in context of the country visit to Montenegro from the Montenegro Bar Association.

²⁹ 2023 Communication on EU Enlargement policy, Montenegro Report, pp. 27-28.

cases³⁰. While the decisions of the Ethical Commission are grounded on violations of the Ethical Code and require comprehensive justification, there is still no legal recourse available for judges to challenge its decisions, as required by law³¹. The Ethical Commission of the Prosecutorial Council resumed its operations in September 2022, addressing several pending cases³². It currently has four cases under review. The disciplinary practice of the Judicial and Prosecutorial Councils in sanctioning judges and prosecutors for not submitting reports on assets and incomes to the Agency for the Prevention of Corruption (ACA) has proven effective at the level of misdemeanours proceedings, however, there have been no convictions of judges and prosecutors based on criminal proceedings arising from checks of asset declarations. There is scope to continue improving the verification of asset declarations of judges and prosecutors by providing for substantive checks of such declarations by the Agency, as well as the effective disciplinary practice of the Judicial and Prosecutorial Councils for failure to submit assets and income declaration reports to the Agency³³. As for the enforcement of the judicial inspection system³⁴, incorporating more thorough and surprise inspections, presents a challenge³⁵. Progress in implementing new ethical codes for notaries, public bailiffs, and court interpreters has been modest³⁶ and the proposed Draft Code of Ethics for Lawyers is pending adoption by the Bar Association³⁷.

³⁰ Situation on pending cases as of 14 March 2024.

³¹ Judicial Court of Montenegro (2023), Annual work report on the Judicial Council and total statement in the Court for 2023.

³² 2023 Communication on EU Enlargement policy, Montenegro Report, p. 27.

³³ European Commission (2024) Interim benchmark assessment Report on Montenegro. According to the Law on Prevention of Corruption, judges and prosecutors have the obligation to declare their assets and income each year and to report on possible conflicts of interest. These declarations are checked by the Anti-Corruption Agency, which performs three levels of checks for these declarations from public officials: fulfilment of the obligation to submit declarations; accuracy and completeness; and in-depth verification for declarations of high-ranking public officials each year based on the degree of risk. In December 2023, the Agency adopted a step-by-step methodology for the in-depth verification of assets and income declarations based on European best practice, which introduces a risk-based approach for initiating cases ex officio, thus improving the accuracy, quality, efficiency, and impartiality of the Agency's work in this area. However, the Agency for the Prevention of Corruption (ACA) limits its verification of these asset declarations to the fulfilment of the legal obligation to submit asset declarations, and a failure to do so only results in administrative and misdemeanor proceedings. Law on Prevention of Corruption (OG, 53/2014 and 42/2017).

³⁴ The Ministry of Justice has its own inspection system, which conducts both announced and unannounced inspections. In December 2023, the Ministry of Justice established a new Directorate for Judicial Supervision, expanding its staff to include a general director and eight inspectors. European Commission (2024) Interim benchmark assessment Report on Montenegro.

³⁵ In the first half of 2023, Ministry of Justice judicial inspectors conducted inspections in 10 courts and six prosecution offices, detecting no irregularities. In 2022, similar inspections were carried out in 20 courts and 16 prosecution offices. Furthermore, an extraordinary inspection was conducted at the High Court in Podgorica at the acting President of the Supreme Court's request. These inspections revealed a total of 15 irregularities, with 8 found in court operations and 7 in prosecution offices. 2023 Communication on EU Enlargement policy, Montenegro Report, p. 28.

³⁶ The Assembly of Chamber of Notaries of Montenegro adopted the Code of Notary Ethics on 28 December 2020. The Assembly of Chamber of Public Bailiffs of Montenegro adopted the Code of Ethics for Public Bailiffs on 27 November 2019. The Montenegrin Association of Interpreters adopted the Code of Interpreters on 28 January 2021.

³⁷ The Bar Association still uses the Code of Professional Ethics of Lawyers adopted on 16 January 1999 by the Yugoslav Bar Association.

Quality

The judicial system of Montenegro is undergoing an intensive phase of reforms, involving the revision of several laws, aimed at further alignment with European and international standards. The Judicial Reform Strategy 2024-2027³⁸, along with an accompanying action plan for the period 2024-2025, prepared by the Ministry of Justice, was adopted in May 2024³⁹. The Strategy aims, in particular, to strengthen the quality, efficiency and independence of the judicial system, to improve access to justice and to increase trust in the judicial system⁴⁰. The Government has established a new Council for monitoring its implementation, which includes representatives of the main stakeholders of the executive, judiciary and state prosecution service. The action plan for the period 2024-2025 foresees amendments to the Law on Judicial Council and Judges, the Law on State Prosecution Service, Law on the Special State Prosecutor's Office, Law on Amendments to the Law on Courts and to the Criminal Procedure Code; which were adopted in June 2024. In addition, the preparatory work within the Government on amendments to the Criminal Code is ongoing⁴¹.

The effectiveness of the judiciary is hampered by the lack of strategic investment in human resources, ICT and infrastructure. A new Plan for the Rationalisation of the Judicial network has been adopted by the Government on 17 May 2024⁴². The Judicial Council has adopted a plan to upgrade the court information system (PRIS), which is used for case allocation, tracking, management, and communication with parties. This upgrade, which will be rolled out in the coming period, aims to revise the existing random case allocation procedure, further improving the efficiency of case allocation and the use of judicial statistics. Additionally, it plans to expand the use of PRIS to misdemeanour courts. The upgrade is scheduled for completion in the first quarter of 2025⁴³. Moreover, the collection of statistical data across courts in compliance with the European Commission for Efficiency of Justice (CEPEJ) remains a challenge⁴⁴. Furthermore, the lack of specialised judges and prosecutors, the lack of expertise in certain areas⁴⁵, and the shortage of judges in courts, negatively impact the effectiveness of the random allocation of cases envisaged by PRIS⁴⁶. The lack of specific

³⁸ Government of Montenegro (2024), Justice Reform Strategy 2024-2027.

³⁹ Information received in context of the country visit to Montenegro from the Ministry of Justice; Input from Montenegro for the 2024 Rule of Law Report, p. 3.

⁴⁰ It also underwent a 20-day public consultation during January, after which a round table was organised on 24 January. Input from Montenegro for the 2024 Rule of Law Report, p. 3.

⁴¹ The Action Plan also includes future adoption of amendments to the Law on regulating financial position of judges and public prosecutors, Law on Bailiffs, Law on Court Experts, Law of Civil Code of Procedure, Law on Execution and Security of Claims, Law on Administrative Procedure, Law on Alternative Dispute Resolution, Law on International Mutual Assistance, Law on Amendments to the Law on Judicial Cooperation in Criminal Matters Law on Free Legal Aid, Law on Treatment of Juveniles in Criminal Proceedings, and Law on Family violence. Government of Montenegro (2024), Justice Reform Strategy 2024-2027; information received in context of the country visit to Montenegro from the Ministry of Justice.

⁴² Information received in the context of the country visit to Montenegro from the Ministry of Justice.

⁴³ European Commission (2024) Interim benchmark assessment Report on Montenegro.

⁴⁴ 2023 Communication on EU Enlargement policy, Montenegro Report, p. 30.

⁴⁵ Information received in the context of the country visit to Montenegro from the Special State Prosecutor's Office.

⁴⁶ 2022 Communication on EU Enlargement policy, Montenegro Report, p. 22.

skills also poses a challenge to recruitment⁴⁷, which is further undermined by uncompetitive salaries⁴⁸. The 2023 annual budget for the judiciary was EUR 30.6 million⁴⁹, which stakeholders considered insufficient⁵⁰. Furthermore, at all levels of the judiciary, the allocated working spaces and working conditions including equipment, are considered inadequate⁵¹. This is notably the case of the Special State Prosecution Office⁵². Against this background, challenges exist on strategic investment in physical infrastructure⁵³, ICT, and human resources⁵⁴.

Reflections are underway to improve the communication and transparency of the Judicial and Prosecutorial Councils. While sessions of the Judicial and Prosecutorial Councils are open to the public and both Councils are developing strategic documents to enhance public communication⁵⁵, neither of them fully publishes reasoned decisions on promotions, appointments, and disciplinary cases.

Efficiency

Serious challenges exist regarding the efficiency of justice, where the length of proceedings for administrative cases has further increased. In 2022, the clearance rates for civil, commercial, administrative, and criminal cases were below 90% for both first and second instance courts⁵⁶. Especially for first instance administrative cases, the clearance rate was very low at 40%, and with a very high disposition time of 1 180 days. According to the authorities, these developments are caused by a rise of complaints about applying the Law on Free Access to Information and the related increase of administrative cases in 2022. A significant decrease in terms of clearance rates and increase of disposition times was recorded between 2021 to 2022 across all case categories and for both first and second instance cases⁵⁷. The Constitutional Court has to address a considerable backlog of constitutional

⁴⁷ There is often only a little pool of candidates fulfilling the specific profile sought. Information received in the context of the country visit to Montenegro from the Special State Prosecutor's Office.

⁴⁸ Stakeholders emphasised the necessity of enhancing the appeal of judicial careers, including through a raise in current salaries. Information received in the context of the country visit to Montenegro from the Ombudsperson's Office, Special State Prosecutor's Office and civil society organisations.

⁴⁹ Judicial Court of Montenegro (2023), Annual work report on the Judicial Council and total statement in the Court for 2023.

⁵⁰ Information received in the context of the country visit to Montenegro from the Special State Prosecutor's Office.

⁵¹ Information received in the context of the country visit to Montenegro from the Special State Prosecutor's Office.

⁵² Information received in the context of the country visit to Montenegro from the Special State Prosecutor's Office.

⁵³ The spatial capacity of courts is limited, and their facilities are inadequate, with certain areas lacking elevator access, thereby impeding individuals' ability to exercise their right to access the courts. Information provided in context of the country visit to Montenegro by the Ombudsperson's Office.

⁵⁴ 2023 Communication on EU Enlargement policy, Montenegro Report, p. 30.

⁵⁵ 2023 Communication on EU Enlargement policy, Montenegro Report, p. 24. Information on public communication documents will be mentioned in this year's annual report. Information was received from Judicial and Prosecutorial Councils.

⁵⁶ CEPEJ (2022), Dashboard Western Balkans. Beneficiary Profile Montenegro – 2022 Data Collection, p. 16. Clearance rate in 2022 was 86%, and 89% for civil and commercial cases, 40% and 91% for administrative cases, and 81% and 83% for criminal cases respectively for first and second instance.

⁵⁷ For first instance cases, the clearance rate for civil and commercial cases declined by 6 percent points, and the disposition time increased by 16.1%. For criminal cases, the clearance rate declined by 20 percent points,

complaints and requests for reviewing the constitutionality of laws and other legal acts that have accumulated since February, as a result of its incomplete composition between September 2022 and February 2023⁵⁸.

II. ANTI-CORRUPTION FRAMEWORK

The independent Agency for Prevention of Corruption is the key institution for promoting integrity and preventing corruption⁵⁹. The main investigative anti-corruption bodies are the Department for the Fight Against Organised Crime and Corruption within the Criminal Police Sector of the Police Directorate⁶⁰, and the Special State Prosecutor's Office within the State Prosecution Service that has the jurisdiction for prosecution of perpetrators of corruption-related criminal offences⁶¹. Other institutions that contribute to the fight against corruption include the Financial Investigations Unit (FIU) and the Administration for Prevention of

and disposition time increased by 19.5%. For second instance, the clearance rate decreased by 14, 0.9 and 9.9 percent points for civil and commercial, administrative and criminal cases respectively. The disposition time increased by 68% for civil and commercial cases, by 28,4% for administrative cases, and 194,9% for criminal cases.

⁵⁸ In February 2023, after the Parliament appointed three judges, the Constitutional Court resumed its work on a backlog of over 3 000 constitutional complaints and over 250 initiatives for reviewing the constitutionality of laws and other legal acts. 2023 Communication on EU Enlargement policy, Montenegro Report, p. 22; information received in the context of the country visit to Montenegro from the Constitutional Court.

⁵⁹ The legislative framework for prevention of corruption in Montenegro consists of the Law on Prevention of Corruption (OG 53/14, 42/17, 73/23), the Law on Financing of Political Entities and Election Campaigns (OG 3/20, 38/20) and the Law on Lobbying (OG 52/14) which regulate the work of the Anti-Corruption Agency (ACA). ACA was established in January 2016 and took over the responsibilities of the Directorate for Anti-Corruption Initiative and the Commission for Prevention of Conflict of Interest which then ceased to exist. The ACA's managing bodies are the ACA Council and the Director. At the proposal of the Anti-Corruption Committee of the Parliament of Montenegro, the Parliament elects the members of the ACA Council which then appoints the Director. ACA is responsible for implementing measures to prevent conflict of public and private interest (Article 9 of the Law on prevention of corruption), restrictions in the exercise of public functions (Article 11 of the Law on prevention of corruption), collecting and checking the reports on assets and income of public officials (Article 25 of the Law on prevention of corruption), receiving and acting upon whistleblower reports (Articles 48-64 of the Law on prevention of corruption), and protecting whistle-blowers (Articles 65-72 of the Law on prevention of corruption). The Agency also has responsibilities to implement the Law on financing of political entities and election campaigns (Article 4) and the Law on Lobbying (Article 47).

⁶⁰ The Department carries out activities related to: monitoring and analysing the situation and trends of organised crime; monitoring and analysing international criminal groups related to Montenegrin perpetrators of criminal activity; defining centres of organised crime; identifying, monitoring and studying organised crime; carrying out risk assessments and damage caused by organised crime; implementing operational activities in relation to groups and individuals; initiating at the Special Prosecutor's Office the application of special investigative techniques; directly participating in identifying of assets gained through crime and their seizure; proposing preventive measures within the competence of criminal police, in relation to organized crime; implementing international police cooperation in specific cases and in that sense, the law enforcement agencies of countries from the region and beyond, establishing a network of contacts to ensure timely exchange of operational and other data about Montenegrin citizens, etc.

⁶¹ High-level corruption: a) if a public official committed the following criminal offences: abuse of office, fraud in the conduct of an official duty, trading in influence, inciting to engage in trading in influence, passive and active bribery; b) if the proceeds of crime exceeding the amount of EUR 40 000 have been obtained by committing the following criminal offences: abuse of position in business undertakings; abuse of authority in economy. Law on the Special State Prosecutor's Office (OG 10/15, 53/16).

Money Laundering and Terrorism Financing, as well as the Tax Administration. In addition, there is an Anti-Corruption Committee in the Parliament.

The perception among experts and business executives is that the level of corruption in the public sector is high. In the 2023 Corruption Perceptions Index by Transparency International, Montenegro scores 46/100 and ranks 63rd globally⁶². This perception remained relatively stable⁶³ over the past five years.

A new 2024-2028 strategy for the fight against corruption was adopted on 4 June 2024, along with its 2024-2025 Action Plan. A new National Council for the Fight against Corruption was established in February 2024. The Deputy Prime Minister⁶⁴ will chair the Council⁶⁵. Its main task has been the preparation of the new strategy, adopted on 4 June, along with its 2024-2025 action plan. Following the strategy's adoption, the Council monitors and reports on its implementation.

Montenegro criminalises most forms of corruption. The Criminal Code provides for active and passive bribery concerning public officials⁶⁶, and also covers bribery committed by a foreign public official⁶⁷. Montenegro has a broad legal and regulatory framework in place covering most corruption crimes of the UN Convention against Corruption (UNCAC), to which Montenegro is a Party. Montenegro is not a signatory party to the OECD Anti-Bribery Convention⁶⁸. Montenegro criminalises embezzlement and unauthorised use (also in the private sector) as well as trading in influence and offences of abuse of office⁶⁹.

The track record of investigations and prosecutions in cases of high-level corruption is stable, but the lack of trials and final decisions contributes to a perception of impunity.

⁶² Transparency International (2024), Corruption Perceptions Index 2023. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁶³ In 2019, the score was 45, while in 2023, the score was 46. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points) is relatively stable (changes from 1-3 points) in the last five years.

⁶⁴ Besides the Deputy Prime Minister, the National Council includes 8 Ministers, heads of the Anti-Corruption Agency (ASK), National Security Agency (ANB), Customs Administration, Tax Administration, Supreme State Prosecutor, Chief Special Prosecutor, Supreme Court President, representatives of the Chamber of Commerce, Montenegro's Academy of Sciences and Arts (CANU), the Union of Municipalities, and NGO representatives.

⁶⁵ The Council has the following mandate: monitor and analyze the work of state entities, institutions, organisations and bodies in the fight against corruption and organized crime; consider issues and problems in the implementation of laws related to the fight against corruption and organized crime; propose additional measures to improve strategies, action plans and other documents related to the fight against corruption and organised crime. Parliament of Montenegro (2024), Anti-Corruption Committee.

⁶⁶ Articles 423 and 424 of the Montenegro's Criminal Code.

⁶⁷ Article 142(3) point 5a includes a foreign public official into the definition of "public official". Bribery in the private sector is not covered.

⁶⁸ OECD (2018), Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Ratification Status as of May 2018.

⁶⁹ Embezzlement (Article 420 Criminal Code) and unauthorised use (Article 421 Criminal Code), also in the private sector (Article 421a Criminal Code), trading in influence (Article 422 & 422a Criminal Code) and abuse of office and related offences (Article 416-419 Criminal Code).

Over the last two years, the Special Prosecution Office acted promptly in several high-profile cases that appear to point to a deep infiltration of corruption and organised criminality within State structures, including at the top level of the judiciary and law enforcement. The track record of investigations and prosecutions in cases of high-level corruption is stable. By contrast, the track record of trials and final decisions is almost non-existent, contributing to a perception of impunity, which in turn hampers deterrence⁷⁰.

The human resources of the Special Prosecution Office (SPO) are insufficient to cope with its workload. As of 8 March 2024, the Chief Special Prosecutor, nine special prosecutors and five state prosecutors seconded to Special State Prosecutor's Office carry out the prosecutorial function within the SPO. The SPO's human resources are, however, deemed insufficient to cope with a workload of up to 100 cases per special prosecutor⁷¹. Given the complexity of the investigations to be carried out, the level of specialisation within the SPO office is also a limiting factor to the overall efficiency. The very large spectrum of competence foreseen in Law on the SPO, has been recently reduced through the adoption of an amendment limiting the competence of the SPO on acts of organised crime, corruption committed by high-ranking public officials and money laundering⁷². This revision should allow keeping the SPO's focus on particularly serious crimes. Refurbishment is planned for 2024 to accommodate the SPO and the Special Police Unit Department (SPU)⁷³ in the same premises.

The Agency for prevention of corruption has experienced a surge in the number of income and assets declarations and issued a large number of opinions on incompatibility of functions and conflict of interests. In 2023, the Agency for prevention of corruption (ACA) received the highest number of income and assets declarations compared to previous years, reaching 13 141 (11 784 in 2022)⁷⁴. The increase is due to the heightened turnover rate of officials, with declarations to be submitted both at appointment and at termination of

⁷⁰ In 2023, SPO issued orders to conduct investigations into criminal offences of high-level corruption in 11 cases against 20 individuals (2022: 11 cases against 76 individuals and five legal entities). Based on the government's data, in the same year, 14 indictments were raised by the SPO in cases of high-level corruption against 34 individuals (2022: 17 indictments against 81 individuals and five legal entities). Financial investigations were launched in eight cases of high-level corruption, against 40 individuals and one legal entity (2022: five cases, against 43 individuals and four legal entities). 2023 Communication on EU Enlargement policy, Montenegro Report, p. 38. The Government reported that in 2020, there were 8 first instance judgments involving 19 individuals or legal entities, resulting in 2 final convictions. In 2021, the number of first instance judgments increased to 21, involving 41 individuals or legal entities, and led to 3 final convictions. In 2022, there were 22 first instance judgments involving 65 individuals or legal entities, with 2 final convictions. In 2023, the number of first instance judgments rose to 25, involving 72 individuals or legal entities, but there was only 1 final conviction. Written input by Montenegro to the 2024 Communication on enlargement policy, Montenegro report.

⁷¹ Information received in context of the country visit to Montenegro from the Chief Special Prosecutor's Office.

⁷² The Law on Amendments to the Law on Special State Prosecutor's Office has been adopted as of 6 June 2024.

⁷³ The Ministry of Justice has formed a new Directorate for planning, design, improvement and construction of judicial infrastructure. The Ministry has established a working group to support relocation of both SPO and SPU.

⁷⁴ Agency for Prevention of Corruption of Montenegro (2023), Summary of the results of ASK's work in the first nine months of 2023.

office⁷⁵. Further to its work in verifying the accuracy and completeness of data in asset declarations, the ACA carried out an additional, in-depth verification of the reports of 20 high-ranking public officials, chosen in accordance with the degree of vulnerability of the area/function. In 2023, ACA initiated 54 administrative proceedings and 1 722 misdemeanour proceedings in the area of income and asset reporting (1 057 in 2022). In the same year, ACA completed 1 123 misdemeanour proceedings, imposed sanctions in 87.5% of cases and fines up to EUR 84 955. In December 2023, ACA introduced a new step-by-step methodology to verify income and assets reports and a risk-based approach to initiating *ex officio* cases, thus contributing to the impartiality of its action. In parallel, ACA procured a new interconnected digital information system. Both tools could improve ACA's effectiveness and capacities when carrying out in-depth verification of income and assets declarations. With regard to incompatibility of functions and on conflict of interest, in 2023, ACA issued 227 opinions, the highest number on an annual basis since its establishment in 2016. Twenty public officials resigned from positions or duties incompatible with public office as a result of ACA's opinions⁷⁶. The ACA developed a prior-to-appointment integrity checklist to be applied to top executive functions and to the Agency's future employees⁷⁷. By December 2023, the Government introduced this mandatory integrity check in the employment procedure for top executive functions (head and deputy head of Cabinet of the Prime Minister, advisors to the President and Vice President of the Government), accordingly amending the Regulation on the Government of Montenegro⁷⁸.

While numerous institutions have specific codes of conduct, the Government's Code of Conduct is ineffective pending the adoption of the Law on Government with disciplinary penalties. The Code of Ethics for Members of Parliament, in force since July 2019, includes a requirement for *ad hoc* disclosure in cases of a conflict of interest between the private interest of Members of Parliament and issues under consideration and decision-making process in the parliamentary procedure⁷⁹. The Government adopted a Code of Ethics for top executive officials in 2018 in the form of non-binding guidelines⁸⁰. According to GRECO, this code remains ineffective⁸¹ as no disciplinary penalties can be imposed until the new Law on Government is finalised and adopted⁸². The Code of Police Ethics (2021),

⁷⁵ Agency for Prevention of Corruption of Montenegro (2023), Summary of the results of ASK's work in the first nine months of 2023.

⁷⁶ In 2022, ACA issued 213 opinions leading to 24 resignations. Following the ACA opinions, three transfers of management rights in a company and one termination of a service contract due to a conflict of interest were effected, and one termination of employment.

⁷⁷ GRECO (2020), Fifth Evaluation Round – Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies. The ACA has developed an integrity checklist which is yet to be applied.

⁷⁸ The latest amendments to the Regulation of the Government, Article 16a.

⁷⁹ Parliament of Montenegro, Code of Ethics for MPs, August 2019.

⁸⁰ Code of ethics for state officials was adopted by the government on 6 July 2018 pending to the Article 74 of the Law on state officials amended on 31 March 2021.

⁸¹ GRECO (2020), Fifth Evaluation Round – Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies.

⁸² A first draft of the Law on Government was already prepared under the previous government, and is currently being consolidated and finalized under the lead of the Ministry of Public Administration. Two articles of the draft Law on Government will set, once the Law adopted, the legal basis for the preparation and adoption of the Code of Conduct for top executive functions. The existing Guidelines, developed with the support of the EU-CoE Horizontal Facility, are expected to streamline the process for the drafting of the Code of Conduct.

implementation of which is monitored by the Ethics Committee, has not been complemented with further provisions and guidance for its implementation⁸³. The Agency for prevention of corruption (ACA) also has a Code of Ethics in place⁸⁴. The Local Self-Government Law requires local civil servants and employees to adhere to the Code of Ethics for local civil servants and employees⁸⁵. Local councillors and officials must also follow the Code of Ethics. Out of 26 municipalities, 17 have adopted these codes. The 2014 Law on Prevention of Corruption introduced the concept of integrity plans, mandating their adoption by municipalities⁸⁶. ACA's 2022 report indicates that all municipalities adopted integrity plans.

The new legislation on lobbying was adopted on 6 June. The Law on lobbying, adopted on 6 June, will be complemented by nine by-laws, covering specific sectors, already drafted by the Working Group at the end of 2022. Registration of lobbyists in the register of lobbyists is mandatory and it is carried out on the day of issuance of the authorisation to carry out lobbying activities. In 2023, the lobbying register included thirteen individuals and one legal entity⁸⁷. The Law on Prevention of Corruption, as recently amended, reduces the post-employment restrictions to a one-year period, instead of two years as it was in the previous Law⁸⁸.

The legal framework regulating political parties' funding is hampered by shortcomings in its scope, clarity and implementation. The Agency for prevention of corruption (ACA) is implementing the Law on financing of political entities and election campaigns⁸⁹. The State Election Commission supervises its overall implementation together with the Parliamentary Committee for the political system, judiciary, and administration. In 2023, ACA checked 47 485 reports out of the 47 663 reports submitted by political subjects, authorities, and media advertising service providers. ACA imposed 10 measures on political entities related to suspension/transfer of funds, and initiated misdemeanour proceedings for violation of the Law on financing of political entities and election campaigns in 197 cases, while it completed 312 proceedings (also from previous years). ACA imposed measures on political entities in almost 90% of cases⁹⁰. Despite ACA's track record, the scope – and therefore the impact – of these checks remain limited due to the unclear or deficient provisions of the Law on financing of political entities and election campaigns, which exempts some categories of

⁸³ GRECO pointed out that this should be done with the participation of representatives of the Police. GRECO (2020) Fifth Evaluation Round – Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, paragraph 5.

⁸⁴ Pending to the Article 97 of the Law on prevention of corruption, the Council of the Anti-Corruption Agency adopted the Code of ethics for employees of the Anti-Corruption Agency on 22 April 2016.

⁸⁵ Article 94 of the Law on local self-government obliges local civil servants to adhere to codes of ethics adopted by local self-government units.

⁸⁶ Article 77 of the Law on prevention of corruption obliges authorities to submit annual reports on integrity plans by 15 April.

⁸⁷ Written contribution received from the Agency for prevention of corruption in the framework of the country visit to Montenegro.

⁸⁸ The Law on Prevention of Corruption, Article 17.

⁸⁹ The Agency for prevention of corruption checks the reports submitted by political subjects, authorities and media advertising service providers, and can impose measures to suspend the transfer of budget funds for the financing of regular work of political subjects, as well as impose a permanent measure blocking the transfer of funds.

⁹⁰ Agency for Prevention of Corruption of Montenegro (2023), Summary of the results of ASK's work in the first nine months of 2023.

political subjects from the scrutiny of the ACA⁹¹. To complete the institutional set up, the State Audit Institution (SAI) performs the audit of annual consolidated financial statements of political entities with parliamentary status at the national and local level for the previous fiscal year, over a four-year period. In case the audit process identifies irregularities, SAI submits the file to both the competent State Prosecutor's Office and the Parliamentary Committee for political system, judiciary, and administration. However, even if SAI expresses adverse opinions on the financial statements of political entities and requires consultative hearings, the competent Committee has no obligation to act. The different shortcomings in the existing legal framework on political parties and election campaigns' financing are identified in subsequent recommendations of the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE-ODIHR)⁹². In particular, the current legal framework does not provide for effective safeguards against and penalties for circumvention of the rules, which limits the effectiveness of the oversight⁹³. Also, the Law on election of Councillors and Members of Parliament is not aligned with the Law on financing of political entities and election campaigns; as a result, this inconsistency prevents a correct and efficient control on electoral campaign financing⁹⁴.

Provisions on the protection of whistleblowers in the Law on Prevention of Corruption have been amended with the aim to align with the EU acquis. While Montenegro does not have a specific law on whistleblowing, the 2021 peer review mission and the 5th GRECO evaluation round widely recognised that it already had strong provisions related to the protection of whistleblowers in the Law on Prevention of Corruption⁹⁵. In March 2024, the Ministry of Justice decided to maintain the whistleblower protection in the Law on

⁹¹ For example, the coalitions and group of voters are exempted from the sanctioning mechanism applied by ACA as they are not recognised as legal entities in the Misdemeanour Law, which exempts them from the scrutiny of ACA. Coalitions refer to political party coalitions. Only political parties (constituents of the coalition) are legal entities, that is why the coalitions are exempted from the sanctioning mechanisms by ACA. Group of voters are individuals who decided to create a joint electoral ticket and to run elections, i.e. random citizens who collected support signatures and who created an independent list (but not a new political party) that will participate on elections.

⁹² OSCE (2023) Montenegro presidential election 19 March and 2 April 2023 ODIHR Election Observation Mission Final Report, as well as previous OSCE/ODHIR recommendations. Among others, some procedural issues hamper the effectiveness of the LFPEEC, e.g.: ACA verifies whether registered voters made reported donations, and verifies that a donation is not from a person convicted for corruption. However, ACA verifies whether donors are directors of public contractors but not owners of or shareholders in public contractors, because the database on public procurement of the Ministry of Finance contains only the names of the directors of public contractors.

⁹³ The Horizontal Facility of the Council of Europe has provided 46 recommendations, out of which 39 for the improvement of the Law on political entities and electoral campaigns. In the two latest amendments to the Law, the legislator incorporated 11 recommendations, while 5 remained partially implemented and 23 were not implemented. Out of 23 not implemented the most important ones concern the need to define all political entities as legal entities, including coalitions and groups of voters for the reasons stated above, the need to define in-kind donations, as well as the need to align the Law with the Law on Councilors and MPs in terms of the duration of the electoral campaign.

⁹⁴ The legal inconsistencies exist regarding the duration of the electoral campaign i.e. the Law on election of Councilors and MPs prescribes the duration of the electoral campaign from 60 to 100 days, however according to the Law on Financing of Political Entities and Electoral Campaigns, the campaign lasts from the day the elections are called until the day the final election results are announced (once the campaign for the election of councilors in 14 municipalities lasted longer than nine months and this imposed the obligations on the state authorities throughout all this period).

⁹⁵ Articles 48-64 of the Law on prevention of corruption.

Prevention of Corruption and incorporate stronger protection mechanisms⁹⁶. Under the current law, ACA has the mandate to check public procurement procedures based on whistleblower reports related to Government bodies, local self-government and administration units, and public companies, public institutions, and other legal entities whose majority owner or founder is the state or a municipality⁹⁷. The aforementioned amendment expands the material scope to cover, at least, all areas falling within the material scope of the EU whistleblower protection acquis⁹⁸.

Montenegro has identified and implemented measures to reduce corruption in vulnerable areas. The new 2024-2028 Anticorruption Strategy identifies the following areas as the most vulnerable to corruption: the judiciary, the police and customs administration, environment, urban planning, public procurement, local self-government, and state-owned enterprises. The strategy contains specific measures to address the risks in those areas. In addition, the ACA currently applies a methodology for assessing the application of anti-corruption measures to the judiciary and to state authorities in the social and child welfare areas. Reports on the application of this methodology are published or currently under preparation. In 2023, the Government amended its Rules of Procedure to oblige the conduct of assessments of potential corruption risks for legislative initiatives⁹⁹.

The ACA is mandated to check public procurement procedures, even though the high number of small contracting authorities remains a risk. An electronic public procurement system (CEJN) is fully operational and connected with the criminal records of the Ministry of Justice, records on tax obligations and on mandatory social security contributions of the Revenue and Customs Administration and records of the Agency for the Prevention of Corruption. However, the high number of small contracting authorities remains a risk. A regulatory and institutional framework is in place on integrity and conflict of interest in public procurement. Training sessions on public procurement rules for procurement officers are systematically organised by the public procurement authority, and technical instructions and expert guidance on procurement rules are published. Contracting authorities have a legal obligation to submit annual reports on violation of anti-corruption rules and, in cases where violations are established, formal notification is ensured. The ACA is mandated to check public procurement procedures based on whistleblower reports related to government bodies, local self-government and administration units, public companies, public institutions, and other legal entities whose majority owner or founder is the state or a municipality¹⁰⁰.

⁹⁶ Articles 65-72 of the Law on prevention of corruption.

⁹⁷ In the first nine months of 2023, ACA received 147 whistleblower reports (in comparison to 127 for the same period in 2022). Out of this total number, 66 were submitted anonymously, while ACA initiated one procedure ex officio. During the same period, ACA concluded one procedure initiated ex officio from the previous period, which determined the existence of a threat to the public interest. In the same period, ACA forwarded 12 whistleblower reports to the competent prosecutor's offices, one resulting in rejection. ACA forwarded 15 reports to other competent institutions, one resulting in irregularities found. In the same period, ACA submitted six requests to the competent misdemeanour courts for initiation of misdemeanour proceedings for violation of the provisions of the Law on Prevention of Corruption in this area. Summary of results of the ACA work in the first nine months of 2023. Agency for Prevention of Corruption.

⁹⁸ European Commission (2024) Interim benchmark assessment Report on Montenegro.

⁹⁹ European Commission (2024) Interim benchmark assessment Report on Montenegro.

¹⁰⁰ Ibidem.

III. MEDIA PLURALISM AND MEDIA FREEDOM

The Montenegrin legal framework on media freedom and pluralism is based on the Constitution¹⁰¹ and sectoral legislation¹⁰² made up of the Law on Electronic Media, the Law on the National Public Broadcaster (RTCG) and the Media Law, the latter being the basic regulatory framework for all media, as amended in June 2024. The legal framework guarantees the basic right to information and the access to public documents¹⁰³. The Agency for Audiovisual Media Services (AAVMS) – formerly the Agency for Electronic Media – is the independent regulator for audiovisual media services¹⁰⁴. Furthermore, it shares supervision powers with the Ministry of Culture and Media, which is the state administration body responsible for media affairs under the Media Law¹⁰⁵. In October 2023, the Government adopted the 2023-2027 Media Strategy, along with the Action Plan for 2023-2024¹⁰⁶. This is the first Government strategy in the field of media policy, which seeks to advance freedom of expression and promote an environment conducive to free and professional journalism¹⁰⁷.

The new Law on Audiovisual Media Services grants new powers to the Agency for Audiovisual Media Services (AAVMS) addressing the long-standing challenge of its effectiveness to enforce the regulatory framework by granting it with comprehensive sanctioning instruments, including the power to impose fines in case of violations of the law. The Montenegrin legal framework on media freedom and pluralism has recently gone through a comprehensive reform process. Montenegro adopted in June 2024 a “media legislative package” consisting of amendments to the Law on the National Public Broadcaster (RTCG), a new Audiovisual Media Services Law, and a new Media Law. This “media legislative package” aims at improving the core legal framework and at aligning it with the EU *acquis*, including the EU Directive on Audiovisual Media Services. The legal framework guarantees the regulatory authority’s operational and financial independence¹⁰⁸. The new law has broadened the competencies of the AAVMS and improved its status¹⁰⁹, providing a basis to address horizontal and vertical media concentration, including broadcasters and cable operators¹¹⁰.

Transparency of media ownership information is limited to registered media providers only. According to the Law on Media, all media, including online media, must be registered

¹⁰¹ Article 49 on freedom of press, Article 50 on prohibition of censorship and Article 51 on access to information.

¹⁰² Law on the Public Broadcasting Services of Montenegro, (OG 80/202), Law on Media, (OG 80/202), Law on Electronic Media (OG 46/10, 40/11, 53/11, 6/13, 55/16, 92/17 and 82/20).

¹⁰³ Law on Free Access to Information (OG 44/2012,30/2017).

¹⁰⁴ Law on Audiovisual Media Services, OG 54/2024 of 11.06.2024, Article 139.

¹⁰⁵ Law on Media, OG 80/202, Article 9.

¹⁰⁶ Government of Montenegro (2023), Montenegro adopts first Media strategy for 2023-2027.

¹⁰⁷ Montenegro ranks 40th in the 2024 Reporters without Borders World Press Freedom Index compared to 39th in the previous year.

¹⁰⁸ The Agency for Audiovisual Media Services (AAVMS) – formerly the Agency for Electronic Media –is functionally independent of any state body as well as of all legal and natural persons performing activities of production and broadcasting of radio and TV programs or providing other audiovisual media services Law on Electronic Media, OG 82/20, Article 42. AAVMS’s main source of finance are the fees charged to the providers of audio-visual media services.

¹⁰⁹ Information received from the Agency for Electronic Media in the context of the country visit.

¹¹⁰ Ibidem.

and disclose information in their imprint about entities holding more than 5% ownership share in media companies, and the public sector cannot advertise in media that have not published this information. The Ministry of Culture and Media keeps a media register, which includes certain information on each media¹¹¹ but not on information on ownership¹¹². The new Law on Audiovisual Media Services obliges providers of audiovisual services to provide ownership information to the AAVMS¹¹³. The 2024 Media Pluralism Monitor indicates a medium risk (44%) for the transparency of media ownership¹¹⁴.

Information on all public sector payments made to media outlets, including institutional advertising, is limited. The Montenegrin media market is very small, pluralistic and perceived to be highly politicised¹¹⁵. Advertising revenues are not sufficient to finance all media¹¹⁶. The main mechanism of state support to the media is the Fund for Encouraging Media Pluralism and Diversity, established in 2020, to which the state allocates 0.2% of the annual budget¹¹⁷. Public sector bodies have to publish a record of payments made to the media on the basis of advertising and other contracted services on their websites, and media founders are required to keep records of such payments through a form published on the Ministry's website¹¹⁸. Only 62% of registered media and only 28% of public sector entities submitted data on funding transparency, up from 37% and 9% respectively in 2022¹¹⁹. Overall, the limited advertising market affects the economic sustainability of media outlets, leaving them particularly exposed to political and corporate interests¹²⁰. Media self-regulation is fragmented and generally deemed ineffective by stakeholders¹²¹, mostly limited to in-house ombudsmen in only a handful of media¹²².

The appointment of the Director-General of the Radio Television of Montenegro (RTCG) by the RTCG Council has been challenged in court. RTCG is the national public

¹¹¹ Such as name of the media outlet, the name of the founder and the editor-in-chief, the authorisation number to provide an audio-visual media service, the language in which the media service is provided, an e-mail address or the business name and registered office. Law on Media, Article 10.

¹¹² Impact Assessment of the draft law on media, p. 2.

¹¹³ Law on Audiovisual Media Services, OG 54/2024, Article 132.

¹¹⁴ The indicator is 6 percentage points lower than in 2023. 2024 Media Pluralism Monitor, p. 15.

¹¹⁵ Media Pluralism Monitor, 2024, page 19: The indicator of Editorial autonomy kept the highest risk score of 97%. In Montenegro, there is no legal protection to ensure freedom from political influence on the election of the editor-in-chief, such influence is not seen as conflict, and it depends primarily on media owners' closeness to certain political parties or organizations.

¹¹⁶ Information received in the context of the country visit to Montenegro from the former Agency for Electronic Media; Media Pluralism Monitor, 2024, page 16: There are only three daily newspapers, and in the audiovisual sector, the four biggest companies make 75% of total revenues.

¹¹⁷ Law on Media, OG 54/2024, Article 26.

¹¹⁸ Law on Media, OG 80/202, Articles 14 and 16.

¹¹⁹ Impact Assessment of the draft law on media, p. 1; 2024 Media Pluralism Monitor, country report for Montenegro, p. 21.

¹²⁰ This statement reflects the assessment from the 2023 enlargement report on Montenegro, p. 45. Some external references: Sindikat Medija (2023), Montenegro indicators on the level of media freedom on journalists' safety 2022; Media Ownership Monitor Montenegro 2023 (2023), Montenegrin Media needs State help to provide pluralism; Media Ownership Monitor Montenegro 2023 (2023), Individual owners; Media Ownership Monitor Montenegro 2023 (2023), Adria TV; Centar za demokratsku Tranziciju (2022), Who are "our" televisions?; SEENPM (2023), Weak mechanisms and outdated code of ethics, media self-regulation in Montenegro.

¹²¹ SEENPM (2023), Weak mechanisms and outdated code of ethics, media self-regulation in Montenegro.

¹²² 2024 Media Pluralism Monitor, country report for Montenegro, p. 20.

broadcaster which is state owned and funded through a fixed allocation of 1.34% of the current national budget¹²³. The public broadcast system accounts for more than half of the media market and consists of national PBS with four TV and two radio channels, six local public TV stations and 15 local public radio broadcasters¹²⁴. The public broadcaster has a largely balanced editorial policy, providing a broad range of political stakeholders with opportunities to present diverse political views¹²⁵. The RTCG Council is its highest governing body, and its members are elected by the Parliament. In January 2023, the Podgorica basic court invalidated the appointment of the RTCG Director-General, a decision upheld by the Podgorica High Court in May 2023. However, in June 2023, the RTCG Council reappointed the same individual, prompting strong public criticism and a subsequent criminal investigation into potential misconduct. In April 2024, the Podgorica Basic Court overturned, once again, the RTCG Council's decision, a ruling that the Council appealed before the Podgorica High Court. Local public broadcasters are particularly exposed to the risk of political and economic pressure, as many local public broadcasters remain directly politically influenced and financially controlled by local authorities¹²⁶.

While access to information and public documents is legally guaranteed in Montenegro, it has limitations in practice. Approximately one quarter of all requests for access to information are being fully or partially rejected¹²⁷ and certain institutions are reported to invoke confidentiality grounds to refuse requests for information of public interest¹²⁸. The number of appeals filed against refusals to requests for information is rising each year¹²⁹. The Agency for Personal Data Protection and Free Access to Information claims that the existing appeal mechanism is being abused to claim compensation and is pushing for legal limitations to the right to free access to information¹³⁰. In December 2023, the Government adopted amendments to the Law on Free Access to Information, which are pending in Parliament. The 2024 Media Pluralism Monitor indicator on the protection of the right to information increased from medium to high risk (54 to 73%)¹³¹.

The authorities generally provide effective law enforcement and institutional responses to new cases of violence against journalists and media workers, but there was no effective judicial follow-up of emblematic past cases. In 2022, the authorities registered 22 cases of violence against journalists, involving threats, intimidation, harassment and, in several instances, physical violence. In 13 of these cases, the prosecution authorities opened

¹²³ Law on the National Public Broadcaster RTCG (OG 80/2020 and 125/2023).

¹²⁴ 2024 Media Pluralism Monitor, country report for Montenegro, p. 6.

¹²⁵ Freedom House (2022), Freedom in the World report 2022 – Montenegro.

¹²⁶ Council of Europe and European Union (2017), Montenegro media sector inquiry with recommendations for harmonisation with the Council of Europe and European Union standards; Council of Europe (2023), Observations of the early parliamentary elections in Montenegro (11 June 2023). Information received in the context of the country visit to Montenegro from NGOs dealing with media.

¹²⁷ 2024 Media Pluralism Monitor, country report for Montenegro, p. 13.

¹²⁸ Information received in the context of the country visit to Montenegro from NGOs dealing with media: Trade Union of Media of Montenegro; Media Centre; Media Self-Regulation Council.

¹²⁹ Agency for Protection of Personal Data and Free Access to Information, 2023 Communication on enlargement policy, Montenegro report.

¹³⁰ The administration is often unable to follow the legal deadline of 15 days for responding to submitted requests, as they are in the consequential appeal procedure, which results in a high number of administrative court cases and related costs. 2024 Media Pluralism Monitor, country report for Montenegro, p. 13.

¹³¹ Media Pluralism Monitor 2024, p.13.

criminal proceedings; nevertheless, there is concern that emblematic past cases have never been effectively followed up¹³². From 1 January to 31 May 2023, the police registered five cases of violence against journalists, one of which the prosecution authorities classified as a criminal offence prosecutable *ex officio*¹³³. Since 2014, a commission, including representatives of the media, civil society organisations, Government, law enforcement and prosecution services has been monitoring the authorities' responsiveness to cases of violence against journalists¹³⁴. The Council of Europe's Platform to Promote the Protection of Journalism and Safety of Journalists¹³⁵ registers nine active alerts relating to harassment and intimidation of journalists, attacks on physical safety and integrity of journalists and impunity. Montenegro replied to six of these alerts. The Mapping Media Freedom project registered three alerts in Montenegro in 2023, all referring to intimidation and threatening¹³⁶. Defamation is no longer a criminal offence in Montenegro since 2011. Since 2021, the legal framework on the protection of journalists and other media workers provides for stringent penalties in cases of violence against journalists. Journalists are granted the status of persons who perform duties of public interest, while several criminal offences, including murder, infliction of serious bodily injuries, coercion by using force or threat and endangering of safety, carry longer prison sentences when committed against journalists. Montenegro has no specific legislation in force addressing strategic lawsuits against public participation (SLAPP). There have been no notable cases of SLAPP against media outlets or journalists in the last years.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Montenegro operates as a unicameral parliamentary democracy, characterised by a single legislative chamber¹³⁷. Any member of the Parliament or the Government can table draft laws¹³⁸. The Government's authority is limited by the Constitution and by the laws enacted by the Parliament. The Government is headed by the Prime Minister, who is accountable to the Parliament. The President, as the Head of State, is elected directly by absolute majority in a popular vote for a five-year term¹³⁹. The Constitutional Court decides, among others, on conformity with the Constitution of laws, regulations and general acts¹⁴⁰. The Ombudsperson's Office is an independent body responsible for the promotion and protection

¹³² The murder of the editor and newspaper owner Dusko Jovanovic in May 2004 and the shooting of investigative journalist Olivera Lakić in May 2018.

¹³³ Input from Montenegro to the EU Annual Report on Montenegro 2023.

¹³⁴ Information received in the context of the country visit to Montenegro from NGOs dealing with media: Trade Union of Media of Montenegro; Media Centre; Media Self-Regulation Council.

¹³⁵ Council of Europe's Platform to Promote the Protection of Journalism and Safety of Journalists.

¹³⁶ Media Freedom Rapid Response (2024), Monitor.

¹³⁷ Constitution, 2007, Articles 1, 11.

¹³⁸ Constitution, 2007, Article 93.

¹³⁹ The President is eligible for a second term.

¹⁴⁰ Constitution of Montenegro, 2007, Articles 149-150.

of human rights and freedoms¹⁴¹, which also has the role of the National Human Rights Institution¹⁴² and a multi-mandate equality body¹⁴³.

Despite an established framework for inclusive legislative processes, challenges exist in terms of effectiveness of public consultations. The Ministry of Justice is mandated to conduct public consultations during the preparation of laws and strategies based on a procedure determined by a government decree¹⁴⁴. Namely, public discussions on drafting laws and public policies involve consulting the public in the initial phase of the preparation and organising public debates on draft texts, with representation from NGOs and the judiciary in the working groups¹⁴⁵. Although the framework for an inclusive legislative process is established, stakeholders have reported persistent challenges in its implementation¹⁴⁶. This includes legislation being passed without sufficient consultation with stakeholders, including the judiciary, despite efforts to involve representatives from diverse sectors through dedicated working groups¹⁴⁷. Laws can be passed under urgent procedures in exceptional circumstances, particularly for unforeseen circumstances or the need for harmonisation with European legislation, with specific criteria outlined in the Rules of Procedure of the Parliament of Montenegro¹⁴⁸. In 2023 and the first quarter of 2024, the Government identified 76 draft laws, 31 of which were proposed for urgent adoption. The law regulates

¹⁴¹ The law requires only an absolute majority for the election, deviating from the Venice Principles which set out that the Ombudsman should preferably be elected by an appropriate qualified majority. Venice Commission, Principles on the protection and promotion of the Ombudsman institution, CDL-AD(2019)005, paragraph 6; CDL-AD(2011)034, paragraph 16

¹⁴² The Ombudsperson Office is formally entitled “the Protector of Human Rights and Freedoms (PHRF)”. The Office is also the institutional mechanism for protection against all forms of discrimination and the National Preventive Mechanism for the protection and prevention of persons deprived of liberty against torture and other forms of cruel, inhuman or degrading treatment or punishment. Law on the Protector of Human Rights and Freedoms of Montenegro (OG 42/2011, 32/2014), Law on Prohibition of Discrimination, (OG 46/2010, 18/2014) and the Law on Prohibition of Discrimination of Persons with Disabilities OG 35/2015). The latest amendments of the Law on Gender Equality (OG 35/2015) established full competence of the Ombudsperson’s Office in acting upon complaints against violation of the principle of gender equality.

¹⁴³ Article 27 of the Law on the Protector of Human Rights and Freedoms of Montenegro, Official Gazette of Montenegro No.42/2011, 32/2014; Article 21 of the Law on Prohibition of Discrimination, Official Gazette of Montenegro” No.46/2010, 18/2014 and Article 1 of the Law on Prohibition of Discrimination of Persons with Disabilities, Official Gazette of Montenegro” No.35/2015); the Law on Gender Equality, Official Gazette of Montenegro, no.46/2007, 35/2015.

¹⁴⁴ Input from Montenegro to the 2024 Rule of Law Report, p. 83. The decree on the selection of representatives of non-governmental organisations to the working bodies of state administration authorities and the implementation of public consultations in the preparation of laws and strategies (Official Gazette of Montenegro, no. 41/18) from 2018] does not stipulate the scope of laws or policy areas covered. However, the Law on State Administration (Official Gazette of Montenegro, no. 78/18, 70/21 and 52/22) stipulates in Article 52 that conducting public consultations is not mandatory when the law or strategy regulates issues related to security, defense, or the annual budget.

¹⁴⁵ Input from Montenegro to the 2024 Rule of Law Report, p. 80-83.

¹⁴⁶ Information received in the context of the country visit to Montenegro from the Ombudsperson’s Office and civil society organisations in the area of justice.

¹⁴⁷ Information received in the context of the country visit to Montenegro from the Ombudsperson’s Office.

¹⁴⁸ Article 151 of the Rules of Procedure of the Parliament of Montenegro allows for laws to be passed by urgent procedure, especially for unforeseen circumstances or harmonisation with European legislation. Article 152 outlines the procedures for proposing laws under urgent procedures, including the timeframe for submission to Parliament. Article 153 specifies the parliamentary process for considering urgent laws, allowing for immediate debate if necessary.

the Ombudsperson's ability to make proposals on legislation for alignment with international human rights standards¹⁴⁹.

While the Ombudsperson's Office has improved its capacity to handle complaints and improve the quality of decisions, the absence of systematic follow-up to its recommendations undermines the efficiency of its work. The capacity to handle complaints by the Ombudsperson's Office increased¹⁵⁰, as did the quality of its decisions¹⁵¹. However, the lack of follow-up of the Ombudsperson's decisions and recommendations across all public institutions has proven challenging for the Office in practice¹⁵². Namely, the cooperation of national bodies with the Office remains limited despite an open channel of communication and, recommendations of the Office does not result in any formal follow-up¹⁵³. The Office is formally invited to working groups tasked with drafting legislation, but meaningful participation remains difficult due to lack of formal status and resources¹⁵⁴. In 2023, the Ombudsperson's Office received a total of 1 107 complaints, addressing issues such as the rights of persons deprived of liberty, children's rights, the right to good governance and legal protection, prohibition of discrimination, and labour rights. Of these, the Office made decisions on 958 cases and issued 455 recommendations to various authorities, with only 127 (19.3%) being implemented¹⁵⁵. The obstacles to implementing these recommendations often include financial constraints, lack of political will, and administrative changes leading to a lack of accountability¹⁵⁶. In its role as the national human rights organisation¹⁵⁷, the Ombudsperson is presently accredited with B-Status.

On 1 January 2024, Montenegro had three leading judgments of the European Court of Human Rights pending implementation¹⁵⁸. At that time, Montenegro's rate of leading judgments from the past ten years that remained pending was at 14%, and the average time that the judgments had been pending implementation was 4 years and 10 months¹⁵⁹. The moderately high average implementation time of Montenegrin cases results from the fact that the country's three leading judgments had been pending implementation for 2, 5 and 8 years respectively. The oldest leading judgment pending implementation concerns the applicant's

¹⁴⁹ Input from Montenegro to the 2024 Rule of Law Report, p. 83. Written contribution received from the Ombudsperson's Office in the framework of the country visit to Montenegro.

¹⁵⁰ 2023 Communication on EU Enlargement policy, Montenegro Report, p. 40.

¹⁵¹ Ibidem.

¹⁵² Information received in the context of the country visit to Montenegro from the Ombudsperson's Office.

¹⁵³ Information received in the context of the country visit to Montenegro from the Ombudsperson's Office.

¹⁵⁴ The Office reported not having sufficient resources to operate. Information received in the context of the country visit to Montenegro from the Ombudsperson's Office.

¹⁵⁵ Montenegro Protector of Human Rights and Freedoms (2024), Work report for the year 2023.

¹⁵⁶ Written contribution received from the Ombudsperson's Office in the framework of the country visit to Montenegro.

¹⁵⁷ Accreditation by the by the Global Alliance of National Human Rights Institutions (GANHRI).

¹⁵⁸ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

¹⁵⁹ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network on Enlargement Countries for the 2024 Rule of Law Report, p. 1.

ill-treatment in police detention and the lack of an effective investigation into his complaints¹⁶⁰. As regards the respect of payment deadlines, on 31 December 2023 there was one case in total awaiting confirmation of payments (the same as in 2022)¹⁶¹. On 1 July 2024, the number of leading judgments pending implementation had increased to five¹⁶².

The implementation of the Strategy for Cooperation of State Administration Bodies and Non-Governmental Organisations 2022-2026 has not yet led to improvement in respect of civil society. Montenegro is considered to have a narrowed civil society landscape¹⁶³. Financial support to civil society organisations is regulated by the Law of Non-Governmental Organisations and relevant by-laws, establishing a combined model of financing. This includes centralised programming by the Ministry of Public Administration and decentralised publication of public calls by line Ministries and attribution of funds through annual Government decisions¹⁶⁴. While the Strategy for Cooperation of State Administration Bodies and Non-Governmental Organisations 2022-2026, adopted in July 2022, acknowledges civil society as a partner in state public policy-making, its practical application remains inadequate both in terms of public funding as well as its involvement in public consultations¹⁶⁵. The task of supervising the strategy is vested in the Council for Co-operation of State Bodies and NGOs, which is composed by equal representation from state officials and NGO representatives¹⁶⁶. Yet, despite six public calls, the Council is not yet operational¹⁶⁷. A Government report on conducting public consultations during the legislative process, published in December 2022, revealed that a significant number of laws were adopted in 2021 without prior consultation with civil society¹⁶⁸. As a major improvement, since May 2022¹⁶⁹, in line with the Law on State Administration, all ministries have integrated civil

¹⁶⁰ Judgment of the European Court of Human Rights of 24 November 2015, *Sinistaj and Others v. Montenegro*, 1451/10, pending implementation since 2016.

¹⁶¹ Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17th Annual Report of the Committee of Ministers – 2023, p. 138.

¹⁶² Data according to the online database of the Council of Europe (HUDOC).

¹⁶³ The civic space of Montenegro was ‘narrowed’ in 2023 according to the rating by CIVICUS. Ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

¹⁶⁴ A mandatory minimum percentage of the state budget, with specific allocations, is designated for civil society organisations, including co-financing of projects supported by EU funds. Funds are distributed through public calls, with independent assessors evaluating project proposals for national projects, and criteria set for co-financed projects. However, support from the state budget, donation systems, and taxation are not covered by this legislation. Input from Montenegro for the 2024 Rule of Law Report, pp. 76-77.

¹⁶⁵ In 2022, there were fewer calls for NGO participation in working groups and fewer elected NGO representatives compared to the previous year. Furthermore, ministries often omit to publish the list of NGOs that meet the required conditions, thereby hindering the transparency of the process. Government of Montenegro (2023), 2022 Report on the Implementation of the Decree on the Selection of Representatives of NGOs in Working Groups of State Administration Authorities and Implementing Public Consultations in Preparing Laws and Strategies; Government of Montenegro (2023), Report on the implementation of public tenders and approved projects in accordance with the Law on Non-Governmental Organizations in 2022.

¹⁶⁶ Government of Montenegro (2022), Report from the 13th Government session.

¹⁶⁷ Membership of NGOs has so far not been secured and the Council for Cooperation between the Government and NGOs has not resumed work. Government of Montenegro (2022), Report from the 13th government session.

¹⁶⁸ Government of Montenegro (2021), Report on the application of the Regulation on the election of representatives of non-governmental organisations to the working bodies of state administration bodies and the implementation of public hearings in the preparation of laws and strategies for 2021.

¹⁶⁹ Government of Montenegro (2023), Report on the implementation of public tenders and approved projects in accordance with the Law on Non-Governmental Organizations in 2022. Law on State Administration (OG

society organisation representatives into working groups to draft laws and national strategies in their respective areas¹⁷⁰. Furthermore, even though the rules for public funding of civil society organisations oblige ministries to conduct consultations with them on their annual funding priorities, not all ministries launched calls for proposals to finance civil society organisations' projects¹⁷¹. This demonstrates the need for coordination, strategic planning, monitoring and evaluation of the support they provide to civil society organisations. According to the Law on local self-government, civil society organisations can also access funds at local level. In 2022, 18 municipalities (out of 23) launched calls for proposals¹⁷².

78/2018, 70/2021, 52/2022), Article 79: State administration bodies cooperate with non-governmental organisations by enabling the participation of non-governmental organisations in: the procedure for conducting a public discussion in the preparation of laws and strategies; the work of working groups and other working bodies formed by state administration bodies for the purpose of examining issues of common interest or for the normative regulation of relevant issues.

¹⁷⁰ Law on State Administration (OG 78/2018, 70/2021, 52/2022), Article 79: State administration bodies cooperate with non-governmental organisations by enabling the participation of non-governmental organisations in: the procedure for conducting a public discussion in the preparation of laws and strategies; the work of working groups and other working bodies formed by state administration bodies for the purpose of examining issues of common interest or for the normative regulation of relevant issues. Government of Montenegro (2023), 2022 Report on the Implementation of the Decree on the Selection of Representatives of NGOs in Working Groups of State Administration Authorities and Implementing Public Consultations in Preparing Laws and Strategies.

¹⁷¹ 2023 Communication on EU Enlargement policy, Montenegro Report, p. 17.

¹⁷² Report on the implementation of public tenders and approved projects in accordance with the Law on Non-Governmental Organisations in 2022. Government of Montenegro (2023), Report on the implementation of public tenders and approved projects in accordance with the Law on Non-Governmental Organisations in 2022.

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* The list of contributions received in the context of the consultation for the 2024 Rule of Law report can be found at https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation_en.

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Annex II: Country visit to Montenegro

The Commission services held hybrid meetings in March 2024 with:

- Administrative Court
- Agency for Electronic Media
- Agency for Prevention of Corruption
- Association of judges
- Association of Professional Journalists
- Association of Prosecutors
- CDT, Centre for Democratic Transition
- CEDEM
- CEMI (Centre for Monitoring and Research)
- Centre for Civic Education (CGO)
- Civic Alliance
- Constitutional Court
- High Court of Podgorica
- Human Rights Action (HRA)
- Institut Alternativa
- Judicial Council
- MANS
- Media Centre
- Media Institute
- Media Self-Regulation Council
- Ministry of Culture and Media
- Ministry of European Affairs
- Ministry of Interior
- Ministry of Justice
- Montenegrin Bar Association
- Office of Montenegro's Representative before ECtHR
- Office of the Deputy Prime Minister for Judiciary and anticorruption
- Ombudsperson's Office
- Parliament (Secretariat; Committee on Political System, Judiciary and Administration; Committee on Human Rights and Freedoms; Anti-corruption Committee)
- Police Directorate
- Police specialised department for corruption
- Police unit for financial investigation
- Prosecutorial Council
- Special State Prosecutor's Office
- State Audit Institution
- State Prosecutor's Office
- Supreme Court
- Trade Union of Media of Montenegro