

Montenegro

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Capital: Podgorica
Population: 0.6 million
GNI/capita, PPP: US\$13,110

Source: The data above was provided by The World Bank, *World Development Indicators 2011*.

Nations in Transit Ratings and Averaged Scores

	Yugoslavia		Montenegro							
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Electoral Process	3.75	3.75	3.50	3.25	3.50	3.50	3.25	3.25	3.25	3.25
Civil Society	3.00	2.75	2.75	2.50	3.00	3.00	2.75	2.75	2.75	2.75
Independent Media	3.50	3.25	3.25	3.25	3.25	3.50	3.75	3.75	4.00	4.25
Governance*	4.25	4.25	4.00	n/a	n/a	n/a	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	4.50	4.50	4.50	4.25	4.25	4.25	4.25
Local Democratic Governance	n/a	n/a	n/a	3.50	3.50	3.25	3.25	3.25	3.25	3.25
Judicial Framework and Independence	4.25	4.25	4.25	4.25	4.25	4.25	4.00	4.25	4.00	4.00
Corruption	5.25	5.00	5.25	5.25	5.25	5.50	5.25	5.00	5.00	5.00
Democracy Score	4.00	3.88	3.83	3.79	3.89	3.93	3.79	3.79	3.79	3.82

* Starting with the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects.

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. The opinions expressed in this report are those of the author(s). The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

In 2010, four years after Montenegro's independence, the country's bid for membership in the European Union resulted in candidate status. After almost two decades in power, Milo Djukanović resigned as prime minister. Thirty-four year-old minister of finance, Igor Lukšić, succeeded Djukanović. Montenegro experienced an economically difficult year, which was marked by a series of labor strikes, collapse of local finances, failure to implement a major highway project, and reversion to state control of the country's major GDP contributor, the Podgorica Aluminium Plant. Two key events linking politics, the judiciary, and the police occurred in 2010: the Balkan Warrior anti-drug-trafficking operation and, at the end of the year, arrests of local officials in Budva accused of corruption and organized crime.

National Democratic Governance. Montenegrin governance remains dominated by strong personalities in the executive branch, with other institutions wielding limited influence. Even when parliamentary committees or independent monitoring bodies are granted nominal powers of oversight, they typically lack the personnel, funds, or legally defined procedures to exercise them. When a final audit of the country's 2009 budget revealed numerous irregularities, there was almost no reaction from the government, the Public Prosecutor, or the police. In February, the Parliamentary Committee for Security and Defense responded to pressure from domestic media and opposition parties to improve cooperation with Serbian authorities following the 2009 Balkan Warrior anti-drug-trafficking operation, paving the way for a mutual extradition agreement in October. At the end of the year, the new Law on Parliamentary Oversight in the Field of Security and Defense was unanimously adopted. Recent amendments to laws on the budget and public employees may allow Parliament greater control over its finances and employment procedures. A new appointment to the head to the National Security Agency failed to convince the opposition that the organization is becoming depoliticized. *Montenegro's score for national democratic governance remains unchanged at 4.25.*

Electoral Process. Local elections took place in 14 of Montenegro's 21 municipalities in 2010. The ruling coalition—composed of the Democratic Party of Socialists (DPS) and the Social Democratic Party (SDP)—won in 12 of those municipalities. A coalition of opposition parties won in two municipalities (Pljevlja and Plužine). The defection of a local SDP official reversed one ruling coalition victory, handing Andrijevica to the opposition. Independent observers have withdrawn from the monitoring process, having concluded that the Montenegrin electoral system is mostly in line with international standards. However, there are

still indications that the ruling coalition is able to manipulate the system in its favor. Voter behavior at the polling stations suggests growing discontent with the electoral process. Voting in the 2010 local elections was marked by lower turnout than in previous elections; disillusion with the lack of political options; a high number of invalid ballots; and, as in previous years, accusations of abuse of public resources for campaign purposes. Parliament has failed to align the Election Law with the constitution for the past three years. *Montenegro's rating for electoral process remains at 3.25.*

Civil Society. Montenegro has a vibrant civil society with many active NGOs, but their presence is uneven, both regionally and in terms of thematic focus. The strongest are those in Podgorica, which deal mainly with good governance, human rights, anticorruption, and EU affairs, and have considerable capacity for public advocacy. Traditionally, relations between Montenegrin NGOs and the government have been strained, particularly on the side of the government, which treats NGOs as a necessary evil, rather than as partners and sources of input. The state often manipulates the involvement of NGOs to legitimize its decisions without accepting their input in a meaningful way. The year 2010 saw a significant increase in communication between the government and NGOs, symbolized by the establishment of the Council for Cooperation of the Montenegro Government and Non Governmental Organizations; however, implementation of the many cooperation agreements is lagging. A Law on Representativeness, which would allow for the formation of smaller and more diverse unions, reflected the increasing influence of organized labor in 2010. *Pending evidence that the Council for Cooperation is empowered to have a genuine influence on policymaking, Montenegro's ranking on civil society remains at 2.75.*

Independent Media. 2010 saw improvements in laws governing the media, with the adoption of a new Law on Electronic Media and amendments to the criminal code that mandated publication of court verdicts in defamation cases as an alternative to fines. These have not been followed by improvements in practice. TV Vijesti finally received a broadcast frequency but incurred substantial losses during its two-year battle with the state to get it. Pressures on independent media continued: in 2010 there were 64 ongoing processes against the two independent dailies, *Dan* and *Vijesti*, with nearly €1.5 million (US\$2.1 million) in fines at stake. Although this year there were no physical attacks on journalists, cases from previous years are yet to be effectively processed. Meanwhile, there is evidence of more subtle pressures on publications to align themselves with certain actors, or lose funding. The main political party, the Democratic Party of Socialists, is withdrawing all advertisements from the daily *Vijesti*, and state-owned companies are dramatically reducing advertisements in *Vijesti*, *Dan*, and *Monitor* in favor of the state-owned daily, *Pobjeda*. In combination with the general recession, this has worsened the situation for key independent media. *Montenegro's independent media rating declines from 4.00 to 4.25.*

Local Democratic Governance. Amendments to the Law on Local Government shifted the procedure for mayoral appointments from general elections to elections at the local parliamentary level. In light of the ruling coalition's overwhelming success in the 2009 local elections, this change could further strengthen the coalition's grip and shift power from voters to parties. 2010 was also a difficult financial year for local governments, and showed that despite an ongoing devolution of powers, municipalities are still heavily dependent on the central government for funding. In spite of continuing decentralization, local governments suffer from a serious lack of administrative capacity. Difficulties are also in evidence in the poor implementation of local anticorruption action plans and a recent employment cut announced by the Ministry of Finance. *Montenegro's rating on local democratic governance remains at 3.25.*

Judicial Framework and Independence. Despite improvements, judicial independence and efficiency contain considerable gaps. The European Commission's 2010 report noted that "the legal framework leaves room for disproportionate political influence."¹ The State Prosecutor's Office was a particular target of criticism, as a number of high-profile cases remain stuck in the initial stages of investigation. 2010 brought the first verdict in a war crimes case, but both the defense and prosecution have appealed. International cooperation in criminal justice is improving, after Montenegro and Serbia signed an agreement on extradition of their own nationals. *Due to the lack of tangible improvements in judiciary efficiency in 2010, Montenegro's ranking in this category remains at 4.00.*

Corruption. Development of statutory tools to combat corruption continues, but implementation has lagged. There are numerous anticorruption institutions and agencies, but they lack efficiency, coordination, or independence. Despite a flurry of legal activity, the impression is that the government does not want domestic civil society or international institutions involved in developing and applying effective anticorruption policies. After months of negotiating a draft anticorruption strategy with representatives of various public institutions and NGOs, the government unexpectedly adopted a different document drafted by a handful of high-level officials, abandoning some of the key measures proposed by the working group. More than 200 corruption charges have been brought to the prosecutor's office in the last three years, but there was no action to prosecute high-level corruption, prompting the EC to warn that corruption "remains prevalent in many areas and constitutes a particularly serious problem."² *The fight against corruption in Montenegro has yielded few tangible results, and in the last year the government has not shown the political will to tackle high-level corruption. The country's ranking on corruption stagnates at 5.00.*

Outlook for 2011. The next year is likely to be a challenging one for Montenegro. The executive branch, parliament, and other key institutions must demonstrate their commitment to meeting the recommendations enshrined in the EC's opinion

on Montenegro's EU membership application. The fulfillment of conditions related to the rule of law, an independent and efficient judiciary, and cooperation with civil society and media is a prerequisite for the opening of negotiations for membership. Parliament must pass the new Election Law. The performance of the most powerful party, the DPS, and the achievements of Prime Minister Lukšić's government will be integral to the future of reforms. The 2011 population census—which will reveal how many of the state's residents consider themselves Montenegrin—will be a critical test for the country. The public expects verdicts in criminal cases against public officials and that pursuit of such cases will proceed to a meaningful conclusion. The same is true of prosecutions initiated against persons accused of violating international law in 1992 and 1993. If these cases remain unresolved, public confidence in the professionalism and objectivity of the judiciary and police will diminish.

The focus of economic activities in the immediate future will be on energy policy (particularly the building of an undersea power cable to Italy), the fate of planned hydropower plants on the Morača river, and electricity prices. The government will need to deal with the consequences of privatization, and attract new investment in the country. In 2010, Montenegro began implementing its NATO Membership Action Plan. During 2011 the government will work on increasing public support for NATO membership.

MAIN REPORT

National Democratic Governance

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
n/a	n/a	n/a	4.50	4.50	4.50	4.25	4.25	4.25	4.25

Montenegro is a parliamentary democracy whose constitutional and legal framework is “largely in line with European principles and standards.”³ The country is sovereign and stable, and it plays a positive role regionally. At the end of 2010, it was granted candidate status by the European Union (EU), albeit with seven key priorities for reform before accession negotiations could begin. Surveys showed that consensus on state-building and EU membership grew throughout the year,⁴ but political culture and practices remained weak and aspects of the system came under strong criticism from opposition parties, vocal NGOs, and the independent media.

Heavy reliance on individuals rather than on institutions weakens the overall stability of the governing system, which still lacks merit-based procedures for hiring and firing, and perpetuates the overwhelming influence of the executive branch. The influence of political parties and informal actors closely linked to politicians (such as family members or business associates) limits the development of good practices. Authorities do not fully respect the Law on Free Access to Information, although responses differ significantly, with some agencies (such as the Tax Office) acting quickly and others (such as the Prosecutor’s Office) releasing no information at all. This prevents citizens and media from obtaining information of public interest and strengthens the impression that government lacks transparency.

In December 2010, long-time Prime Minister Milo Djukanović resigned and a new government led by the previous minister of finance, Igor Lukšić, was formed. This change had long been planned, and the fact that Djukanović remained president of the powerful Democratic Party of Socialists (DPS) indicates his ongoing role on the domestic political scene and, potentially, his plans for a major future political role.

Members of Parliament have frequent opportunities to direct questions to the prime minister and other officials. However, when the State Audit Institution published a number of critical audit reports and a final audit of the country’s 2009 budget that showed numerous irregularities, there was almost no reaction from the government, the Public Prosecutor, or the police. The Parliamentary Committee for Economy, Finance, and Budget lacks the capacity to explore the findings in depth, and both the legislative and executive branches lack the mandate and sufficient human and financial resources necessary to monitor implementation of the audit agency’s recommendations. Coordination among institutions dealing with oversight of public spending is poor; the State Audit Institution’s work is rarely a starting point for a systemic approach to correcting irregularities.

In February 2010, the Parliamentary Committee for Security and Defense began reviewing actions undertaken by Montenegrin state bodies in the wake

of Serbia's 2009 "Balkan Warrior" sting operation, in which twenty suspects from Serbia and Montenegro are implicated. In late 2009, Serbia demanded Montenegro's assistance in apprehending these suspects, but cooperation for the next several months was virtually non-existent. This increased friction with Serbia, also becoming a topic of heated discussion in Montenegrin politics, and in the media. Leaders of Montenegro's opposition parties accused local and national authorities of turning a blind eye to this particular investigation, and of tolerating organized crime in general. After a few months of similar accusations, Montenegro's Committee for Security and Defense took the initiative to examine why national security bodies had allowed the accused Montenegrins—including Darko Šarić, a Montenegrin who acquired Serbian citizenship in 2005, and the alleged ring-leader of the criminal operation under investigation—to remain at large on the grounds of "insufficient evidence." After a hearing on the actions of the police, the National Security Agency, and the Anti-Money Laundering Agency in the case, the committee unanimously concluded that "there was insufficient coordination of competent state bodies," calling upon the agencies and the government to "review past activities and undertake adequate measures in order to correct the mistakes and prepare evidence to prosecute the cases."⁵ Months later, Serbia and Montenegro finally signed a mutual extradition agreement. At the end of 2010, Šarić's whereabouts were still unknown, but a number of other suspects had been extradited to Serbia.

Legislators from Montenegro's ruling parties deem the country's security services to be depoliticized, professional, and law-abiding. Opposition lawmakers argue that security services, in particular the National Security Agency, act as arms of the government and meddle in the electoral process to promote the interests of the DPS. In August, the Committee for Security and Defense agreed to a government proposal to appoint a new National Security Director, selecting Vladan Joković, a long-time NSA official. This marks the first time that the directorship has gone to an agency professional, rather than a former government official. Nevertheless, opposition members looked skeptically upon the appointment, saying that despite Joković's professional background, he is likely to be controlled by both his predecessor and former Prime Minister Djukanović. In addition, the Committee deliberated on annual reports on the army, police, and National Security Agency.

At the end of the year, Parliament unanimously adopted the Law on Parliamentary Oversight in the Field of Security and Defence, three years after its initial drafting. Representatives of civil society organizations participated in a working group charged with drafting the law and in the sessions of the Committee for Security and Defense. This law represents an important step toward more effective oversight of security and defense, including allowing the opposition to initiate two consultative hearings or parliamentary inquiries on the Committee for Security and Defense per year, without prior consent of the majority. In 2010, for the first time, the Committee oversaw the use of secret surveillance measures. Most of its members said that secret surveillance measures are implemented in line with the law.⁶ In July, changes to the laws on the budget and public employees gave

Parliament greater authority over spending and hiring practices related to its own activities.⁷

Electoral Process

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Yugoslavia	3.50	3.25	3.50	3.50	3.50	3.25	3.25	3.25	3.25

Montenegro's constitution guarantees all citizens the right to vote and stand at elections, which are conducted by secret ballot. Voting rights are granted to all citizens over 18 years of age who have lived in Montenegro for at least two years. This two-year residence requirement for citizens has been criticized by international organizations, such as the OSCE/ODIHR and the Venice Commission, which assert that no length of residency should be imposed upon citizens wishing to vote.⁸

The 1998 Law on Election of Councilors and Members of Parliament is not yet aligned with the constitution passed in 2007. Among other unincorporated provisions, the constitution promises national minorities "authentic representation," a phrase that means different things to the ruling coalition and opposition. Any amendment to the law would require approval from at least two-thirds of parliament. Resolution of this issue is one of the conditions set by the EC for opening negotiations over EU membership.

The legitimacy of electoral law is further complicated by the relationship between the status of citizenship and voting rights. All residents of Montenegro who chose Montenegrin citizenship after the 2006 referendum were automatically inscribed in the electoral registry. However, there still remain roughly 30,000 citizens of the former State Union of Serbia and Montenegro who retain permanent residence in Montenegro but have declined to take Montenegrin citizenship. Following the adoption of a new Law on the Register of Electors in 2008, officials began removing the names of these non-citizen residents from the electoral registers,⁹ as Montenegro's 2007 constitution stipulates that voters must be citizens of the country. However, after a series of cases brought by non-citizen residents against municipal authorities, the courts ruled that non-citizen residents are entitled to remain in the electoral register, and their names must be restored in cases where they have been deleted.¹⁰ Therefore, non-citizen residents have a provisional ability to participate in elections, contrary to the provisions of the constitution. Voting is an even greater problem for the large Roma, Ashkenazi, and Egyptian (RAE) population, many of whom remained stateless after the dissolution of the State Union of Serbia and Montenegro. They have neither Montenegrin citizenship, nor non-citizen resident status, nor have they ever been included in the voter registries.¹¹

Another major concern of the European Commission as it evaluates Montenegro's electoral laws is that there exists no protection against abuse of administrative resources as incumbent parties seek re-election. The EC found the

electoral administration to be politicized, with poor regulation of party and election campaign financing, and the potential for blurred lines between party and state structures.¹² There is also no provision for balanced election coverage in the public broadcasting service.

Local elections were held on 23 May 2010 in two cities and 14 of Montenegro's 21 municipalities, home to two-thirds of Montenegro's population. The major political battle was fought between the ruling coalition—DPS and the Social Democratic Party (SDP)—and the united opposition, led by the Socialist People's Party (SNP), New Serbian Democracy (NOVA), and Movement for Changes (PzP). The DPS won a majority in 12 municipalities and lost in Plužine (where the SNP ran independently and won) and Pljevlja (where the united opposition won). With the subsequent defection of one DPS councilor to the united opposition, the ruling coalition lost the municipality of Andrijevisa, as well. Elections in Ulcinj and Golubovci did not yield a clear majority, leading to an extraordinary election on 17 October 2010. In both cities the DPS kept power, with different coalition partners. Overall, local elections reaffirmed the dominance of DPS and the rise of the SDP, as well as the internal weaknesses of the opposition parties, which appear unable to forge issue-based alliances.

Earlier in the year, the ruling coalition also won local elections in the town of Cetinje. However, Cetinje voters submitted a significant number of so-called "spoiled ballots," interpreted by civil society and media analysts as a protest against the lack of viable electoral alternatives to the DPS, and the campaign pressure exerted on voters by the ruling coalition through manipulation of administrative resources and social programs. In many municipalities, the 2010 local elections reopened old allegations of misuse of public resources in pre-election activities, including recurring accusations of vote buying by the ruling coalition.¹³ For the first time since the introduction of a multiparty system in Montenegro, domestic monitoring groups did not get funding. Consequently there were no independent assessments of the process.

Meanwhile, voters' perception of their ability to freely express themselves appears to be declining. A 2010 Gallup poll reported that 64 percent of respondents feel afraid to openly express their political views. In 2006, the figure was 50 percent.¹⁴

Civil Society

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Yugoslavia		2.75	2.50	3.00	3.00	2.75	2.75	2.75	2.75

While the regulatory environment in Montenegro is favorable for development of the civil sector, many challenges remain and some are even growing. NGO representatives are included in various working groups or consulted, but their suggestions and comments are often ignored, as in the development of the Action Plan for the Fight against Corruption and Organized Crime.

In a highly-publicized effort to address the lack of meaningful communication between government and civil society, the government committed to the creation of a new advisory body composed of governmental appointees and civil society representatives selected by the NGO sector. The council first assembled in autumn 2010. It remains to be seen how effective it will be in transmitting the needs of civil society to policymakers.

Many NGOs are becoming stronger, more vocal, and more influential, but they are not equally developed in all focus areas or regions of Montenegro. The strongest are those based in Podgorica, dealing mainly with good governance, human rights, corruption, EU affairs, and the like, with growing capacity in public advocacy. Interaction between NGOs and the media, especially independent outlets, has become more common, resulting in successful coverage of important social issues where NGOs served as story initiators and sources. NGOs remain largely dependent on foreign funds, a trend that favors those organizations which are already strong and well-developed. Allocation of public funds for NGOs remains controversial. There is a need for transparent and criteria-based procedures for distribution of these resources at the national and local level, and for mechanisms to monitor the allocation procedure and realization of approved projects.¹⁵

In 2010, there was significant progress toward creating a regulatory framework for the organization of trade unions, which are currently represented by the Confederation of Trade Unions of Montenegro and the Union of Free Trade Unions of Montenegro. The new Law on Representativeness of Trade Unions creates an environment friendly to the creation of smaller and more diverse unions.¹⁶ Among other provisions, the law guarantees representative trade unions the right to bargain collectively at all levels, and to participate in the work of the Social Council—a tripartite body composed of government, labor, and business representatives—and other similar bodies addressing social and economic issues. However, the new law sets quite a high membership threshold for unions to be officially recognized.

Independent Media

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Yugoslavia		3.25	3.25	3.25	3.50	3.75	3.75	4.00	4.25

Media legislation in Montenegro is largely in line with European standards. Adoption of the Law on Electronic Media on 27 July 2010, replacing the previous Broadcasting Law, enshrined this legislative framework. Montenegro's constitution and accompanying media laws provide legal conditions for the freedoms of speech and press, and development of media. The new Law on Electronic Media regulates the rights and responsibilities of those in broadcast media, while seeking to prevent media concentration and promote media pluralism. The law establishes the Agency for Electronic Media, which continued the work of earlier Broadcasting Agency, and new members of its council were appointed in autumn. At the initiative of the

deputy prime minister, the section of the criminal code concerning defamation was changed in summer 2010 so that verdicts are publicized in lieu of high fines being levied.¹⁷ However, this solid legislative framework is not backed up by adequate implementation, and existing practices shed a different light on the media picture.

After a two-year effort, TV *Vijesti* finally received a license to broadcast nationally on 27 January 2010. The authorities attributed the delay to unclear administrative procedures, but the case has been widely put down to political pressure. Public expressions of concern from many foreign governments and international and local organizations likely contributed to its resolution. However, years without this license have meant considerable financial losses for the owners and the company.

Independent print media also faced continued pressure in 2010. Libel and defamation remain criminal rather than civil offenses, but powerful individuals inside and outside government pressed charges and sought high financial compensation for their “mental pains.” In 2010, the daily newspaper *Vijesti* faced 29 ongoing lawsuits with collective compensation claims of about €1.1 million.¹⁸ At the same time, *Dan* was saddled with 35 ongoing lawsuits seeking a combined €350,000.¹⁹ The weekly *Monitor* had four ongoing suits, and in cases over the last couple of years its journalists have been ordered to pay €29,989.86.²⁰ The requested and, in many cases, court-awarded amounts are not harmonized with European law and represent a serious obstacle to press freedom in Montenegro.

While 2010 saw no physical attacks on journalists, five journalists at *Vijesti*, which is known for its critical and investigative reporting, received anonymous threatening letters.²¹ No significant action was taken in 2010 on criminal cases involving pressure on journalists dating from previous years. In the meantime, the means of pressuring certain media became more sophisticated, and the government has been exerting financial pressure on independent outlets through the selective awarding of state advertising contracts. The Democratic Party of Socialists pulled its advertisements from papers such as *Vijesti*, and state entities dramatically reduced or stopped advertising in *Vijesti*, *Dan*, and *Monitor*,²² transferring all their business to *Pobjeda*,²³ a daily still majority-owned by the state. Despite legal provisions and deadlines over the past seven years mandating that *Pobjeda* be privatized, the newspaper remains in the state’s control. This does not create an encouraging environment for the development of investigative journalism. In combination with the overall economic crisis, it has led to a decrease in the quality of the Montenegrin press.

The future of the media’s primary ethics panel, the Journalistic Self-Regulatory Body (NST), was put in doubt in 2010. The body, whose membership includes almost all Montenegrin media,²⁴ was paralyzed by longtime internal divisions that came to a head over the case of an interview with Stanko Subotić on privately-owned TVIN. Subotić, a controversial Serbian businessman often linked with former Prime Minister Djukanović, has been accused by a number of Montenegrin media of exploiting this relationship. Representatives of these media—amounting to half the NST panel—called TVIN’s interview with Subotić unprofessional and

biased, while the other half vehemently defended TVIN. The bitter disagreement divided NST at year's end and put its future in question.

The objectivity and independence of RTCG, Montenegro's Public broadcasting service, remains debatable. Its news program is still full of reports on the ceremonial activities of top officials; investigative pieces are rare and often more reflective of mainstream policy than the public interest. RTCG's finances and management activities are not sufficiently transparent, although some progress has been made due to the efforts of civil society representatives on the broadcaster's governing council.

Montenegrin Telecom is the country's first and largest internet provider, with the highest market share. Montenegro had a 44 percent internet penetration rate in 2010, with that number growing steadily every year.²⁵ Extra TV, a digital service which offers a wider range of domestic and foreign channels, also enjoyed a growing number of users in 2010.

Local Democratic Governance

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
n/a	n/a	n/a	3.50	3.50	3.25	3.25	3.25	3.25	3.25

The Constitution of Montenegro and the 2003 Law on Local Government define the foundations of the local government system. Local government is composed of 21 municipalities, including the capital city of Podgorica, with two city municipalities and the historic royal capital of Cetinje. Changes to the Law on Local Government have shifted the election of mayors from voters to local assemblies. Political actors who previously backed direct elections of mayors as a significant democratic step defended the new system as “more rational and efficient.” The mayor's choice for the head of municipal administration is also subject to the assembly's approval, which, given the ruling coalition's showing in the 2010 elections, could help the ruling parties exert greater local control.

In 2010, local elections were held in 14 municipalities. The Democratic Party of Socialists, independently or in coalition with the Social Democratic Party, won majorities in 12 municipalities. The list of the joint opposition—the “Better Montenegro”²⁶ coalition—won in the municipalities of Pljevlja and Plužine. Since a legal deadline expired without an agreement on forming a government in the municipality of Ulcinj and the city municipality of Zeta, elections were repeated on 17 October 2010, with a larger turnout than those held earlier. The Socialists-Social Democrat coalition won in Zeta by an even greater margin. The Democratic Party of Socialists, a coalition of the Democratic Union of Albanians,²⁷ and the Party of Democratic Prosperity formed a government in Ulcinj, although the Albanian Party “Forca” had the single best election result.

Almost all municipalities experienced financial and economic hardship during 2010. The main problems are systematically inadequate financing of local governments, weak control of the local budgets by the local parliaments and finance

officials, and wasteful spending. Collection of taxes and other revenues is lagging and there is no adequate method for calculating these monies.

Although the Constitution stipulates that “the Municipality has property,” the 2009 Law on State Property restricts municipalities from disposing of property without the consent of the Ministry of Finance. The Constitutional Court is examining the constitutionality of this provision at the request of Movement for Changes councilors in Podgorica, and no ruling had been made by the end of 2010.

A mid-year analysis of municipalities and local finance ministries—jointly conducted by the Ministry of Finance and the municipalities themselves—concluded that municipal administrations are oversized. Amendments to the Law on Local Governments’ Finances, jointly prepared by the Association of Municipalities and Ministry of Finance to introduce new income for local governments, were adopted at the end of the year, incorporating many recommendations from the mid-year study. It is estimated that total transfers for municipalities will bring a new sum of €15 million to the budgets of the municipalities, through the allocation of increased tax revenue. For example, while previously, 70 percent of concession revenues went to the national budget and 30 percent was allocated to municipalities, the formula has been altered so that municipalities will now receive 70 percent, and the state will receive the balance.

A draft Strategy for the Reform of Public Administration provides a basis for further local government reforms, including further decentralization, strengthened administrative oversight of local governments, and enhanced local financing, among other issues. However, the draft had not been passed at the end of 2010.

Judicial Framework and Independence

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Yugoslavia		4.25	4.25	4.25	4.25	4.00	4.25	4.00	4.00

The judiciary is structured as a three-tier court system. It consists of 15 basic courts, two high courts, an Appellate Court, and a Supreme Court. It also includes two commercial courts, an administrative court, and the Constitutional Court. Judicial power is exercised by 252 judges, supported by 49 bailiffs and 1,073 administrative staff members.

The independence and efficiency of the judiciary remains weak. The European Commission stated in its opinion on Montenegro’s EU membership application that “serious concerns exist over the independence of the judiciary, as the legal framework leaves room for disproportionate political influence.”²⁸ All judicial posts—including the Judicial Council and judges, the Prosecutorial Council and prosecutors, and the Supreme Court President and Supreme Court Prosecutor—are either directly or indirectly appointed by parliament and the government.

Parliamentary opposition and numerous nongovernmental organizations have pointed to cases of inefficiency and political dependency of judicial structures,

particularly the Supreme State Prosecutor's Office. Many important and high-profile cases handled by the State Prosecutor's Office remain in their initial phase.

In addition, changes to the Criminal Procedure Code stipulate that the State Prosecutor's Office should have taken over investigations from investigative judges as of August 2010. However, the office was not ready to fully take over this responsibility, aside from its Special Unit for Corruption, Terrorism, Organized Crime, and War Crimes, which took over the investigative role within its field.

In order to advance efforts in the fight against corruption and organized crime, a so-called Joint Investigative Team was established in February 2010, consisting of the Supreme State Prosecutor, Police Directorate, Customs Administration, and Directorate for Prevention of Money Laundering and Financing of Terrorism. The Special Prosecutor coordinates the work of this team. Its results have been modest.

In April, seven people in Bukovica were indicted for abuse and inhumane treatment of Bosnian civilians and violation of international law in 1992 and 1993. The trial is expected to conclude in early 2011, as is the trial of eight persons charged with inhumane treatment of civilians of Albanian nationality on 18 April 1999 in Kaludjerski Laz (in the Rožaje municipality). The defendants in that case have been detained since August 2008.

In May 2010, six former guards at the Morinj prison camp were found guilty of ordering and implementing torture, and of inhumane treatment and violation of the physical integrity of 169 prisoners in 1991–1992. The indictment was raised after 15 years of cooperation with the Croatian judicial authorities, on the basis of a cooperation agreement in the prosecution of perpetrators of war crimes, crimes against humanity, and genocide. Both sides have appealed.

During 2010, the issue of finding a means of cooperation in criminal matters among the countries of the region, especially between Montenegro and Serbia, came to the fore. After numerous problems, conflicting opinions, and delays, an agreement allowing mutual extradition of the two countries' citizens was signed in late October. Extraditions are permitted for cases of organized crime, corruption, crimes against humanity, money laundering, and other serious criminal acts. Several people were arrested and extradited on both sides soon after the agreement was concluded.

In 2009, a number of individuals from a criminal group were convicted and sentenced for the 2005 murder of Montenegro's leading criminal investigator, Slavoljub Šćekić. In 2010, a retrial began, following a decision of the Appellate Court.

The Administrative Court remains a positive example of judicial independence in Montenegro's court system. In 2010 it received 3,799 appeals against state and local administration, 64 percent more than in the previous year. The Administrative Court overturned contested rulings, or deemed the rulings unlawful, in slightly more than 50 percent of its cases.

Problems remain with the execution of judgments of the Administrative Court, but for the most part the decisions are executed. The president of the Administrative Court has answered repeated criticism coming via the media from

high-level government and ruling party officials,²⁹ interpreting their statements as pressure on the court.

Corruption

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Yugoslavia		5.25	5.25	5.25	5.50	5.25	5.00	5.00	5.00

Montenegro ratified key Council of Europe anticorruption conventions in 2010, but the legal framework is not yet fully aligned with international conventions. In September, Montenegro became a member of the International Academy for the Fight Against Corruption, newly established by the UN and Interpol.³⁰ Several institutions and agencies were established for the fight against corruption, but they remain poorly coordinated and without a clear division of powers or capacity to monitor the enforcement of laws. In addition, these institutions have rather narrow competences, and limited powers and independence. Mechanisms for reporting corruption remain underdeveloped. The Law on Conflicts of Interest is still not fully aligned with international standards, as has been stressed by various international and local stakeholders. It allows state officials to be on governing boards of companies that are partially state-owned and it lacks a mechanism for implementation of sanctions. Thus, most of the decisions of the Commission for Prevention of Conflicts of Interest concerning the dismissal of state officials remain unimplemented.

Laws on financing of political parties and pre-electoral campaigns do not envisage an impartial monitoring mechanism. Parties' financial reports are submitted to the Auditor of the Ministry of Finance and published on the website of State Electoral Commission, effectively leaving all monitoring and oversight of party financing and financing of pre-election campaigns in the hands of the executive branch.

During 2010, an interministerial group appointed by the Minister of Interior and Public Administration and composed of representatives from various ministries and NGOs produced a Strategy for the Fight against Corruption and Organized Crime 2010–2014 with an accompanying action plan for the first two years of implementation. It represented a step forward both in meaningful cooperation between the government and civil sector, and in the quality of the proposed strategy. However, just before the document was scheduled to be publicly debated, an entirely new document was passed at a session of the government on 29 July 2010.³¹ The new strategy appeared to have been developed in parallel by a small group of high governmental officials, without any input from civil society. The new government-drafted text did not include a number of key anticorruption measures: the issue of corruption in sports was omitted entirely, and the qualitative indicators to measure corruption developed by the working group were discarded in favor of purely quantitative indices. NGOs and other stakeholders involved in the process

reacted strongly to their sudden ejection from the process, but this did not prevent the strategy from becoming official.³² In addition to reinforcing the perception that the government is ambivalent to the advice of civil society groups and independent experts, this episode also cast increased doubt upon the government's commitment to fighting corruption and organized crime.

Political will to fight corruption is still limited, as noted by the EC Opinion on Montenegro's application to the EU.³³ Much of the country's economy is either controlled or influenced by the state. Montenegro has a huge public sector—government spending amounts to 48 percent of GDP, which is higher than average for an emerging market economy.³⁴ The Human Resources Agency, on behalf of the governmental bodies, advertises job positions within the government and conducts the initial examination procedure, but its choice is not binding on officials and the dominant hiring criterion remains the candidate's party affiliation.

In 2008 and 2009, police reportedly filed a total of 189 criminal cases with the prosecutor's office, of which 24 involved high-level officials. In 2010 alone, 34 high-level corruption cases were filed, suggesting that pressure on Montenegro from domestic civil society and the European Union to crack down on corruption is increasing. Still, an effective fight against high corruption is lacking, though there is some evidence of fighting administrative corruption. The EC notes that "efforts should be stepped up to ensure active and systematic reporting on corruption" as well as that "administrative capacity both for prevention and repression of corruption needs to be strengthened...Strong political will is needed to significantly improve performance in combating corruption."³⁵ Legal protections for whistle-blowers, anticorruption activists, and journalists are still lacking, although some steps have been taken in that direction.

Until late 2010, there were no significant cases of government officials and public servants being investigated and prosecuted for corruption, despite the fact that media offered material on a daily basis that could have been used by the prosecution and responsible authorities. In such an environment, the case of a customs officer sentenced for taking a €10 bribe has only strengthened public belief that even if action to combat corruption is taken, it will affect not those at the top but those at the bottom. But on 24 December, after Djukanović resigned and before Lukšić took over, the police made a series of high-profile arrests in Budva, including the mayor and deputy mayor (who is the brother of former Deputy Prime Minister Svetozar Marović), and several others. The head of the Parliamentary Board for Human Rights was also arrested as part of the operation. There may be political, as well as judicial, aspects to the case, as the suspects are part of the ruling Democratic Party of Socialists and the arrests could reflect conflict within the party. Still, these were so far the highest-level corruption cases.

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- ¹ European Commission, *Analytical Report Accompanying the Communication from the Commission to the European Parliament and the Council, Commission Opinion on Montenegro's Application for membership of the European Union* (Brussels: European Commission, 9 November 2010): 18, http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mn_rapport_2010_en.pdf.
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- ³ European Commission, *Commission Opinion on Montenegro's application for membership*, 5.
- ⁴ Center for Democracy and Human Rights (CEDEM), *Political Public Opinion in Montenegro, October 2010* (Podgorica: CEDEM, 2010), http://www.cedem.me/fajlovi/attach_fajlovi/pdf/cedem_october10-2010-10-13.pdf.
- ⁵ Committee for Security and Defense, "Skupštini Crne Gore: Izvještaj" [Assembly of Montenegro: Findings], (Podgorica: Assembly, Committee for Security and Defense, 23 February 2010), http://www.skupstina.me/cms/site_data/AKTI%202010/Izvjestaj%20sa%2016%5B1%5D_sjednice%20BEZBJ_.pdf (in Montenegrin).
- ⁶ "Članovi Odbora za Odbranu i Bezbjednost Posjetili ANB bez Predstavnik Opozicije" [Members of Committee on Security and Defense Visit ANB without Opposition Representative], *Pobjeda*, 13 March 2010, <http://www.pobjeda.me/citanje.php?datum=2010-03-13&id=181304> (in Montenegrin).
- ⁷ The Law on amendments and changes to the Law on Budget was adopted on 27 July 2010.
- ⁸ The exception, noted by the OSCE/ODIHR, is for local and regional elections, for which a six-month residency requirement is permissible. See Organization for Security and Cooperation in Europe (OSCE) and Office for Democratic Institutions and Human Rights (ODIHR), *Montenegro Early Parliamentary Elections, 29 March 2009, OSCE/ODIHR Election Observation Final Report* (Warsaw: OSCE/ODIHR, 10 June 2009): 5, <http://www.osce.org/odihr/elections/montenegro/37521>.
- ⁹ *Ibid.*, 9–10.
- ¹⁰ *Ibid.*, 10.
- ¹¹ Jelena Džankić, "Montenegrin Mists: Politics, Citizenship, and Identity," Citizenship in Southeastern Europe (CITSEE) Study, 29 March 2011, <http://www.citsee.eu/citsee-study/montenegrin-mists-politics-citizenship-and-identity>.
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- ¹⁷ Public Assembly of Montenegro, “Član 203” [Article 203], *Krivični zakonik* [Criminal Code], 11 February 2010, <http://www.pravda.gov.me/biblioteka?query=krivi%u010Dni%20zakonik&sortDirection=desc>.
- ¹⁸ Over the past three years, they had already paid € 117,113.17 in similar cases. Data from Željko Ivanović, director of *Vijesti*.
- ¹⁹ Data from Mladen Milutinović, director and editor-in-chief of *Dan*.
- ²⁰ Data from Milka Tadic Mijović, director of *Monitor*.
- ²¹ IFEX, “Vijesti Publishing Group journalists receive threatening letters,” IFEX Alert, 29 September 2010, http://www.ifex.org/montenegro/2010/09/29/vijesti_threats/.
- ²² The dailies *Vijesti* and *Dan*, along with the weekly *Monitor*, have a combined circulation of approximately 50,000 copies.
- ²³ The daily *Pobjeda* has circulation of approximately 4,000 to 5,000 copies.
- ²⁴ Of all the major media in Montenegro, *Dan* was the only paper not to participate in the Journalistic Self-Regulatory Body.
- ²⁵ “Montenegro,” Internet World Stats, updated 30 June 2010, <http://www.internetworldstats.com/euro/me.htm>.
- ²⁶ Three major opposition parties (Socialist People’s Party, Movement for Changes, New Serbian Democracy) joined with several smaller parties to create “Better Montenegro.”
- ²⁷ Democratic Union of Albanians is the traditional ally of the ruling DPS, and the leader of the party is Ferhat Dinosa, the Minister of Human and Minority Rights.
- ²⁸ European Commission, *Commission Opinion on Montenegro’s application for membership of the European Union*, 18.
- ²⁹ For example, from Gordana Djurović, Minister for European Integration; Branko Vujović, Minister of Economy; and Miodrag Vuković, a lawmaker from the DPS.
- ³⁰ Montenegro Directorate for Anti-Corruption Initiative, *Annual Progress Report for Montenegro 2010* (Podgorica: Montenegro Directorate for Anti-Corruption Initiative, October 2010), 13, www.antikorupcija.me.
- ³¹ Government of Montenegro, Ministry of European Integration, *Factual Report on the Realised Progress of Montenegro After Submitting the Answers on the Questionnaire Until September 6 2010* (Podgorica: Government of Montenegro, 6 September 2010), <http://www.mei.gov.me/en/library/izvjestaji>.
- ³² Interview with Zlatko Vujović, member of the working group on behalf of civil society.
- ³³ European Commission, *Commission Opinion on Montenegro’s application for membership*, 6.
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- ³⁵ European Commission, *Commission Opinion on Montenegro’s application for membership*, 5.