

Montenegro

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Capital: Podgorica
Population: 0.6 million
GNI/capita: US\$13,420

Source: The data above was provided by The World Bank, *World Bank Indicators 2010*.

Nations in Transit Ratings and Averaged Scores

	Yugoslavia			Montenegro						
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Electoral Process	4.75	3.75	3.75	3.50	3.25	3.50	3.50	3.25	3.25	3.25
Civil Society	4.00	3.00	2.75	2.75	2.50	3.00	3.00	2.75	2.75	2.75
Independent Media	4.50	3.50	3.25	3.25	3.25	3.25	3.50	3.75	3.75	4.00
Governance*	5.25	4.25	4.25	4.00	n/a	n/a	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	4.50	4.50	4.50	4.25	4.25	4.25
Local Democratic Governance	n/a	n/a	n/a	n/a	3.50	3.50	3.25	3.25	3.25	3.25
Judicial Framework and Independence	5.50	4.25	4.25	4.25	4.25	4.25	4.25	4.00	4.25	4.00
Corruption	6.25	5.25	5.00	5.25	5.25	5.25	5.50	5.25	5.00	5.00
Democracy Score	5.04	4.00	3.88	3.83	3.79	3.89	3.93	3.79	3.79	3.79

* 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

Three years after the referendum that led to the creation of an independent state, Montenegro continued to pursue Euro-Atlantic integration in 2009. In the summer, the state authorities received a questionnaire from the European Union (EU), representing a significant step in the country's candidacy for EU membership. Also, by the end of the year citizens of Montenegro were granted visa-free travel to Schengen countries, demonstrating that it had met certain EU benchmarks on internal and international security controls. However, Montenegro felt the effects of the global economic crisis throughout the year. The crisis increased state intervention in the Montenegrin economy and strengthened the role of the executive vis-à-vis the other branches of power.

National Democratic Governance. In 2009, Montenegro continued efforts to fulfill the criteria for EU membership. By the end of the year, the government had submitted answers to the European Commission's questionnaire, despite opposition criticism that the ruling coalition had monopolized the response process. Internal obstacles persist as the government's low administrative capacity remains the greatest problem for the functioning of the political system. Nonetheless, Parliament was active in adopting laws related to European integration. Furthermore, some progress was made in the area of civilian control over security services by strengthening Parliament's role in controlling the police, military, and National Security Agency. *Even though Montenegro made progress in harmonizing legal regulations with EU standards, little joint progress was made by government, the opposition, and the civic sector toward faster implementation and fulfillment of the conditions of good governance; thus, Montenegro's national democratic governance rating remains at 4.25.*

Electoral process. In the March 2009 parliamentary elections, the ruling coalition strengthened its political position and won 48 of 81 seats in Parliament. The Organization for Security and Cooperation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR) assessed that the legal framework provided an adequate basis for the conduct of democratic elections. However, it pointed out that these laws still had not been fully harmonized with the 2007 Constitution, and offered more than 30 recommendations. *Domestic and OSCE/ODIHR observers deemed the March elections free and fair. However, owing to the continued postponement of harmonization of the Election Law with the constitution, and the recommendations of international organizations, Montenegro's electoral process rating remains at 3.25.*

Civil Society. The civic sector is very active in Montenegro. In many areas, non-governmental organizations (NGOs) have become a partner to state institutions

and local self-governance bodies, and are present in print and electronic media. Still, the relationship between the state and NGOs is ambiguous. In 2009, NGOs were especially active in the fight against corruption and organized crime, monitoring illegal construction, proposing legal regulations, and exercising their statutory rights of access to information. Their activities represent a growing role for NGOs as independent watchdog organizations. There is clear cooperation between state institutions and the civic sector, though it frequently turns into disputes when the government opposes NGO proposals. *Despite some positive developments, there is a continued lack of understanding about the respective roles of the state and civil society; thus Montenegro's civil society rating remains at 2.75.*

Independent Media. In 2009, tensions mounted between some independent media groups and the ruling coalition, leading to lawsuits for defamation and insult. The constitution guarantees freedom of expression and freedom of the press, yet disproportionate fines resulting from these suits put additional pressure on media independence. The controversy over granting frequencies to commercial broadcasters continued, with TV Vijesti claiming that the state authorities deliberately prevented it from obtaining frequencies. Additionally, the mayor of Podgorica and his son had a physical altercation with the editor-in-chief and a photojournalist from the daily *Vijesti*, causing serious injuries to the editor. Late in the year, Parliament adopted an amendment that removed the legal obstacle to free allocation of state frequencies. *Reports of violations of the journalistic code of ethics, disproportionate fines against the media in suits filed by political actors, and a physical attack by the mayor of Podgorica on a newspaper editor demonstrate worrying developments; thus Montenegro's independent media rating worsens from 3.75 to 4.00.*

Local Democratic Governance. The ruling parties continued to dominate in local elections held in Kotor and Mojkovac in 2009, due in part to the disunity of the opposition parties. In the meantime, the government continued a formal policy of decentralization. However, due to the lack of human capacity at the local level to implement many of the reforms, the central government exhibited a reluctance to implement financial decentralization. In fact, NGOs and the police uncovered a number of instances of corruption at the local level, mostly related to illegal construction. *Strong family and clan ties in small communities and insufficiently developed controls and oversight of municipal decisions obstructed the development of local self-governments; therefore Montenegro's local democratic governance rating remains at 3.25.*

Judicial Framework and Independence. Montenegro's judiciary initiated three war crimes trials that forced the public to face its own history and the consequences of acts committed during the dissolution of Yugoslavia. Parliament adopted, with political consensus, a new criminal procedure code in accordance with the recommendations of international organizations. Further progress in the judiciary was seen in the reduction of unresolved cases. According to the report of the Judicial Council, the courts processed 70 percent more cases in 2009 than in 2008. The

Judicial Council also suspended nine judges and began a process for their dismissal. Despite data showing that the judiciary had made some progress, the question of political influence on judges and the independence of the Judicial Council remains open. *Although the election of members of the Judicial Council and rulings against the media in cases of slander continue to indicate a degree of political influence by the ruling majority on the judiciary, the adoption of the criminal procedure code, a decreased number of outstanding cases, the prosecution of war crimes, and an increasing number of convictions for corruption reflect positive steps; thus Montenegro's judicial framework and independence rating improves from 4.25 to 4.00.*

Corruption. Throughout 2009, increased implementation of the amended Action Plan for Implementation of the Program to Fight Corruption and Organized Crime and heightened political will within the state administration was noticed by the National Commission for Monitoring, though the European Commission's Progress Report on Montenegro stressed that much work remains in the country's fight against corruption. The adoption of a new criminal procedure code represents a significant basis for a more fruitful fight against corruption and organized crime. Through membership in the National Commission for the Fight Against Corruption, the civic sector is now included in the public campaign against corruption, money laundering, and various forms of organized crime. Nevertheless, some NGOs believe that state institutions have realized only a part of the activities aimed at establishing the legal and institutional infrastructure, and that reforms are not yielding the expected results. Also, opposition members of Parliament have criticized the work of the Directorate for Prevention of Money Laundering as there has been no prosecution in this field. Opposition parties have criticized the appointment and work of the president of the Committee on Conflict of Interests, whom they claim works in the interest of the ruling Democratic Party of Socialists. *There were no major results in the fight against corruption and no cases of criminal charges or court proceedings against high state officials in 2009. Yet, owing to the continued establishment of legal infrastructure while strengthening the capacities of state institutions, Montenegro's corruption rating remains at 5.00.*

Outlook for 2010. In 2010, Parliament and government will mostly be focused on meeting their international obligations. Parliament faces an April 30, 2010 deadline to adopt amendments to the Law on Elections, pursuant to the recommendations of the Venice Commission and the Council of Europe. Midyear negotiations are expected to conclude between the government of Montenegro and the International Monetary Fund. The debate on the accession of Montenegro membership into the Action Plan for NATO will take place at the Lisbon NATO summit just one month after the release of the EU's Regular Report on Montenegro's progress in European integration and accession. Local elections must be organized, according to the actual Law on Election of Councillors in 14 Montenegrin municipalities by the beginning of June. The government has also stated that it hopes to finalize the privatization of three large companies—Port of Bar, Shipyard “Bijela,” and Railway Transportation—by the end of 2010.

MAIN REPORT

National Democratic Governance

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Y u g o s l a v i a			n/a	4.50	4.50	4.50	4.25	4.25	4.25

In 2009, Montenegro took further steps toward harmonizing its judicial and political systems with European Union (EU) standards and recommendations of the European Commission (EC). While a clear majority of the population wishes to join the EU, Montenegrin society remains divided on the issue of Montenegro's eventual entry into NATO. The political parties that make up the ruling coalition openly advocate for NATO membership, while some parliamentary parties and a majority of citizens do not support Montenegro's entry into NATO, according to recent public opinion surveys.¹ In 2009, the ruling coalition continued its active promotion of EU and NATO memberships, defining these two issues as political priorities for the country.

Parliamentary elections held on March 29 confirmed the political dominance of the ruling coalition of the Democratic Party of Socialists (DPS) and the Social Democratic Party (SDP), which won an absolute majority of the 81 seats in Montenegro's unicameral legislature. The long-standing success of the ruling DPS results from its absolute dominance of the political and economic system in Montenegro, as well as the inability of the political opposition to articulate a clear, positive, and credible alternative vision that appeals to the population. While the state institutions are stable, the lack of a regular alternation of power through democratic elections threatens to undermine the stability of institutions and their ability to guarantee democracy and the rule of law, prerequisites for Montenegro's EU membership.

The country's strategy for European accession got a boost in the second half of July when European Commissioner for Enlargement Olli Rehn presented Montenegro's Prime Minister Milo Đukanović with the questionnaire of the EC for EU membership, representing another step in achieving the strategic, national goal of obtaining EU candidate status. At the end of the year, the EC abolished visas for Montenegrin citizens travelling to EU countries.

While the government of Montenegro has made a public commitment to fulfill the criteria for EU membership, there are certain internal obstacles. Responding to the EC's questionnaire created the need for enhanced coordination among state institutions, as well as intensified activities to align Montenegrin society with the standards of the EU. However, further strengthening, training, and professional advancement of personnel within the public administration is needed to improve the modest administrative capacity of the state. Lack of human and material resources, especially working space, continues to limit the work of Parliament and represents a significant problem for both ruling and opposition parties.

In 2009, like other countries in the region, Montenegro felt the effects of the global economic crisis through the withdrawal of a portion of bank deposits and a reduced volume of foreign and domestic investment; this caused an adverse effect on the government budget. After rapid economic development in 2007–08, Montenegro faced stagnation and recession in 2009. As a result, instead of the planned GDP growth of about 6 percent, Montenegro is expected to have a 4 percent decrease, according to the Central Bank of Montenegro.²

Due to the economic crisis, the executive branch played a more active role in the economy. In particular, the government was forced to employ various measures to maintain macroeconomic stability and liquidity of some of the largest enterprises in the Montenegrin market, such as the Aluminum Plant Podgorica (KAP). While KAP had been privatized in 2005 and sold to the Russian aluminum conglomerate En Plus Group, the functioning of KAP was endangered in early 2009 when it was unable to pay salaries or purchase raw materials for manufacturing. Since KAP is a major foundation of the Montenegrin economy, the government became involved in its rehabilitation by offering loan guarantees to the company. Prime Minister Đjukanović also offered guarantees to KAP's bauxite miners in Nikšić, who went on strike for unpaid wages, including a grace period for payments on defaulted taxes, duties, and value-added taxes.

In 2009, the new Parliament adopted almost 30 percent more acts than in 2008, although it did not begin official work until mid-June. Progress was made in the civilian oversight of security services. The Law on Police, Law on Army, and Law on the National Security Agency envisage parliamentary control, primarily by reviewing the annual report that is submitted through the government to the respective parliamentary committee. In 2009, the Committee for Security and Defense was active in exercising this oversight function.

The new Law on Prevention of Conflict of Interests came into force in January, which should help prevent abuses of power in Montenegro. Fulfilling the 2007 and 2008 recommendations of the Council of Europe's Group of States against Corruption (GRECO), the new law expanded the circle of public officials included in the legal provisions and introduced clear penal provisions for violations of the law, including monetary fines and prohibitions from public service. Still, few changes were made to the Commission for Preventing Conflict of Interests, and some nongovernmental organizations (NGOs) expressed concern that, despite the new law, the old management would fail to sufficiently monitor public officials and their asset declarations, or to proactively use the law's strengthened provisions.

Montenegro's State Audit Institution (SAI) appraises the operations of state enterprises and public institutions; the SAI's 2008 annual report attracted public attention for its criticism of state institutions (including ministries, regulatory agencies, and public enterprises) that reportedly spent public funds in a non-transparent or unauthorized manner. Likewise, the Administrative Court protected public interests by annulling a number of state institution decisions—based on complaints filed by individuals, companies, or organizations—that were contrary to the laws on state administration.

Electoral Process

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Y u g o s l a v i a			3.50	3.25	3.50	3.50	3.25	3.25	3.25

The parliamentary elections on March 29, were the second elections held in Montenegro since the country regained its independence in 2006. Two months earlier, the Parliament had voted to shorten its mandate, giving 38 registered political parties (12 of which represent national minority groups) the chance to compete in the elections. Of these registered parties, 16 electoral lists fulfilled the requirements to register candidates. But once again, the ruling parties, DPS (led by Prime Minister Đukanović), and the SDP (led by the Speaker of Parliament Ranko Krivokapić) won the elections and remained in power. The DPS-SDP government coalition opened its door to two additional parties, the Croatian Citizen Initiative (HGI) and the Bosniak Party.

By contrast, the opposition failed to unify its efforts. In fact, the early elections caught some opposition parties in the midst of transformations or political fragmentations. As a result, the former leading party of the Serbian List, the Serbian People's Party (SNS), merged with another member to form the New Serbian Democracy (NOVA), led by former SNS leader Andrija Mandić; the remainder of the Serbian List fragmented into two pro-Serbian blocs. A new Democratic Center (DC), led by former Movement for Changes (PzP) Vice President Goran Batricevic, emerged from a leadership contest in PzP and joined forces with the Liberal Party in a coalition that failed to pass the 3 percent threshold. The weakened PzP managed to cross the threshold and secure five seats in Parliament, representing a loss of six seats. Only the Socialist People's Party (SNP), led by Srdjan Milić, managed to avoid political fragmentation and go into the election intact.

Although Montenegro's constitution, adopted in 2007, envisaged harmonization of the Law on Election of members of Parliament (MPs) and Councillors within six months, the Parliament has not yet met this statutory provision. Election legislation was to have been harmonized with the constitution and with the expectation that long-standing recommendations of the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe (CoE) would also be addressed. A special working group composed of representatives of all parliamentary parties met several times, but was unable to reach consensus on authentic representation of minority groups. No compromise was found between the Albanian demand to keep its current rights, which have given ethnic Albanian parties two to four representatives in Parliament, nor was a consensus made regarding the Bosniak request to be guaranteed at least the same rights as the less numerous Albanians, who represent the only linguistic minority in Montenegro (besides the much smaller Roma community). On October 22, the latest harmonization deadline, a hastily convened session of Parliament once again postponed the deadline to April 2010.

The elections were called under the old law without clear provisions for authentic representation of minorities or for the gender equity standards mentioned in the

constitution, and without addressing long-standing criticisms from both the OSCE and the CoE. In addition to the parliamentary elections, local elections were called for the same day for municipal assemblies in Budva and Nikšić, and for the mayors of Herceg Novi and Tivat. The results of the parliamentary polls strengthened the influence of the ruling coalition when its “European Montenegro” ticket won 48 of 81 seats in Parliament. Likewise, the ruling coalition won convincingly in Budva, Nikšić and Tivat, ceding only the mayor of Herceg Novi to the opposition in a town where the opposition has dominated since the split of the DPS in 1997. The State Election Commission (SEC) received 25 complaints, mostly from the People’s Party-Democratic Serb Party (NS-DSS) coalition, which fell several hundred votes short of the 3 percent threshold. The SEC rejected 10 of the NS-DSS complaints and accepted 2, but NS-DSS still failed to secure seats in the Parliament.

International observers stated that the elections were conducted largely in accordance with democratic standards and the overall campaign was relatively quiet, with isolated cases of negative campaigning. The OSCE/Office for Democratic Institutions and Human Rights (ODIHR) Election Observation Mission confirmed that the elections were professionally organized and there was considerable trust in the election administration bodies, but it noted that the legal framework had not been fully harmonized with the 2007 constitution and offered more than 30 recommendations.³ Domestic election observers concluded that promotional rallies went smoothly without any noted cases of violence.

The election for the mayor of Zabljak on August 15, once again resulted in a resounding, first-round victory for the candidate of the ruling DPS-SDP coalition who ran against a candidate backed by a united opposition. A number of factors led to the defeat of the opposition in local and parliamentary elections, including the lack of a unified strategy, the inability to come up with a positive and credible alternative message to oppose the DPS-SDP promise of a better future within Europe, and the ruling coalition’s overwhelming advantage of resources in a country that still has difficulty distinguishing between the ruling parties and the state.

In mid-October, the three strongest parliamentary opposition parties—SNP, NOVA, and PzP—boycotted the local elections in Kotor. After meeting with President Filip Vujanović, opposition leaders concluded that the elections would be held in undemocratic conditions and involve persons associated with organized crime. The opposition, non-parliamentary Liberal Party did not join the boycott as its representative currently held the position of deputy mayor in Kotor as part of its DPS-SDP government. The ruling DPS-SDP coalition ridiculed the opposition for its decision to boycott the elections, saying that the boycott was an attempt to avoid another disastrous election defeat; independent analysts noted that the electoral conditions that led to the boycott had also existed in the previous parliamentary and local elections in which the opposition had participated. In Kotor, 40 percent of the residents took part in the election, which was won by DPS candidate Maja Čatović. In the subsequent local elections in Mojkovac, held on December 6, the opposition boycott failed with SNP (the strongest opposition party), but not Movement for Changes or NOVA, participating.

Civil Society

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Y u g o s l a v i a			2.75	2.50	3.00	3.00	2.75	2.75	2.75

According to the Ministry of Internal Affairs and Public Administration, there were more than 4,000 NGOs registered in Montenegro in 2009, but a significant number existed in name only. Still, the civic sector is an active, dynamic, and growing factor in Montenegrin society, and NGOs have partnered with state institutions and local self-governance bodies in many areas.

According to the Law on Nongovernmental Organizations, the state supports the work of Montenegro's civil society and NGOs receive state funds in an open competition administered by a parliamentary committee. Although the state has created mechanisms to support the work of NGOs, there is still a lack of criteria in the allocation of funds. Despite the large number of NGOs that apply, only relatively small amounts of money are granted, which is insufficient to implement substantial projects.

In Montenegro, NGOs partner with the state in activities to harmonize domestic legislation and the political system with international standards, but at the same time, put pressure on the government to implement laws in the public interest. For example, there is a lack of transparency in the government's work and Parliament, ministries, and state-owned enterprises often ignore the legal provisions for public access to information. The Network for Affirmation of the NGO Sector (MANS), an NGO promoting good governance and citizen participation in decision-making, publicly reported that over a period of two months it sent 21,000 requests for information to state institutions, a quarter of which were ignored.⁴ NGOs were also especially active in 2009 in monitoring and preventing illegal construction, the fight against corruption and organized crime, and proposing legal regulations. Several groups also carried out various educational activities and offered free legal assistance to citizens and businesses.

NGOs have become more vocal and visible in their criticism of the government; some NGOs involved in international projects, however, have not followed the legal provisions on establishing managing boards.⁵ The lack of legal compliance among NGOs advocating for transparency and accountability in the work of state administrative bodies certainly undermines their credibility and has cast a small shadow of doubt on the reliability of the civic sector.

Montenegrin civil society still lacks sufficient organizational capacity, and many groups are not financially viable. Many organizations have not yet established a specialized set of services or focused on the implementation and coordination of their related programs. Instead, without clear missions, and due to sparse local funds, NGOs have spread themselves thin in an effort to access the limited pool of international funding, taking on activities that range from providing legal assistance to organizing schools for European integration and fighting corruption. At the same time, groups such as the Center for Civic Education and the Center for Development of NGOs have been mostly successful in conducting a variety of

projects simultaneously, including a school of democracy, school of youth leaders, trainings and consultations for NGOs and local governments, and programs on gender equality, European integration, civic education, and legal aid.

Independent Media

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Y u g o s l a v i a				3.25	3.25	3.25	3.50	3.75	3.75	4.00

In 2009, the Montenegrin media scene, which includes more than 70 electronic and print outlets, faced the dire effects of the global economic crisis. Early in the year, the Association of Independent Media of Montenegro (UNEM) publicly called upon the Ministry of Maritime Affairs, Transportation, and Telecommunications to release commercial broadcasters from their obligation to pay duties for the use of frequencies and facilities of the Radio Broadcasting Center. Despite UNEM's appeals, the state did not release commercial broadcasters from paying the license fees.

At the end of 2008, Parliament adopted the Law on Public Radio-Broadcasting Services, which provided automatic funding of 1.2 percent of the annual state budget to the public broadcasting service Radio Television of Montenegro (RTCG). The resulting monthly payment of approximately €670,000 (US\$895,000) stabilized the financial situation for RTCG. In mid-October, Parliament confirmed the election of RTCG Council members without previous conditions or delays, resulting in the final establishment of an RTCG Council in line with the law. In previous years, the ruling majority had blocked the appointment of members of whom it disapproved.

At the same time, an editorial aired on the television news arm of the daily *Vijesti*, claiming that state authorities deliberately obstructed the channel's license acquisition. Making use of a legal loophole, the Broadcasting Agency Council argued that the law does not define who the program content regulator is and who may give consent for the use of frequencies. In mid-summer 2009, the U.S. Embassy in Podgorica urged state authorities to find a solution to the problem of allocating frequencies. In October, Parliament adopted an amendment that precisely regulates the jurisdiction of the Broadcasting Agency as the regulator for program content, removing the legal obstacles to allocating the remaining state frequencies.

While Montenegro's constitution guarantees freedom of expression and freedom of the press, the disproportionate fines levied against media for "mental pain" and resulting self-censorship threatened to compromise these freedoms. In 2009, tensions continued to mount between independent media and the ruling coalition, with some contentious issues ending up in court. Charges brought by DPS leaders and state officials, mainly related to defamation and insult, resulted in heavy fines for the media outlets. During the year, a total of €1 million (US\$1.3 million) was requested from the newspapers *Vijesti*, *Dan*, and *Monitor* in what

appeared to be a worrying trend of lawsuits used as instruments by government leaders to silence critical media.

Published rulings show that Montenegrin courts have tried to follow the guidelines of the European Convention on Human Rights and respect recommendations of the European Court in Strasbourg regarding the inalienable right of free expression. However, in some cases, such as the suit against *Monitor* journalist Andrej Nikolaidis, the High Court did not make a distinction between opinions expressed in news articles and television programs and the criminal offense of defamation and insult. The Judicial Council of the High Court confirmed the verdict of the Basic Court against Nikolaidis for articles criticizing film director Emir Kusturica. Though initially found innocent on the grounds that Nikolaidis was protected by the freedom of expression, a second trial at the Basic Court reversed the first decision and the journalist was sentenced to pay damages to Kusturica in the amount of €12,000 (US\$16,000). Additionally, the Journalistic Self-Regulatory Body reported cases where Montenegrin journalists and media were accused without evidence or sentenced before a court decision was even reached, thus, violating not only the freedom of expression, but also the legal principle of the presumption of innocence.

In 2009, the future of Montenegro's oldest daily newspaper, *Pobjeda*, was still unresolved after two failed attempts to sell shares through a public tender, leaving the state as the majority shareholder in contravention of the 2002 Law on Media. In an apparent abandonment of the effort to privatize the newspaper given the economic crisis and the lack of international interest, personnel changes were made at the top of *Pobjeda*, with the director of the ruling DPS appointed as chairman of the newspaper's board of directors.

A conflict between the ruling DPS and the daily *Vijesti* intensified at the beginning of August when Dr. Miomir Mugoša, mayor of Podgorica, and his son had an altercation with a photojournalist and an editor of the newspaper. Mugoša, a high ranking DPS official, reacted to the intention of the photojournalist to take a photo of the mayor's car inappropriately parked in the street. Investigations concluded that there was some physical contact, that the mayor's son became involved, and that the editor suffered serious bodily injuries that required surgery. NGOs and some media have criticized the police and the prosecution, believing that these state institutions did not act professionally or impartially in collecting evidence and investigating the incident.

Local Democratic Governance

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Y u g o s l a v i a				n/a	3.50	3.50	3.25	3.25	3.25	3.25

Montenegro is divided into 21 municipalities, each with its own directly elected mayor serving a five-year term and a proportionally elected local assembly that serves a four-year term. During the course of 2009, there were elections for mayors

in Herceg Novi, Tivat, Žabljak, and Kotor, and for the municipal assemblies in Budva, Nikšić, Cetinje, and Mojkovac.

In all cases, except Herceg Novi, where the opposition has traditionally won for over a decade, the ruling coalition dominated in the elections against a sometimes-fractured opposition. The three largest parliamentary parties (SNP, NOVA, and PzP) boycotted the November elections in Kotor, allegedly due to unfair election conditions. SNP participated in the Mojkovac elections, although the DPS-SDP coalition won in this local election as well.

The constitution guarantees the right to local self-governance in Montenegro and establishes the municipality as the basic unit; additionally, the concepts of an administrative capital (Podgorica) and a historical capital (Cetinje) are defined by the Law on the Administrative Capital and the Law on the Historical Capital. The official Strategy for Reform of State Administration in Montenegro commits the government to establishing a system of local self-governance that is democratic, decentralized, and allows greater citizen participation in decision-making at the local level.

Despite the country's formally adopted course towards decentralization, everyday life reveals a lack of real action and financial decentralization. In order to spur this movement in 2009, the government presented the Parliament with a draft law on Territorial Organization and amendments to the Law on Local Self-Government. The new laws would more clearly define the authority of the chief administrator and create a new management position in local government units with the aim to encourage and support business activities and public-private partnerships. While welcomed, it is unclear whether local governments actually have the capacity to implement these reforms. In cooperation with the EC, the government launched a training program in September to strengthen local self-government, especially in regards to improving the transparency of decision-making at the local level. Yet, because many of the proposed amendments to the Law on Local Self-Government were withdrawn, discussion on adopting the law moved to 2010.

A key structural problem is the uneven development of local communities in Montenegro. For years, municipalities in the north have faced a difficult economic situation that has challenged their ability to collect budget revenues. In contrast, municipalities on the coast enjoy the benefits of the burgeoning tourist industry that has led to escalating revenues and expenditures. In a further step to correct the structural anomaly, the government established a partnership with the United Nations Development Program (UNDP) in October to develop local government skills in 11 municipalities in the north.

During the year, NGOs and some state institutions, such as the Ministry for Spatial Planning and Environment, publicly warned that local self-governments had not reacted sufficiently to alleged violations of law, especially regarding illegal construction. In mid-2008, a joint commission of the Ministry of Economy and local government representatives was established to address this issue. According to the criminal code, adopted in 2009, illegal construction is classified as a crime that can result in fines or jail time. Despite these efforts, illegal construction, especially

on the coast, continued to be a problem during the year as evidenced by the more than 100 complaints registered with the State Building Inspector from the public enterprise that manages the coastal zone “Morsko Dobro.” These complaints referred mostly to the municipalities of Bar, Ulcinj (the area of Ada Bojana in particular), Budva, Kotor, and Herceg Novi.

MANS filed criminal charges against Mayor Mugoša of Podgorica, for abuse of office in the sale of public land and has complained publicly about Deputy Prime Minister and DPS Vice President Svetozar Marovic’s role in approving and enabling the illegal building of a large tourist-residential complex in Budva.

Judicial Framework and Independence

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Y u g o s l a v i a			4.25	4.25	4.25	4.25	4.00	4.25	4.25	4.00

Montenegro’s constitution provides protection of fundamental political, civil, and human rights and establishes the independence of the judiciary as the foundation of a democratic society. Nonetheless, the political opposition has accused judicial officials of showing no real will to implement and apply the laws that Parliament adopts. Also, some NGOs that specialize in analyzing the judicial sector have warned that Montenegro has not created “strong guarantees for independence and professionalism of the judiciary, claiming that the judiciary is subjected to political influence.”⁶

Still, the judiciary made some progress in three war crimes cases that attracted domestic and international attention. In January, the State Prosecutor’s Office filed charges against nine people for the deportation of Bosniaks/Muslims in 1992 from Montenegro to Bosnia-Herzegovina where many were killed or disappeared. The accused were assistants to the minister of police of Montenegro, chiefs of municipal security centers of some coastal towns, and other police officials directly involved in the deportation of refugees to Bosnia. Later that month, the Podgorica High Court began the trial of six members of the former Yugoslav National Army accused of war crimes against civilians held in the Morinj detention camp at the Bay of Kotor, near the border with Croatia.⁷ In March, a trial against eight people accused of crimes against humanity began in the Bijelo Polje High Court. In this case, former members of the Yugoslav Army were accused of inhuman treatment of Albanian civilians who escaped to Montenegro from Kosovo during the 1999 NATO airstrikes and were killed.

In July, Parliament adopted a new criminal procedure code that generally incorporates the recommendations of a number of international organizations. Key among these is the reassignment of the investigative role from the court system to the state prosecution, which should allow for more efficient prosecution of cases and lead to a better segregation of duties. Also, the new code provides for the confiscation of property acquired by criminal activity, as well as the introduction

of secret surveillance. The new code is expected to improve conditions for more efficient criminal procedure, improve protection for human rights, and more effectively combat organized crime and corruption. The report of the EC mentions the progress that Montenegro has made in adopting laws that strengthen the professionalism and independence of judges and prosecutors.⁸

Another area of judicial progress is the reduction of unresolved cases. According to the report of the Judicial Council, Montenegrin courts significantly increased their efficiency and processed 70 percent more cases in 2009 than in 2008. The reduced number of cases followed the introduction of the principle of conducting trials within a reasonable period. Still, the President of the Association of Lawyers of Montenegro, Stanko Maric, expressed concern that too much insistence on the quantitative reduction of outdated cases could negatively impact the legitimacy of those decisions.

Also in 2009, the Judicial Council assumed its role of disciplining and controlling judges by suspending several judges while their dismissals were in process: one judge was sentenced to unconditional imprisonment, and ceased his judicial functions; two judges were dismissed from exercising judicial functions due to poor performance; and eight judges filed a request for the cessation of their functions.⁹

Despite data showing that the judiciary had made some progress, confirmed by the EC Progress Report, the structure of the Judicial Council still does not guarantee full independence from political influence. The Judicial Council consists of 10 members; its president *ex officio* is the president of the Supreme Court of Montenegro, as well as four judges who are elected and dismissed by the Conference of Judges, two lawyers appointed by the president and the minister of justice, and two MPs (one elected and dismissed by Parliament from each of the governing and opposition parties).

The manner in which Judicial Council members are elected (6 of 10 members are elected directly or indirectly with the consent of parliamentary parties of the ruling coalition) leaves room for political influence over the council. Likewise, a similar problem exists in the role of the prosecution. The “scope for political influence exerted on the prosecution exists through the appointment of the Prosecutorial Council by Parliament and the Parliament’s powers to appoint and dismiss the State prosecutors,” concludes the 2009 Montenegro Progress Report of the EU Commission.¹⁰

The activity of the Administrative Court, which monitors the legality of administrative and other acts of state and local authorities, drew public attention in 2009. According to data from the first 10 months of the year, the Administrative Court found 48 percent of the decisions or acts of state bodies to be unlawful and annulled them.¹¹ While this indicates the inability of large parts of the state and local government to apply the rule of law in a competent manner, it also demonstrates the growing independence and impartiality of the Administrative Court, which uses its legal powers to protect the interests of citizens and to help the state administration learn about the proper application of law.

In 2009, 24 trials against 115 persons accused of involvement in organized crime were registered in Montenegro. The High Court reached a decision in the case of the 2004 murder of Dusko Jovanovic, the former editor-in-chief of the daily *Dan*, sentencing the perpetrator to 30 years in prison. In addition, a number of individuals from a criminal group were convicted and sentenced for the 2005 murder of the police inspector Slavoljub Scekcic. Both of these cases attracted significant domestic and international attention, and were presided over by a three-judge panel headed by the Honorable Lazar Akovic. Due to the inexplicably long delay in delivering the final verdict in the Scekcic case and the discovery of an error in the proceedings, the Judicial Council began the process to dismiss Akovic; when news of this was published in the media, the judge resigned.

Corruption

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Y u g o s l a v i a			5.25	5.25	5.25	5.50	5.25	5.00	5.00

In 2006, Montenegro adopted an Action Plan for Implementation of the Program to Fight Corruption and Organized Crime based on international recommendations. A national commission to monitor the Action Plan was established in 2007, and was amended in 2008, again based on recommendations of international organizations.

In 2009, there was evidence of an increased level of implementation of the amended Action Plan. State institutions reported having established the majority of necessary legal and institutional infrastructure. Of the projected measures for prevention of corruption, two-thirds (67 percent) have been fully or are still being realized, according to data from the National Commission for Monitoring of Implementation of the Action Plan for Implementation of the Program for the Fight against Corruption and Organized Crime.¹²

In addition, through membership on the National Commission for the Fight Against Corruption, the civic sector is now included in the public campaign against corruption, money laundering, and various forms of organized crime. However, some NGOs believe that state institutions have realized only a part of the activities aimed at establishing the legal and institutional infrastructure, and that reforms are not yielding the expected results.

In 2009, the state administration achieved a satisfactory level of cooperation with some international organizations, such as with the Directorate for Anticorruption Initiatives (DACI) and UNDP in assessing Montenegro's compliance with the UN Convention Against Corruption. In addition, domestic NGOs have cooperated with international organizations like the OSCE and GRECO on widespread public campaigns against corruption conducted through Montenegrin print and electronic media.

The EC's 2009 Progress Report on Montenegro notes that the adoption of the Criminal Procedure Code provides the legal basis for more effective combat

against organized crime and corruption. The new code, which moved the role of investigation from the courts to the prosecutor's office, should increase the effectiveness of criminal proceedings. Also, the concept of plea bargaining has been introduced, and, in an important mechanism to prevent crime, the courts now have the ability to confiscate property acquired in the perpetration of a criminal offense. The 2009 state budget allocated €1 million (US\$1.3 million) to strengthen the ability of the police to combat crime and corruption, and the prosecution budget in 2009 was increased 44 percent in order to prepare it for its new investigative role.

In March, a judge of the High Court and a secretary of the Bijelo Polje municipality were arrested on suspicion of corruption, which was the first time that a High Court judge and a senior local official had ever been arrested. The opposition argued that the police action was politically motivated so that the government could demonstrate to the local and international public its commitment to the fight against corruption before the parliamentary elections.

According to data from DACI, Montenegrin police participated in only three international operations against organized crime in the areas of drugs, human trafficking, and armed robbery in 2009. However, the police were not involved in the Balkan Warrior operation in which more than two tons of cocaine from Latin America, intended for the European market, were seized. Serbian and Montenegrin media called it the largest confiscation of cocaine to pass through the Montenegrin Port of Bar.

The SAI and Administrative Court continued their monitoring and oversight of state institutions and local government bodies in 2009. The independent work of these two institutions is important for the transparency and legality of state activities. The Administrative Court declared unlawful a number of parliamentary acts that violated the principle of transparency and public rights to full information, while the SAI in its annual report warned that decisions and accounts of some state institutions and ministries were not in accordance with legal provisions.

At the end of 2008, Parliament adopted a new Law on Conflict of Interests that introduced fines and sanctions for those who do not declare their assets or declare them falsely. In the future, such individuals will not be allowed to perform duties in the state administration for a period of four years. Still, opposition parties fought against the reappointment of the President of the Committee for Conflict of Interests, Slobodan Lekovic, based on his previous performance and alleged partiality toward (and membership in) the ruling DPS. In July, the PzP filed criminal charges against Lekovic, claiming that he had determined the amount of his own salary.

The 2009 Montenegro Progress Report by the EC concluded that, "Montenegro still lacks strong and independent supervisory authorities to evaluate asset declarations and financing of the political parties and to monitor and exercise control over expenditure in the public sector."¹³

Some opposition MPs also criticized the work of the Money Laundering Prevention Directorate, which forwarded more than 50 reports on suspicious transactions to the police and prosecution in 2009. President of the Movement

for Changes, Nebojša Medojević, called the situation in Montenegro shocking since there were about €500 million (US\$659 million) worth of investments in Montenegro and not a single charge for the criminal offense of money laundering.¹⁴

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- ¹ A poll of the Center for Democracy and Human Rights (CEDEM) from June 2009 shows that 40.3 percent of Montenegrin citizens oppose the idea of Montenegro entering NATO; joining NATO is supported by 30 percent of citizens while 26.7 percent have no opinion. “Citizens Attitudes Toward NATO Integrations of Montenegro: June 2009,” CEDEM, Montenegro, http://www.cedem.me/fajlovi/editor_fajlovi/istrazivanja/CEDEM_june09.pdf (accessed October 22, 2009).
 - ² “Chief Economist Report Second Quarter 2009,” CBCG, Montenegro, June 2009, http://www.cb-mn.org/eng/index.php?mn1=publications&mn2=quarterly_reports&mn3=chief_economist_report.
 - ³ “Montenegro Early Parliamentary Elections March 29, 2009 OSCE/ODIHR Election Observation Mission Final Report,” OSCE, Warsaw, June 10, 2009, http://www.osce.org/documents/odihr/2009/06/38110_en.pdf.
 - ⁴ Boris Ristović, “International Freedom of Information Day Press Release,” MANS, September 27, 2009, <http://www.mans.co.me/en/arhiva/2009/09/international-freedom-of-information-day>.
 - ⁵ Law on NGOs, Article 20, stipulates that NGOs must establish the NGO such as managing board or the assembly.
 - ⁶ Erna Mackic and Nedjeljko Rudovic, “Montenegro Makes History With War Compensation Offer,” BIRN Justice Report, January 26, 2009, http://www.publicinternationallaw.org/warcrimeswatch/archives/wcpw_vol03issue38.html.
 - ⁷ During the war in the former Yugoslavia (1991–92), prisoners mainly from neighboring Croatia were kept in the Morinj detention facility. According to the indictment, the camp guards did not provide conditions in accordance with the Geneva Conventions and the prisoners were subjected to various forms of abuse and torture. In cooperation with Croatian judicial authorities, the Montenegrin prosecution organized for all witnesses (Croatian citizens) to appear before the court in Podgorica and give statements.
 - ⁸ “Montenegro 2009 Progress Report, Accompanying the Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2009–2010,” Commission of the European Communities, Brussels, Section 1336, October 14, 2009, http://ec.europa.eu/enlargement/pdf/key_documents/2009/mn_rapport_2009_en.pdf.
 - ⁹ Report of the Judicial Council for 2009, pp. 49, 50.

- ¹⁰ “Montenegro 2009 Progress Report, Accompanying the Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2009–2010,” Commission of the European Communities, Brussels, Section 1336, Page 11, October 14, 2009, http://ec.europa.eu/enlargement/pdf/key_documents/2009/mn_rapport_2009_en.pdf.
- ¹¹ Report of the Administrative Court for the period January 1–October 30, 2009.
- ¹² “The Fifth Report on Realization of Measures from Innovated Action Plan for Implementation of Program of Fight Against Corruption and Organized Crime (2008–09) for Period 01 January–30 June 2009,” Montenegro National Commission for Monitoring of Realization of Action Plan for Implementation of Program of Fight Against Corruption and Organized Crime, July 29, 2009, http://www.mans.co.me/en/wp-content/uploads/2009/08/NC_FIFTH-REPORT_ENG.pdf.
- ¹³ *Montenegro 2009 Progress Report* (Commission of the European Communities, 2009), 12.
- ¹⁴ Nebojsa Medojevic, “Money Laundering,” *Vijesti*, October 29, 2009.