

Montenegro

by Lisa McLean

Capital: Podgorica
Population: 0.6 million
GNI/capita: US\$11,780

The data above was provided by The World Bank, *World Bank Indicators 2009*.

Nations in Transit Ratings and Averaged Scores

	Yugoslavia				Montenegro					
	1999-2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Electoral Process	5.50	4.75	3.75	3.75	3.50	3.25	3.50	3.50	3.25	3.25
Civil Society	5.25	4.00	3.00	2.75	2.75	2.50	3.00	3.00	2.75	2.75
Independent Media	5.75	4.50	3.50	3.25	3.25	3.25	3.25	3.50	3.75	3.75
Governance*	5.50	5.25	4.25	4.25	4.00	n/a	n/a	n/a	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	4.50	4.50	4.50	4.25	4.25
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	3.50	3.50	3.25	3.25	3.25
Judicial Framework and Independence	5.75	5.50	4.25	4.25	4.25	4.25	4.25	4.25	4.00	4.25
Corruption	6.25	6.25	5.25	5.00	5.25	5.25	5.25	5.50	5.25	5.00
Democracy Score	5.67	5.04	4.00	3.88	3.83	3.79	3.89	3.93	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

In the 17 years since the introduction of a multiparty system, the same political force—albeit with various splits—has dominated the political and economic scene in Montenegro, leading it through years of state breakup, regional conflict, sanctions, independence—and, now, toward integration with the European Union (EU) and NATO alliance. Its second full year of independence, 2008, was one of symbolic achievements for Montenegro. In addition to winning the European championship in water polo and attending its first Summer Olympics, the country submitted its application for a membership action plan from NATO as well as its application to become a member of the EU. Strategies were developed, action plans put into place, and legislation adopted—much of it aimed at addressing European concerns related to judicial independence, corruption and organized crime, and a bureaucracy built on years of political patronage.

In 2008, Montenegro faced the challenge of bringing about fundamental change in a small society comfortable with the tradition of using relationships to get things done. Through repeated violations of the Law on Implementation of the Constitution, which enjoyed the same force of law as the Constitution, the ruling forces failed to uphold respect for the basic law underpinning all other laws in the country. Yet with limited criticism from opposition forces, the media, civil society, or independent institutions, few other forces in society rose to the challenge of reshaping fundamental values. Thus, Montenegrin society embraces the prospect of European integration and its promise of economic growth in a country long plagued with poverty that had difficulty creating the political basis for economic change.

National Democratic Governance. In 2008, with a stable governing majority, the government and Parliament adopted a number of pieces of legislation, strategies, and action plans designed to advance the government's combined goals of NATO and EU membership. However, missing from the equation was development of a changed system of governance to reduce the predominance of the executive branch and to open up the process to additional voices in order to create a shared vision of the future. Making few efforts from its dominant position to open a dialogue, establish trust, fashion compromises, or enable oversight, the governing coalition blamed the governance situation on forces that it accused of often opposing the state. *Given the inability on the part of the ruling parties, which dominate the public and private sectors, to find common ground with the opposition, the national democratic governance picture remained one subjugated to the disproportionate power of the executive branch; thus Montenegro's rating for national democratic governance remains at 4.25.*

Electoral Process. Elections in 2008 were held largely in line with international standards. But a number of campaign and election day irregularities allowed opposition parties to spread doubts about the outcome and accuse governing parties of overwhelming advantages. While the Law on Voter Lists was adopted without the presumed need for a two-thirds majority, nothing was done to reconcile the election law with the Constitution and define legal means to guarantee ethnic minority representation in elected bodies or to address long-standing objections about certain provisions raised by the Organization for Security and Cooperation in Europe. *The obvious lack of political will to adopt internationally recommended changes to the legal framework or to create a level playing field for all competitors suggests that Montenegro's rating for electoral process should remain at 3.25.*

Civil Society. While there have been small changes to the legal framework, civil society continues to exist in a precarious and competitive environment, even though some larger nongovernmental organizations (NGOs) increased their profile and influence. The government reluctantly included civil society in policy-making processes—especially in sensitive areas that claim the attention of the NGO watchdogs; but the government welcomed civil society organizations' efforts to help with public education and policy promotion. *Slowly but surely, civil society is becoming an alternate voice that variously supports and criticizes official actions and policies; but institutional obstacles it continues to face cause Montenegro's civil society rating to remain at 2.75.*

Independent Media. In 2008, cases involving violence against journalists remained unresolved, and courts assessed significant monetary judgments against the media for slander. In an effort to secure an independent source of funding for and independent management of the public service, changes were made to the Law on Public Service Media that some fear could restore governing party control. In addition, the independent Broadcasting Agency was merged into a new government-controlled agency, threatening the prospects for independent distribution of broadcasting frequencies. *With no change in official attitudes toward violence against journalists or slander, and with the threat that legislative changes may restore government interference in the media scene, Montenegro's rating for independent media remains at 3.75.*

Local Democratic Governance. In 2008, local municipalities began to focus on improving their management capabilities, and the Union of Municipalities became more active in that process. Still, serious efforts to professionalize the local civil service were limited. The property boom at the coast and in the capital created a huge disparity in fiscal revenues and consequent developments in local communities, despite efforts to transfer more state funds to the poorer northern municipalities. *Without serious efforts to transform the local administrations into capable, nonpartisan, service-oriented organizations, Montenegro's rating for local democratic governance remains at 3.25.*

Judicial Framework and Independence. Legislative changes in 2008 moved the process of personnel appointments further away from the political arena, but the criteria for appointing judges remains imprecise, nontransparent, and open to subjective selection. Furthermore, the amendment to the Law on the State Prosecutor was adopted despite being contrary to the suggestions of the Council of Europe for establishing the service's independence. The concerning number of cases of police torture, high amounts awarded by the courts in cases of slander, and continued public distrust of the independence of the judiciary presented worrying trends in 2008. *Although the legislative framework for judicial independence improved in 2008, continued public distrust in the judiciary's independence, disregard of the Council of Europe's suggestions in amending the Law on the State Prosecutor, and a concerning number of cases of police torture and politically motivated violence suggest that the rating for judicial framework and independence worsens from 4.00 to 4.25.*

Corruption. For the international community and the print media in Montenegro, corruption was one of the biggest concerns. Legal and institutional reforms were introduced to strengthen the state's ability to deal with the problem. But without any cases ending in convictions for serious corruption, there was no challenge to the culture of impunity. The activities of the State Audit Institute, as well as of some NGOs and governing bodies, did change perceptions and improved public information about corruption. *Given that the domestic public improved its understanding of the corruption challenge through the many reports and activities of nongovernmental and international organizations and information increasingly provided by government institutions, the power of public pressure has developed in Montenegro in order to address the issue; for that reason, Montenegro's corruption rating has improved from 5.25 to 5.00.*

Outlook for 2009. The EU expects the large number of strategies and action plans that have been put in place to deal with the identified key challenges to yield concrete results. But given the precarious economic environment created by world events, the government is expected to move parliamentary elections, which were scheduled for the end of the year, forward to the spring of 2009. Thus it will be important not to let the election fervor and the world economic crisis distract from the long-term goal of Euro-Atlantic integration, which will require the adoption of European governance values that include transparency, accountability, and political consensus.

MAIN REPORT

National Democratic Governance

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a				n/a	4.50	4.50	4.50	4.25	4.25

Based on the Constitution adopted in October 2007, Montenegro is an independent and sovereign state with a republican form of government regulated by the division of power into legislative, executive, and judicial branches. In addition to the direct election of the head of state, there is an 81-seat Parliament elected through a system of proportional representation based on a single nationwide constituency. The last elections held in September 2006 resulted in the election of 15 parties to Parliament, which include representatives of the constitutionally recognized peoples and national minorities in Montenegro. In January, the prime minister resigned for health reasons, and the president of the Democratic Party of Socialists (DPS), Milo Đukanović, who had served as either prime minister or president from 1991 until 2006, returned to head an unchanged government made up of 15 ministers and two deputy prime ministers.¹

Montenegro's governance system was stable owing to the dominance in the public and private sectors of the ruling DPS, which has led the country—alone or in coalition—since its transition to a multiparty democracy and introduction of a market economy. After years of economic decline, the last several years witnessed an economic recovery and tourism upswing that produced high economic growth rates, a decline in the unemployment rate, an increase in salaries, and a significant rise in direct foreign investment. A property market boom, as well as a soaring stock market, created a new business class of individuals close to the ruling parties and fueled a general sense of public optimism that sustained support for the coalition government of DPS and the smaller Social Democratic Party of Montenegro (SDP). While many living in the north continued to struggle owing to moribund industrial complexes, a lack of investment, poor infrastructure, and a rigid labor market, the government used the growing state budget fueled by improved tax collection to fund generous government social programs there to substitute for a lack of economic activity.

Three disparate groups standing in opposition to the ruling coalition attempted to define an alternative after the 2006 independence referendum. Some still had not acknowledged the results of the referendum, refused to respect the country's state symbols, and did not vote for the 2007 Constitution. As such, governing parties portrayed opposition groups as threats to the state's continued existence and promoted themselves as the only ones capable of bringing about Montenegro's Euro-Atlantic integration goals. While in 2008 a part of the opposition allowed the

question of Kosovo's status and Montenegro's recognition of Kosovo in October to dominate its political strategy, another part sought to go beyond the traditional nationalist-civic fault lines and focus on the government's failures to meet the challenge of European integration. But despite a shared goal to oust "a regime" whose every major decision it portrayed as tainted by association with organized crime and corruption, the strategies and tactics of each of the opposition parties varied widely, often appeared self-serving, and undermined public confidence that giving up on the DPS could bring better solutions than the ones on offer.

In Parliament, there was limited progress in the Committee for Security and Defense to exercise civilian oversight of the security services and greater determination on the part of the Committee for International Affairs and European Integration in dealing with Euro-Atlantic integration issues. Also, reports from independent institutions, such as the Supreme Court, the state prosecutor, the Central Bank, and the State Audit Institute, improved in terms of the information provided, recommendations made, and substance of the debate on the part of members of Parliament (MPs). But with firm control of the administration and planning of parliamentary business, governing parties blocked most opposition efforts to discuss issues or gain access to information it considered important for oversight of the executive. The refusal on the part of some in the opposition to acknowledge Montenegro's status as an independent country and to deal seriously with questions of vital interest to the country regularly provided governing parties an excuse to exclude the opposition from the governance process and to label them as irresponsible partners. Governing parties regularly used allegations about opposition parties' commitment to the country's independence and the patriotism of some political opponents to silence justified concerns from opposition members about the transparency, legality, and impartiality of state action.

As a result, when live television broadcast of plenary sessions was abruptly discontinued at the end of May, the opposition parties walked out of Parliament for four months, returning only after mediation efforts by the Montenegro office of the Organization for Security and Cooperation in Europe (OSCE). The opposition's boycott of Parliament represented a clear sign of frustration about the opposition's sense of its own marginalization and inability to use the legislative body effectively to represent the interests of their voters or oversee the executive bodies or independent institutions.

While Parliament was bogged down in infighting, the executive focused on Euro-Atlantic integration, producing a national program for European Union (EU) integration and submitting applications for a NATO membership action plan and for EU membership. Through a variety of strategies and action plans, the executive mapped out plans to improve the legislative framework and address the weak capacity of the state administration, whose limited skills and knowledge, as well as low salaries, lack of transparency, and limited accountability, make it ill prepared to guarantee respect for the rule of law. A particular problem was the employment in state administration of functionaries on the basis of their connection with ruling political parties, which has led to the perception of politically biased decision making

in order to protect political subjects or their personal interests.² Also, while a great deal of information was available on official Web sites about adopted strategies, plans, legislation, and decisions, accessing information dealing with sensitive or inconvenient subjects proved difficult.

Electoral Process

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a				3.50	3.25	3.50	3.50	3.25	3.25

In 2008, Montenegro held elections for the president and for the municipal assemblies of Herceg Novi, Tivat, and Kotor. Although a new law brought presidential elections into line with the Constitution, municipal assembly elections were held under the 2006 Law on Election of Councillors and MPs and the 2003 Law on Minority Rights and Freedoms, despite a January deadline to harmonize these laws and provide a means for representation of ethnic minorities.

On April 6, 68 percent of registered voters went to the polls to elect the president for the first time in independent Montenegro. The DPS candidate, incumbent president Filip Vujanović, was reelected by 52 percent. Another 20 percent voted for Serbian List candidate Andrija Mandić, 17 percent for Nebojša Medojević of Movement for Changes, and 12 percent for Srđan Milić of the Socialist People's Party (SNP). The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) judged the presidential elections in line with “nearly all aspects” of OSCE commitments.

Opposition candidates complained about the president's use of official events to campaign, which OSCE/ODIHR characterized as “continued evidence of blurring of state and party structures...contrary to the 1990 Copenhagen Document.”³ International and media attention also focused on the anomaly of DPS offices situated in the same building as government, such that the final rally of the DPS candidate was held in the building housing the offices of government, for which the government pays rent to the DPS as the successor of the League of Communists, which owned the building during the transition.

The three opposition candidates also complained about rules for campaign financing and media coverage on the public broadcast service. With regard to financing, candidates taking more than 5 percent of the vote received €80,000 (US\$117,072) based on a parliamentary decision adopted on February 5, 2008. Opposition parties unsuccessfully contested the decision, saying that it contradicted the Law on Political Party Financing, which provides 0.4 percent of the annual budget to cover election campaign costs. Regarding media coverage, each candidate was given 30 minutes of free airtime on the public service channel on March 25 and 26; and a live televised debate was organized on April 3. However, the Public Service Council did not adopt its decisions until 14 days before elections, despite an

election law provision mandating adoption of the decision within 15 days of calling the election. The delay was caused by a long-standing political argument over the nomination and election of council members that left the body without a quorum to decide until two weeks before the elections. Furthermore, the start of the only debate, reportedly viewed by 74 percent of the population, was delayed by 17 minutes of paid advertising, including a 13-minute DPS advertisement that featured a fierce attack by the prime minister on one of the presidential candidates.

Delays in bringing relevant laws into compliance with the new Constitution created a legal question about whether permanent residents or citizens had the right to vote. When Parliament finally did harmonize the Law on Voter Lists, it did so without opposition participation and, as a result, without the two-thirds majority required for “laws regulating the electoral system.”⁴ When the opposition SNP appealed this parliamentary decision to the Constitutional Court, the Court determined that the Law on Voter Lists was not “a law regulating the electoral system”—although Article 1 of the law states that “registration in the voters list is a condition for achieving the right to vote”⁵—and therefore did not need to be approved by a two-thirds majority. Instead, the Court argued that the law protected the right to vote—a human right—and therefore fell under the constitutional requirement for approval by a simple majority of all MPs.

In the aftermath of presidential elections, SNP filed a number of charges against heads of polling boards for allowing individuals in prison or absent from the country for a number of years to vote. Similarly, after November elections in Kotor, SNP produced the signed list of voters who voted in prison on election day, which the party believed proved that prisoners had not cast their own votes. These cases raised questions about the responsibility of the polling board in voter identification and the wisdom of allowing voting in the closed, militarylike atmosphere of a prison. In fact, in advance of April presidential elections, inmates had gone on a hunger strike because of unfulfilled promises made to them about reduced prison sentences in advance of the reform. DPS gained a decisive seat in the Kotor Municipal Assembly through these 19 prison votes. Yet there was no reaction on the part of the prosecution related to the SNP charges, which served to undermine confidence in the elections and left it up to the court of public opinion to pass judgment.

By year’s end, minimal efforts had been made to bring the electoral law in line with the Constitution, although the deadline had passed eight months earlier. Ruling parties explained the flagrant disrespect for the Law on Implementation of the Constitution as the result of disagreement among ethnic minorities on a formula for their authentic representation, shirking any responsibility to reconcile differences given their overwhelming political influence. As a result, the long-standing objections that OSCE/ODIHR has raised repeatedly about weaknesses of the legal framework likely will not be dealt with before parliamentary elections expected in 2009, thereby satisfying the interests of the ruling parties.

Civil Society

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a			2.75	2.50	3.00	3.00	2.75	2.75	

In 2008, Montenegro had an abundance of nongovernmental organizations (NGOs) owing to an NGO law that makes it easy to register. A group of Podgorica-based NGOs became aggressive and effective critics of the state administration, government, and Parliament in the fields of anticorruption, free access to information, conflicts of interest, EU integration, human rights, and rule of law. At the same time, some of these same NGOs participated in cooperative civic education programs and worked with the government on a strategy and action plan for improved cooperation. Thus there was a healthy love-hate relationship between civil society and government in which the NGOs had limited success in pressuring state authorities to be more transparent and accountable and to include them in reform efforts, especially related to European integration issues.

But despite a year's worth of effort, no framework for improved cooperation was agreed upon, and the most developed NGOs regularly criticized the government for not including them in a dialogue over policy development or involving them only to impress the international community and the domestic public. NGOs complain that government-sponsored public debates are opened with great fanfare and media attention without any knowledge of what suggestions were submitted by whom and which suggestions were incorporated into the law. Instead, a piece of legislation or a government strategy is adopted with the unproven assertion that the opinions of civil society and international organizations are fully incorporated.

Parliament rarely reaches out to NGOs to include them in policy debate, partly because it is quite limited in Parliament. As a result, Montenegro's spatial plan was adopted in an extraordinary plenary session with limited public discussion about the merits, much to the disappointment of NGOs. In contrast, NGO pressure did result in Parliament inviting an NGO to discuss the Law on Conflicts of Interest with several committees—but in the end, the proffered amendments were rejected and criticisms ignored.

Tax laws provided NGOs with a number of tax exemptions, but the complicated legislation was confusing and few NGOs or civil servants knew of its provisions or how to apply them. Also, reimbursements paid to volunteers were subject to taxes similar to those for paid employees, thereby discouraging voluntarism in Montenegro. In an effort to reduce the number of small businesses that register under the NGO legislation to avoid taxes, legal changes were introduced to permit economic activities with a total income of up to €4,000 (US\$5,853) in a single year, or 20 percent of the entire budget of the organization in the previous year. NGOs that reach the limit must cease economic activities or face fines of €500–1,600 (US\$732–2,341).⁶ Implementation began in 2008, and the effect of the new law remains unknown.

The NGO legislation provided for funding from the state budget on a competitive basis, and NGOs could compete for funds available from municipal budgets. But the distribution and use of these funds could not be judged transparent. Amendments to the 2004 Law on Games of Chance earmarked 45 percent of concession fees collected from games of chance for NGOs dealing with social protection and humanitarian activities, needs of the disabled, sports development, cultural activities, extracurricular education for youth and children, and the fight against drugs.⁷ In December 2008, a Ministry of Finance decision distributed €2.7 million (US\$3.95 million) to 350 projects,⁸ of which 43 percent were related to the disabled, 22 percent to sports, 14 percent to drug abuse, and 11 percent to cultural activities.⁹ Within days, the NGO community complained that the commission had violated its own rules for distributing funds, by giving some funds to all applicants, but not at least 60 percent of the requested budget for each NGO application.¹⁰

The money from the state coffers, however, was minimal compared with funding from international donors, on which most NGOs rely. In a highly competitive atmosphere, the largest and most developed NGOs took the bulk of these funds. Smaller, locally based NGOs lacked the expertise to access and compete successfully for funding outside the governmental sector.¹¹ In a positive development, an NGO coalition managed to raise funds from six private companies to fund 100 percent of the costs of its “Women’s Government” program.

As the NGO sector grows louder in its criticisms of government, it has begun to enjoy increasing media attention and public credibility. A 2008 poll indicated that 20 percent of citizens believed that NGOs do the most to deal with the problem of corruption,¹² and another poll has consistently given the highest ratings among politicians and public persons to the leader of the Network for Affirmation of the NGO Sector (MANS).¹³ Still, some NGOs complain of harassment from government inspection services, and at least one NGO leader was beaten by an unknown assailant in a case still under investigation.

Independent Media

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a				3.25	3.25	3.25	3.50	3.75	3.75

In 2008, Montenegro had approximately 70 electronic and print media outlets,¹⁴ most of which were privately owned. There were two public service television stations, one public service radio station, and a number of local public service radio and television stations. Distribution of newspapers was privately controlled, and society enjoyed unfettered access to the Internet, which was used by 38 percent of the population.¹⁵ Introduced in 2007, cable television offered access to media throughout the region. The biggest challenge to private media in Montenegro was the limited advertising market due to the small size of the economy.

Although the 2002 Law on the Media banned state ownership of press, the state remained the majority shareholder of the daily newspaper *Pobjeda* in 2008. An effort to sell a controlling stake in the newspaper failed due to a significant debt burden that put off potential investors. A second tender was issued after the government assumed the newspaper's debts, but its outcome will not be known until April 2009.

While the Constitution guarantees freedom of expression, freedom of the press, prohibition of censorship, and access to information, violence against journalists and disproportionate fines against media outlets for “mental pain” compromised those freedoms. The journalist Mladen Stojović was assaulted in his apartment and beaten unconscious in May 2008, allegedly as a result of reporting on Mafia involvement in football; but the facts of the attack were never uncovered, and the case is still under investigation. Also, on appeal, the high court reduced the sentence of those accused of beating one of the founders of the daily *Vijesti* in September 2007 from four years to six months because they had confessed.¹⁶ In cases of slander and libel, courts awarded from €12,000 to €20,000 (US\$17,600 to US\$29,300) to individuals in 2008.¹⁷ In all cases, it was unclear how the courts had determined the level of “mental pain.”¹⁸ In fact, the absence of serious police investigations or rigorous condemnation on the part of state bodies regarding attacks on journalists and the lack of defined criteria for leveling fines in civil suits combined to cast a pall over the guarantees of free speech and press and to encourage self-censorship.

In 2008, the public service Radio Television of Montenegro (RTCG) suffered a financial crisis when the method for collecting the user fee remained unresolved for half of the year. A decision to collect the fee as part of the electricity bill yielded only 30 percent of planned annual revenue.¹⁹ RTCG also suffered a management crisis in the first quarter of the year when Parliament failed to confirm appointees to its council, leaving it without a quorum for decision making. At the end of 2008, Parliament adopted the new Law on Public Radio–Diffusion Services of Montenegro, which provided automatic funding of 1.2 percent of the state's annual budget and established a new method for selecting council members. Critics of the law expected the changes to turn RTCG into a state-controlled organ. However, both the British-based NGO Article 19 and the OSCE Representative on Freedom of the Media estimated that the automatic transfer of budget funds, together with other legal provisions, could actually serve to establish RTCG's independence.

The new law gave Parliament the right to elect members of the council, outlining elaborate rules for the nine nominees and some minimum standards to prevent problems related to creating phantom nominating NGOs. Still, the majority of the nominating bodies were closely associated in some way to government organs, and insofar as their own independence is not established, it is unlikely that the new council will enjoy the public's trust as an independent body until, by its own decision making, it affirms the principles of independence so clearly stated in the new law.

Trust in the public service media is low, which contributed to difficulty in collecting the user fee. The revived Journalist Self-Regulatory Body issued four

reports in 2008, each pointing out some important piece of news that RTCG did not report on—usually related to a newsworthy critical position toward the government—demonstrating that taxpayer-funded public service with nationwide coverage avoids unpleasant news about the government or distorts news from those opposed to the government.

Finally, in July, without the presence of the opposition and without addressing any concerns raised by domestic and international experts, Parliament passed the new Law on Electronic Communications, which merged the independent Broadcasting Agency into the government-appointed Agency for Electronic Communications and Postal Services responsible for licensing broadcasters. By the end of the year, the government had appointed the agency's five-member council, whose head is the husband of the deputy prime minister. Given its role in distributing broadcasting frequencies, there is concern about the future independence of this agency.

Local Democratic Governance

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y	u	g	o	s	l	a	v	i	a
				n/a	3.50	3.50	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 municipal assembly serving a four-year term. In addition, the municipality of Podgorica has two subunits, called city municipalities, with proportionally elected assemblies that elect an assembly president. During the course of 2008, three municipalities (Herceg Novi, Kotor, and Tivat) held elections for a new mandate. It took over three months to form a new local government in Tivat, and in Herceg Novi, a local government was formed, fell apart, and a new local government emerged in the course of eight months. A number of other municipalities also ran into difficulties during the year in maintaining a government coalition.

In almost all cases, tensions in the municipalities came down to jobs and the ability of coalition partners to distribute positions to its members, especially in the eight municipalities where opposition parties dominate or share power with governing parties. As a result, local self-government was considered dominated by nepotism and politicization, which led to bad financial management. One of the major private business associations in Montenegro described the personnel problem at the local level as “a growing barrier to business development, especially in terms of construction, tourism, forestry, and wood industry.”²⁰ And, in fact, the overlapping competences of national and local governments in these areas, among others, raised tensions between the two levels of government. With help from European institutions interested in improving local governments' ability to absorb assistance, the Union of Municipalities (UOM) became more active in trying to promote reform in terms of the legislation, financing, and training of local self-government.

In January, the Coordination Body for Reform of Local Government—made up of representatives from national and local levels—adopted an action plan for reform of local government. In October, the UOM adopted a national training strategy and action plan in order to improve management at the local level, encourage an exchange of best practices, advance economic development of individual self-governments, and improve the quality of life for citizens and businesses in the municipality. In addition, UOM agreed that all municipalities would adopt programs and action plans to combat corruption at the local level.

While these efforts demonstrate the functioning of an association of municipalities, the results so far are limited. Including an ambitious agenda of 22 legislative reforms for 2008, less than a third of the laws in the action plan actually changed, and some changes failed to address concerns of the municipalities, which complained about new national legislation (or lack of legislation) curbing their ability to raise local revenues.²¹ But the central government considers itself justified in preventing the levying of huge local taxes and fees that create business barriers and undermine the national strategy of encouraging investment to stimulate economic growth. The escalating price of land and real estate provided a number of opportunities for “boom” municipalities; in fact, in the first half of 2008, the six coastal municipalities and Podgorica received 75 percent of the €74 million (US\$108 million) worth of local revenues collected throughout the country, of which 84 percent came from boom-related taxes and fees on construction and real estate.²²

Cognizant of the dissonance the boom created between coastal and the poorer mountainous municipalities, changes were introduced to the Law on Financing of Local Government at the end of 2007. These changes increased the sources of financing for the Equalization Fund, which was established to assist municipalities generating less than the average revenue of all municipalities in the previous year. The new formula increased the amount of personal income, property, consumption, and business taxes allocated to local governments. Still, despite efforts to improve the functioning of local government, the European Commission’s progress report considered “capacity of the municipalities for financial management, including budgeting, public procurement, and allocation of grants,” to be in need of further improvement.²³

Judicial Framework and Independence

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y	u	g	o	s	l	a	v	i	a
4.25	4.25	4.25	4.25	4.00	4.25				

In 2008, the Ministry of Justice, the courts, and the Office of the Prosecutor worked intensively to change the legal framework in order to bring it into line with the 2007 Constitution, improve conditions for judicial independence, and increase efficiency of the judicial process. A new state prosecutor was appointed,

the Office of the Special Prosecutor for Organized Crime and Corruption was expanded, and amendments to the Law on the State Prosecutor were adopted. Amendments provided for the appointment and dismissal of prosecutors by a simple parliamentary majority at the suggestion of the Prosecution Council and were in line with the Constitution but contrary to the suggestions of the Council of Europe for establishing the service's independence.

The Law on the Judicial Council was adopted, and a new council—functioning for the first time since November 2006—accepted its rules of procedures and criteria for appointing judges, which should limit political involvement in the judiciary. Although the criteria for appointment and dismissal of judges improved greatly, it continued to leave open the possibility for subjective selection because the criteria remained imprecise, the method of assessing the criteria was not transparent, and a majority of the Judicial Council continued to depend on the support of politicians.

A survey conducted by the Agency for Anticorruption Initiatives confirmed that citizens do not trust the independence of the judiciary and believe that family and social connections, politics, and corruption often influence judicial decision making with the aim of protecting rich and powerful individuals. Furthermore, the ombudsman continued to cite the length of the judicial process as the most frequent complaint that he handles. In addition, he noted that the problems related to treatment from the state and local administrations in terms of length of administrative processes, lack of responsiveness, and property and citizenship rights are of growing concern to those who approach him.

During 2008, another problem was a concerning level of individual cases of police torture and politically motivated violence without consequences. Among the 38 reported cases of police excess, the case of Aleksandar Pejanović, accused of violent behavior and attacking the police during the demonstration protesting the decision to recognize Kosovo, raised the particular attention of local human rights groups. Pejanović claimed he was beaten in police detention and produced a medical report detailing his injuries. The police reported that its own internal investigation determined that it had “acted within the legal limits,”²⁴ but human rights organizations and opposition MPs complained about the reliability of such an investigation. In the meantime, five police officers, accused of having beaten detainees during a 2006 arrest of 18 ethnic Albanians for alleged involvement in a terrorist plot, were sentenced to three months in jail, a judgment human rights organizations considered to be quite mild and hardly a signal that police violence would not be tolerated.²⁵

At the time of Pejanović's alleged police beatings and media reports of the police detention facilities, the ombudsman sent the police an opinion on the need to ensure international standards of treatment and police behavior in detention facilities. Within two months, police did improve facilities in the north, and they are expected to do the same shortly in Podgorica.

The ombudsman reported few individual complaints about violations of minority rights but noted a dearth of necessary legal and sublegal acts outlining the ways to exercise rights provided by the Constitution. Most noticeable

was the long delay in bringing the electoral law in line with the Constitution, harmonizing the Law on Minority Rights and Freedoms, and adopting the Law on Antidiscrimination.²⁶ In addition, the ombudsman issued an opinion at the end of December concluding that international human rights treaties and national legislation were applied inconsistently in the employment of ethnic minorities at all levels of the state administration.

Finally, in August 2008 the prosecutor issued indictments in two important war crimes cases: against eight individuals for the killing of fleeing civilian refugees during the 1999 Kosovo crisis, and against six individuals for the abuse of Croatian prisoners of war at a concentration camp in 1991 and 1992. The government also reached a civil settlement with families of Bosnian Muslims deported in 1992 and killed in Bosnia-Herzegovina, which accepted Montenegrin responsibility in their deaths. Still, human rights organizations complained that the indicted and those under investigation in another three cases include only those at the lowest levels and not those with command responsibility.²⁷

Corruption

1999–2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Y u g o s l a v i a				5.25	5.25	5.25	5.50	5.25	5.00

In order to address the biggest concern related to Montenegro's European prospects, a government commission was established in 2007, with more than 50 public organs reporting and meeting twice a year for discussions. The government and NGOs had contradictory opinions about the success of the commission and the action plan, which the government claimed had increased transparency and the quality of dialogue related to corruption. In contrast, MANS claimed that accomplishments related to training and legislation had not yielded results and that only 9 percent of the action plan (as opposed to the government's claim of 46 percent) had been accomplished.²⁸

Indeed, the European Commission's progress report on Montenegro noted that "corruption continues to be a widespread and particularly serious problem in Montenegro" in the absence of "strong and independent supervisory and auditing authorities" necessary to "impartially and objectively...enforce and assess declarations of assets and financing of political parties, but also to monitor privatization and public procurement procedures and the state budget." Thus the report concluded that "the declared commitment of the authorities to combat corruption has not been backed up by rigorous implementation with clear results, including higher conviction rates in corruption cases."²⁹ In addition, the Council of Europe's human rights commissioner noted that "the widespread perception of corruption within the judiciary is seriously undermining the legitimacy of the institution and is considered to be a major obstacle to the nation's reform efforts" owing to its failure to sanction corruption and criminal activities.³⁰

At the end of 2008, Parliament adopted the new Law on Conflicts of Interest, which for the first time introduced fines and exclusions from serving in the state administration for a period of four years for those who fail to report assets or who falsify their reports. But the law continued to allow public officials to serve on the board of public companies, for which they receive significant compensation. According to MANS, half of the 34 DPS MPs and 70 percent of the 7 SDP MPs serve as members of boards of public companies in which the state holds a controlling interest.³¹ In the case of the DPS, its financial report on presidential election campaign funding noted that one source of income came from its functionaries, who were obliged to give to the party a portion of their compensation on these bodies, which in effect meant that state companies funded the party's campaign. Further, during the debate on the 2009 budget, a DPS MP argued for an increase in budget funds for the public company where he serves as president of the board of directors. These facts demonstrate the problems that can arise from the mixing of political and economic functions.

Several surveys in 2008 indicated that the perception of rampant corruption exists. While a bleak picture overall, there were positive improvements throughout the year. First, the fact that surveys publicly confirming the fact that negative perceptions exist related to corruption makes it a topic that can no longer be denied. Second, the fact that the DPS, as well as other parties, provided much more detailed reports on campaign financing exposes some facts warranting a reaction from civil society and the public at large. Finally, the existence of the Law on Free Access to Information provided an important tool for promoting transparency and accountability, even if it was "only weakly enforced by the courts, in particular in relation to privatizations."³²

Another positive step made in 2008 was the State Audit Institute's release of nine audit reports in 2008, compared with four in 2007, signaling the body's growing capacity to control public finances. The print media covered these reports, informing the public of the written rules of managing public funds (and violations recorded). Along with a number of problems related to public procurement and storing public funds in private banks, citizens learned of exorbitant severance payments made to the former board of a loss-making public company. Additionally, the Ministry of Finance reported progress in overseeing the financial reports of limited liability companies and shareholders. Although opposition parties and media repeatedly asked why the State Audit Institute and other entities did not bring criminal charges and the public received no clear answers to these questions, the existence of a greater volume of public information has resulted in a significant increase in public discussion on the appropriate use of public funds and contributed to public awareness of the dimensions of the problem of corruption.

■ AUTHOR: LISA McLEAN

Lisa McLean is the senior resident director of the Montenegro office of the National Democratic Institute, where she has served for the last nine years.

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- 1 At the end of 2008, a Ministry for Informatics was created. It was headed by one of the deputy prime ministers, and the minister of finance was given the added portfolio of deputy prime minister for financial issues.
 - 2 In 2008, the government decision to bail out a private bank, whose major shareholders included those close to the government, with a €45 million (\$65.9 million) loan from the state was the most obvious manifestation of this problem. It resulted in intense political debate and opposition accusations of politically motivated decision making.
 - 3 *Final Report on Presidential Election in the Republic of Montenegro Conducted on 6 April 2008* (Warsaw; OSCE/ODIHR September 1, 2008), 3.
 - 4 Article 91, paragraph 3, *Constitution of Montenegro*, “Official Gazette of Montenegro,” 01/07 from October 25, 2007.
 - 5 Article 1, paragraph 2, *Law on Voter Registers*, “Official Gazette of Montenegro,” 40/08 from June 27, 2008.
 - 6 Article 31, *Law on Nongovernmental Organizations*, “Official Gazette of Republic of Montenegro,” No. 27/99, 09/02, 30/02 and “Official Gazette of Montenegro,” No. 11/07 from December 13, 2007.
 - 7 The amendment states that nongovernmental organizations are entitled to 75 percent of the 60 percent of funds set aside for organizations in general. Article 9, *Law on Changes and Additions to the Law on Games of Chance*, “Official Gazette of Montenegro,” No. 13/07, December 18, 2007, and Article 15, *Law on Games of Chance*, “Official Gazette of Republic of Montenegro,” No. 52/04, August 2, 2004.
 - 8 “Komisija da uskladi odluku sa Uredbom” [Commission to Bring Decision into Line with Regulation], *Pobjeda*, December 8, 2008, www.arhiva-medija.com.
 - 9 *Odluka o raspodjeli dijela prihoda od igara na sreću, za sufinansiranje programa i projekata po oblastima* [Decision on the Distribution of a Portion of the Income from Games of Chance to Subsidize Programs and Projects in the Following Areas], Commission for Distribution of a Portion of Income from Games of Chance, Government of Montenegro, December 1, 2008.
 - 10 According to government regulation, projects that the Commission judged worthy of funding were to be awarded at least 60 percent of the sum sought. T.P., “Komisija da poštuje uredbu” [Commission to Respect Regulation], *Vijesti*, December 8, 2008, www.arhiva-medija.com.
 - 11 Draft portion on Montenegro of forthcoming *2008 NGO Sustainability Index* (Podgorica: USAID/ORT, December 2008), 4–5.
 - 12 Unpublished results from *Key Findings of November Poll Results* (Podgorica: National Democratic Institute, December 8, 2008).
 - 13 *Public Opinion in Montenegro* (Podgorica: Center for Democracy and Human Rights, November 2008), 9, http://www.cedem.cg.yu/opolls/images/CEDEM_November08.pdf.
 - 14 *The State of Media Freedom in Montenegro: Observations and Recommendations* (Vienna: Organization for Security and Cooperation in Europe, November 13, 2008), 3.
 - 15 Mr. Milović V. Šofranac, “Uskoro surf ukorak sa Evropom” [Soon Surfing at the Level of Europe], *Pobjeda*, September 14, 2008, www.arhiva-medija.com.
 - 16 D.B., “Nagrađeni što su ‘priznali’” [Awarded Because They “Confessed”], *Vijesti*, June 8, 2008, www.arhiva-medija.com.
 - 17 The court awarded €12,000 (US\$17,600) to film director Emir Kusturica against the weekly magazine *Monitor* and the journalist Andrej Nikolaidis for an article written in June 2004, €15,500 (US\$22,700) to a former editor of the state television against Veseljko Koprivica for an article in 1994, and €20,000 (US\$29,300) to Prime Minister Milo Đukanović against the daily *Vijesti* for an article written in September 2007. Vladan Žugić and Branko Đorđević, “Kad balkanskog političara zabolí duša” [When Balkan Politicians Souls Begin to Hurt], *Vijesti*, May 18, 2008, www.arhiva-medija.com.

- ¹⁸ D. Babović, “Ne boli svakog jednako” [Not Everyone Hurts the Same], *Vijesti*, June 1, 2008, www.arhiva-medija.com.
- ¹⁹ *The State of Media Freedom in Montenegro: Observations and Recommendations* (Vienna: Organization for Security and Cooperation in Europe, November 13, 2008), 9.
- ²⁰ “Barijere su i dalje ozbiljna smetnja razvoju biznisa” [Barriers Continue to Be a Serious Difficulty in Business Development], Press Release, Montenegro Biznis Alijansa [Montenegro Business Alliance], October 14, 2008, www.visit-mba.org.
- ²¹ M.N. “Opštine u minusu zbog lošeg zakona” [Municipalities in Deficit because of Bad Laws], *Dan*, June 12, 2008; “Kase prazne, jer investitori imaju mnogo povoljnosti” [The Coffers are Empty because Investors Have Many Advantages], *Vijesti*, September 26, 2008; “Čekaju Vladine donacije” [They Wait for Government Donations], *Dan*, December 26, 2008, www.arhiva-medija.com.
- ²² Slobodanka Burić and Gordana Radović, “Local Level Public Expenditure Realization for January–June 2008,” *Bulletin of the Ministry of Finance* (Podgorica: Ministry of Finance, July–September 2008), 48.
- ²³ *Montenegro 2008 Progress Report* (Brussels: Commission of European Communities, November 5, 2008), 11.
- ²⁴ *Third Trimester Report on Human Rights Situation in Montenegro in 2008* (Podgorica: Youth Initiative for Human Rights, September–December 2008), 2.
- ²⁵ D. Babović, “Specijalcima po tri mjeseca zatvora” [Members of the Special Unit Get Three Months Prison Sentence], *Vijesti*, October 31, 2008, www.arhiva-medija.com.
- ²⁶ Šefko Crnovršanin, Speech at press conference in honor of the International Day of Human Rights (Podgorica: Protector for Human Rights and Freedoms, December 8, 2008), 4, www.ombudsman.me.
- ²⁷ Boris Raonić, “Small Fish in the Net,” Youth Initiative for Human Rights Newsletter, September 2008, 2.
- ²⁸ As an example of this, the plan contains a commitment to publish public procurement plans on its Web site. While the government lists this obligation as implemented (continuously), MANS has concluded that only 134 of 873 taxpayer-funded organizations have complied. *Report on Implementation of the Innovated Action Plan for Fight Against Corruption and Organized Crime* (Podgorica: Network for Affirmation of NGO Sector—MANS, January–June 2008), 7–8.
- ²⁹ *Montenegro 2008 Progress Report* (Brussels: Commission of European Communities, November 5, 2008), 14–15.
- ³⁰ *Report by the Commissioner for Human Rights Mr. Thomas Hammarberg* (Strasbourg: Council of Europe, September 24, 2008), 8.
- ³¹ “Izađite iz upravnih odbora: MANS pozvao poslanike vladajuće koalicije da glasaju za amandmane na predlog Zakona o sprečavanju sukoba interesa” [Leave the Management Boards: MANS invites MPs from the Governing Coalition to Vote for Amendments to the Proposed Law for Preventing Conflict of Interest], MINA News Agency, *Vijesti*, December 11, 2008, www.arhiva-medija.com.
- ³² *Secretariat Monitoring Report from August 2007 through April 2008, Information Documents SG/Inf(2008) 9* (Strasbourg: Council of Europe, May 6, 2008) paragraph 32, 9.