

THE WESTERN BALKANS AND ITS EU INTEGRATION:

2015

COMPARATIVE OVERVIEW

—
Independent analysis and
Follow-up of EC country
reports on Western Balkan countries

December 2015

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THE WESTERN BALKANS AND ITS EU INTEGRATION: 2015 COMPARATIVE OVERVIEW

Introduction

This is the first structured attempt to provide an analysis of the EU Progress Reports on Western Balkan countries and their immediate follow-up, on the basis of a harmonised methodology and unique approach by a group of CSOs (see Appendix 1).

A comprehensive objective analysis of the EU progress reports of the Western Balkan countries has been lacking. There have been efforts by CSOs at country level to provide a systematic input to the country reports and to the strategy through so-called “shadow reports”. These have been primarily intended to provide objective assessment of the accession process by the civil sector, which then served as an additional source for the Commission in the monitoring and evaluation of the countries’ progress. Furthermore, these shadow reports have served as tools for policy influence on governments. Finally, they have also been means to raise awareness of the public and promote engagement of CSOs in the EU accession process.

In addition, CSOs have provided analysis and commentaries to progress reports, primarily to enrich the public discourse with an objective assessment, as well as to raise awareness of the public on the content of the Report.

At regional level, comparative analysis of progress reports are done on specific issues: parliaments (Network of Parliamentary Committees of the WB) or the civil society (BCSDN).

The (not so) new EC methodology

This year the European Commission promoted a new Enlargement Strategy and started with the implementation of a new approach in the preparation of the progress reports for the countries included in the enlargement process. The Enlargement strategy refers to a medium term – 2020, as opposed to previous years, when it was annual. The EC will update the strategy on an annual basis, if needed.

The first and most notable change in the new approach consists of leaving behind a whole generation of “Progress reports” and introducing a new set of “Annual country reports”. This change is an indicator of the reformed enlargement strategy, which is both more rigid and prolongs the accession of the Western Balkan countries. Progress is no longer presumed, which has led to erasing the attribute “progress” from the title of the reports. In all honesty, backsliding in some countries of the region has also contributed to this change. However, this symbolic move sends yet another discouraging message to the acceding countries and was definitely not necessary.

Changes have been introduced in the report itself, in key areas of monitoring, but also in the structure of the political criteria.

“The Commission is attempting to use uniform terminology although the process and the mechanisms behind it remain the same”

The most “innovative” feature of this report is the introduction of a harmonized reporting, application of a five-tier assessment scale for the progress made in the previous 12 months and the level of preparation. However, this is not a novelty. The Commission has used harmonized phrasing, but the range used to be much broader and the “code” was not published before¹. Consequently, the application of new grades also had the effect of “resetting” previous grade levels².

¹ See Appendix 2

² This was noted when comparing and converting the grades for Macedonia, for which EPI had used the grading methodology since 2011.

The “backsliding” has been introduced as an assessment scale for the first time. In fact, the Commission is attempting to use uniform terminology although the process and the mechanisms behind it remain the same. Similar phrases to describe assessments in the previous reports have been used (ever since the CEE countries progress reports), but their range was more diverse³.

In the shift towards harmonized reporting, assessment scales have been introduced starting with the subsection “Civil Society” of “Democracy” in the political criteria, thus leaving the rest of its sub-sections “elections, parliament and governance” subject to descriptive assessments. The probable reason behind this is that these areas are not susceptible to “harmonization”. However, they are the key areas that can make “the difference”. Consequently, if the Commission intendeds to send a message to the public, and if it cannot “harmonise” grades based on democracy standards, at least it can spell out the standards and criteria it uses, as it has already done with easier and more technical parts.

The Commission defines key areas⁴ which are subject to additional monitoring: rule of law and fundamental rights (including the functioning of the judiciary, corruption, organized crime and freedom of expression), economic criteria, public administration reform, as well as three chapters related to public procurement, statistics and financial control⁵.

For these areas the Commission has introduced sub-issues which in fact encompass analysis of the legal and institutional framework (which is not such a new approach) and adds to this the results (track record) section. This structure does not always follow the structure of the screening reports, which might cause additional confusion instead of simplification.

Compared to previous years, the entire structure of political criteria has been altered. “Democracy and Rule of Law” has been divided into separate subsections, while public administration has emerged as a separate subsection.

“The Commission changed the wording of the subsection “Government” into “Governance”

Within the “Democracy” section, the Commission changed the wording of the subsection “Government” into “Governance”. The reasons for this remain unknown. Having in mind that distinctions exist between the two, the latter being a much broader term that refers to all processes of governing and not solely to the formal body (the executive) authorized to make decisions, the wording should be reversed to “Government” to properly reflect the monitoring and reporting in the annual report.

The content previously moved to Chapters 23 and 24 is returned this year to the “Rule of Law” subsection, and is now repeated in the political criteria as well.

³ See Appendix 2

⁴ These areas follow the principle adopted last year called “fundamentals first” with the aim to show real results in the key chapters (23: Judiciary and Fundamental Rights, 24: Freedom, Security and Justice, Economic Governance and Public Administration Reform).

⁵ The Commission refers to these key reform areas as pilot areas.

Challenges vs. Prospects

This year Serbia has been praised for showing an increasingly constructive and leading role in the region, which, according to the EC, is important for ensuring stability and strengthening ties with neighboring countries. In a situation where Macedonia, as the first country to sign the SAA, was frontrunner and now has become laggard, Serbia has progressed further on the road to the EU, Montenegro continues well with 20 chapters opened thus far and two provisionally closed, while Bosnia and Herzegovina and Kosovo are still on the beginning of their road to the EU.

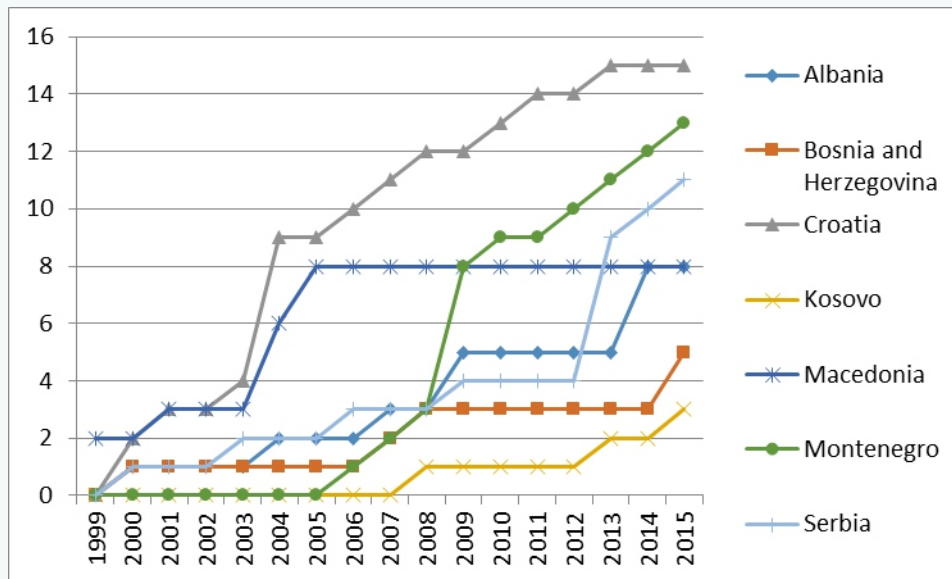


Figure1. The process of Balkan countries from gaining the status of potential candidates for EU membership⁶

The Commission noted that, apart from progress made so far, the challenges faced by all countries in the accession process “are such, that none will be ready to join the EU during the mandate of the current Commission, which will expire towards the end of 2019”. However, even though the prospects for enlargement are inexistent in this period, the Commission has placed its expectations to avoid disillusionment on the real and credible anticipations of the countries to join the EU. The invitation of Montenegro to join NATO and the opening of two negotiation chapters with Serbia can be seen as an attempt to avoid EU fatigue and to give assurance that the reform process towards membership is worthwhile.⁷

“The invitation of Montenegro to join NATO and the opening of two negotiation chapters with Serbia can be anticipated as an attempt to avoid EU fatigue and to give assurance that the reform process towards membership is worthwhile”

“The invitation of Montenegro to join NATO and the opening of two negotiation chapters with Serbia can be anticipated as an attempt to avoid EU fatigue and to give assurance that the reform process towards membership is worthwhile” In the prospects for membership, from this year onwards, even more focus is placed on good neighborly relations and inclusive regional cooperation. The Commission reiterates the need to tackle bilateral issues among acceding countries and especially countries of the Western Balkans. However, from what appears to “be in the focus”, if we compare the EC assessments of good neighborly relations per country at regional level, one can note that, apart from minor adjustments, the same text has been used in each country to address this section. What is interesting though, is that the Commission suggests referring disputes to the International Court of Justice, forgetting that the one judgment of this Court already delivered in the case of Macedonia vs. Greece is not implemented – a fact totally ignored by EU institutions.⁸

⁶ potential candidate (1); sea negotiations start (2); SAA signed (3); application lodged (4); SAA in force (5); questionnaire sent (6); questionnaire answered (7); candidate (8); decision for negotiations (9); launch negotiations (10); negotiations proceed (11), (12), (13); negotiations closed (14); membership (15);

⁷ <http://www.osw.waw.pl/en/publikacje/analyses/2015-12-16/european-union-opens-first-chapters-negotiations-serbia>

⁸ In its Judgment, the Court has stated that Greece has breached the Interim Agreement between the two countries, by blocking its NATO bid.

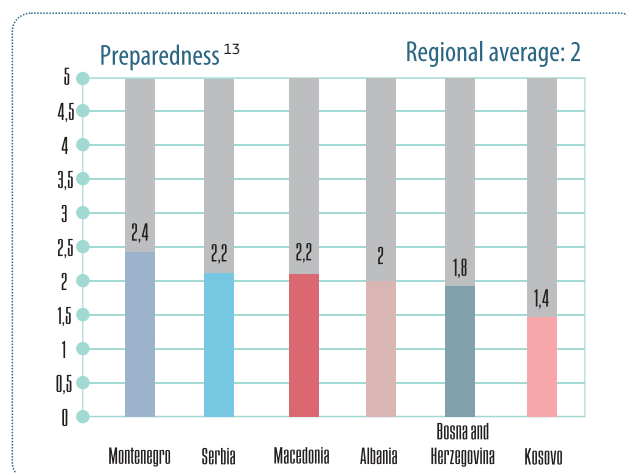
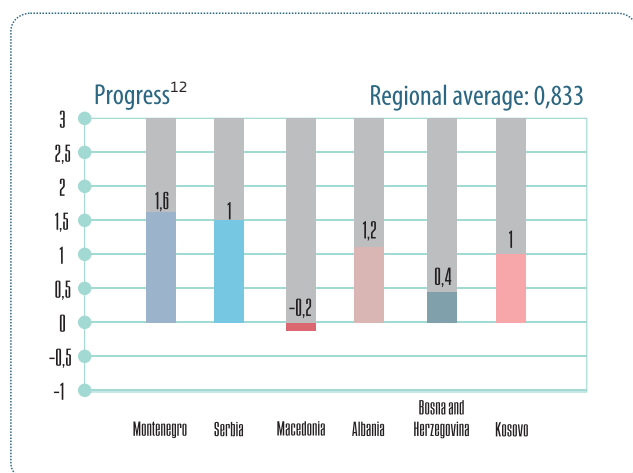
The process of accession negotiations of all Western Balkan countries has been conditioned with taking up the necessary reforms in the rule of law field, fight against organized crime and corruption and track record of investigations, prosecutions and convictions at all levels in the fight against organized crime and corruption. Hence, an explicit condition has emerged for Macedonia, where the recommendation to open accession negotiations is conditioned with the implementation of the June/July political agreement⁹ and substantial progress in implementation of the “Urgent Reform Priorities”.¹⁰

5. The fundamentals in the Western Balkans

5.1 Political Criteria

Below, the average is calculated and presented for the areas that have been subject to harmonized grades.¹¹

Overall, the analysis of the findings made in accordance with the assessments scales are not in favor of prospects for EU membership. This does not come as a surprise having in mind that the Commission also notes the lack of proper implementation of legislation. However, it serves as an indicator both internally (for the countries) and externally (to the EC) on where to channel more focus. The situation in Macedonia is particularly alarming because in comparison to other countries of the region is backsliding in its progress with an average value of -0.2.



5.1 Political Criteria

Fragile democratic institutions are common for the countries in the region. Additionally, boycotting parliaments has emerged as a new phenomenon and the EC especially notes the cases of Macedonia, Montenegro and Kosovo. In the last two the boycotts have been followed by violent incidents inside and outside the parliaments.

The Commission highlights the politicization in the electoral process, which is present in all countries, but takes note of the elections in Montenegro, Albania and Bosnia and Herzegovina. Improved climate towards cooperation with civil society was noted in all countries, with representatives of the civil society playing a constructive role in important developments in the countries and displaying an increased involvement in the accession process.

5.1.1 Democracy

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⁹ Agreement signed by the leaders of the four primary political parties in the Republic of Macedonia for resolving the political crisis with international assistance

¹⁰ Group of independent senior rule of law experts, on a request by the European Commission (8 June 2015). Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in the spring of 2015. Brussels. Available on: http://ec.europa.eu/enlargement/news_corner/news/news-files/20150619_recommendations_of_the_senior_experts_group.pdf

¹¹ Public administration reform, Functioning of the judiciary, Fight against corruption, Fight against organized crime and Freedom of expression

¹² Progress: Backsliding -1; No progress -0; Some progress -1; Good progress -2; Substantial progress -3

¹³ Preparedness: Early stage of preparation -1; Some level of preparation -2; Moderately prepared -3; Good level of preparation -4; High level of preparedness -5

5.1.2 Public Administration Reform

The public administration in the region is characterized by high politicization, lack of adherence to the principles of the merit system and poor service delivery. Introduction of meritocratic principles in the management of civil service and ensuring adequate administrative procedures remains a key requirement for all Western Balkans countries. In this field, Bosnia and Herzegovina is at an early stage of preparation, Kosovo has some level of preparation, and the rest of the countries are ranked with moderate levels of preparedness.

5.1.3 Rule of law

The rule of law remains a challenge for all countries in the region.

Positive developments are noted, such as putting legal frameworks and institutional structures in place. However, adequate implementation needs to be ensured.

The Commission is quite direct and uses words such as “selective justice” and “political interference” in the work of judicial bodies. Political interference has been explicitly mentioned in the cases of Serbia, Macedonia and Kosovo.

In the field of functioning of the judiciary, only Montenegro is moderately prepared, while Albania and Kosovo remain at an early stage of preparation. Bosnia and Herzegovina, Macedonia and Serbia have some level of preparation.

Regarding the fight against corruption, only Kosovo is at early stage of preparation while the rest of the countries have some level of preparation. None of the countries are at a moderate stage in this field.

On fight against organised crime, all countries have the same level of preparation as in the fight against corruption. Further progress in these areas is dependent upon credible track record in prosecutions, investigations and final convictions.

5.1.4 Human rights and the protection of minorities

Freedom of expression and media represents a concern in all countries. All countries, without exception, are ranked with “some level of preparation”. In term of progress made, Macedonia and Bosnia and Herzegovina are backsliding in this field, while Serbia, Montenegro and Kosovo have no progress. Only Albania has been assessed with some progress regarding the freedom of expression and media for this reporting period.

Intimidation of journalists, interference in the work of public broadcaster, attacks against media practitioners and violence against the media are some of the phenomena present in the region.

Intimidation of journalists, interference in the work of public broadcasters, attacks against media practitioners and violence against the media are some of the phenomena present in the region. Actions are needed to tackle all of these negative developments.

The legal framework for protection of human rights is broadly in line with EU standards in most countries of the region, except for Bosnia and Herzegovina, where many challenges are noted in this field. In Kosovo the legal and institutional framework is “fragmented and ineffective”.

In all country reports the Commission noted the worrisome situation of Roma, which needs to be improved. The discrimination against the LGBTI community, which still needs to be addressed, is especially present in the case of Serbia, Macedonia and Bosnia and Herzegovina.

5.1.5 Regional cooperation

Overcoming bilateral disputes among enlargement countries and Member States continues to present an essential part of the accession process.

All Western Balkan countries have unresolved “bilateral issues” between them and some also with Member States, which clearly overshadows the membership prospects

All Western Balkan countries have unresolved “bilateral issues” between them and some also with Member States, which clearly overshadows the membership prospects. The Commission notes the positive steps taken through the intensified contacts and cooperation at bilateral and regional level. It especially welcomes the border agreements between Montenegro and Bosnia and Herzegovina, and Montenegro and Kosovo and the progress made in the relations between Serbia and Kosovo.

In the case of Macedonia, bilateral relations have been developing with most of the countries, except for the relations with Bulgaria and Greece, which are described as “continued to be affected” - by the interpretation of history with Bulgaria and by the name issue with Greece.

Montenegro continued with actions towards developing good bilateral relations with all countries, with no major obstacles in the dialogue with any of them.

In the case of Serbia, the demarcation of borders with Bosnia and Herzegovina, Montenegro and Croatia remains pending. With regards to the relations with Albania, the Commission notes that the situation has improved overall. However, the EC notes fluctuations in the relations with Croatia. With the other countries relations remained good or were strengthened further.

In the case of Kosovo, it is noted that there are no official relations with Bosnia and Herzegovina since the latter does not recognize Kosovo's independence, while with the other countries the relations were maintained, good or improved. Progress in the relations between Serbia and Kosovo is seen as a milestone in the accession process. Regarding the normalisation of relations between Kosovo and Serbia, the Commission used the same phrases for both countries and did not identify separate priorities in this respect.

Albania has good relations with and a constructive approach towards most of the countries in the region. The relation with Serbia has been improving.

Bosnia and Herzegovina has also maintained good relations with most of the countries except for Kosovo, the independence of which it does not recognize.

In general, the “Regional Issues and Bilateral Relations” section in the reports does not differ substantially country to country. The overall description is the same, with minor adjustments depending on the country.

What can be concluded is that all countries of the Western Balkan have unresolved “bilateral issues” between them and some also with Member States, which clearly overshadows the membership prospects.

5.1.6 The expanding “fundamental firsts”

Financial Control, Statistics and Public Procurement are the three additional chapters added to the “fundamentals first” as of this year. The criteria and rationale for selection of these areas is not clear, although experts in EU integration could find an appropriate explanation. The tendency to connect political criteria (I Copenhagen criterion) with membership obligations (III Copenhagen criterion) might lead to more confusion instead of simplification.

Montenegro, Serbia and Macedonia are moderately prepared in all three chapters. Albania is moderately prepared in financial control. Albania has some level of preparation in statistics and public procurement, while Bosnia and Herzegovina displayed some level of preparation in public procurement only. Only Kosovo is at an early stage of preparation in all three chapters, followed by Bosnia and Herzegovina which is at an early stage in the first two chapters (Financial Control and Statistics).

5.2 Economic criteria

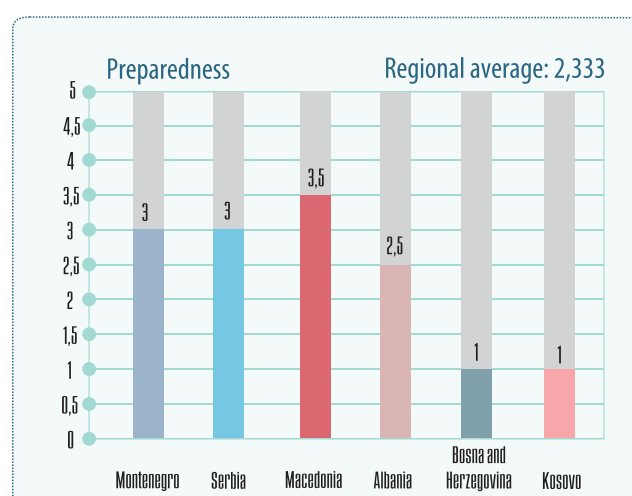
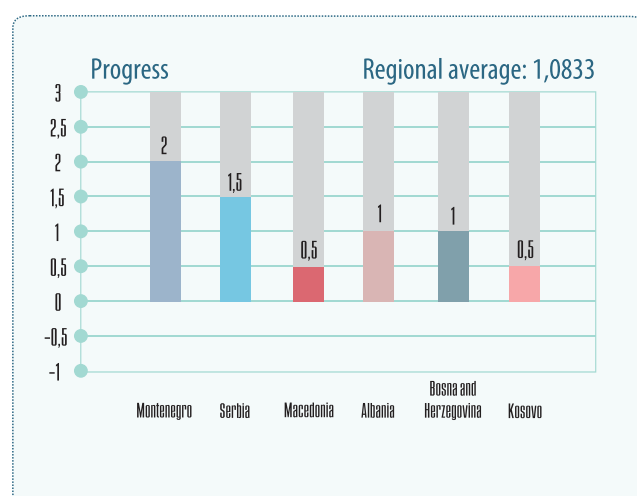
The most pressing challenges common for all countries are the low level of investments and the high level of unemployment. The highest level of unemployment has been noted in Kosovo at 35.3%. Macedonia remains high at 28%, Bosnia and Herzegovina is at 27.6%, in Serbia it has fallen below 20%, while Montenegro remains persistently at 18% and Albania at 17.5%. Especially worrisome is the unemployment among the young, which is above 60% in most of the countries and is constantly growing.

The economic criteria tend to be overlooked in comparison to political criteria. In turn, this creates the feeling that not much attention is devoted to this Copenhagen criterion. The Economic Reform Programmes (ERP) have replaced the pre-accession economic programmes, in line with the strategy not to emphasize accession. This year the recommendations from the ERP were reflected in the Annual country reports, which were positive, both in terms of consistency and clarity. However, the Commission announced that starting from next year the ERP will be presented as a single integrated document with a focus on employment and social challenges. It remains to be seen whether this document will also “swallow” the previous pre-accession instruments for employment and social inclusion.

Only Macedonia has a good level of preparation in developing a functioning market economy. Kosovo and Bosnia and Herzegovina are at an early stage, while the rest are moderately prepared in developing a functioning market economy. Montenegro, Serbia and Macedonia are moderately prepared to cope with competitive pressure and market forces within the Union. Albania has some level of preparation, while Bosnia and Herzegovina and Kosovo are at an early stage of preparation in their capacities to cope with competitive pressures.

Even though only Macedonia has a good level of preparation in developing a market economy, and has had even better assessments in the previous years, in terms of “the carrot” this has not made much of a difference. The second stage of SAA has continued to be blocked for years now.

Regionally, progress is quite modest, even low. Macedonia and Kosovo have the lowest grade of progress (0.5), Albania and Bosnia and Herzegovina rate at (1), Serbia slightly higher (1.5) and Montenegro with highest grade (2) in comparison to other countries. Preparedness wise, Macedonia leads with 3.5 (average grade), followed by Montenegro and Serbia (3), Albania (2.5) and Bosnia and Herzegovina and Kosovo with the same level of preparedness (1).

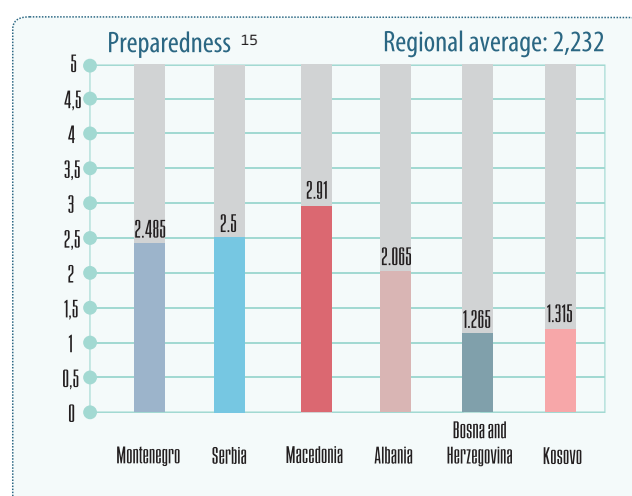
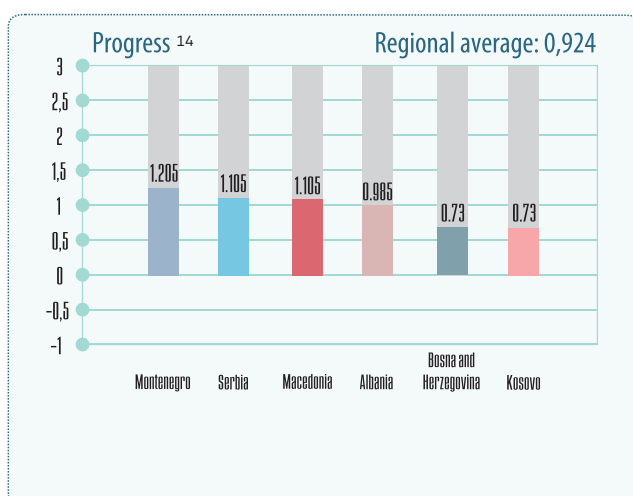


5.2 Ability to take the obligations of membership

All countries face challenges in implementation. Macedonia, Montenegro, Serbia, and Albania are moderately prepared for most acquis chapters, although the level of alignment differs. Bosnia and Herzegovina and Kosovo are at an early stage of approximation of legislation for most chapters.

Only Montenegro has a high level of preparedness, but only for one chapter – intellectual property rights. In terms of progress, none of the chapters in any country have been assessed with substantial progress.

As with the political criteria, the situation with the ability to assume membership obligations is similar at the regional level. The progress (0.92 regional average) and preparedness (2.23 regional average) are not satisfactory at all. By comparison, progress wise, Montenegro (1.205) ranks higher and has higher level of progress than the rest of the countries, while Kosovo has the lowest level (0.73). Preparedness wise, Macedonia leads regionally with (2.91), while Serbia with (2.5) is slightly better, but very close to Montenegro (2.48). Bosnia and Herzegovina has the lowest level of preparedness in the region.



6. REACTIONS

The publication of the country reports was followed by “internal campaigns” of different actors within the countries. The attitudes differ among leaders of the governing parties, opposition and the civil society. While in all countries the first used the reports as “PR materials”, to emphasize their commitment towards EU membership and focused exclusively on the most positive EC statements, the opposition leaders used them to “blame and shame” the government for their failures to bring the countries closer to the EU and to complete the reforms. Overall, the civil society has been more reserved. While all actors praised the EC for the new methodology, only the representatives of the civil society raised concerns about the “new approach” and the lack of transparency of the EU on accession negotiations; however, they also recognized the critical findings in the reports and called on state institutions to take concrete measures to address them properly.

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While the leaders of the governing parties used the reports as “PR materials” and focused exclusively on the most positive EC statements, the opposition leaders used it to “blame and shame” the government for their failures to complete the reforms. Montenegro officials focused on the positive side of the report and linked the assessments presented in the report with another foreign policy priority of the country – joining the NATO, which was expected in early December. In this context, Milo Đukanović, the country's Prime Minister, said that the 2015 report is “the most positive report” so far, and will have a positive impact on the country to receive an invitation to join NATO.

¹⁴ Computed weighed values, depending on number of EU measures and complexity of chapters.

¹⁵ Computed weighed values, depending on number of EU measures and complexity of chapters

Aleksandar Andrija Pejović, Chief negotiator, highlighted that continuous progress is being made in two thirds of negotiation chapters. Representatives of the civil society addressed the lack of transparency of accession negotiations¹⁹ and have launched an initiative before the European Commission, asking it to proactively publish expert opinions on Montenegrin draft laws, reports of TAIEX experts, together with the reports drawn within the Twinning Projects and Peer Review Missions. This would be a strong impetus towards the democratization of the country. On the other hand, it would prevent the Government from manipulating the findings on its progress (or lack thereof).

In Serbia, the vast majority of political leaders' rhetoric focused predominantly on the most positive of EC's statements, emphasizing Serbia's success and expressing a strong commitment to the EU integration process. However, the Report has a more rigorous tone in a number of areas (principally in the "fundamentals"), indicating that challenges are still ahead for Serbia and that its ambitious political and economic reforms need further implementation. Despite the precisely nuanced grading of the Commission, that needs to be observed with additional caution, the Prime Minister made a statement based on his rough calculation that Serbia showed progress in 33 out of 34 fields, and that 93% of the Report is positive. Moreover, he indicated that "looking at the results in each country in the region, Serbia has much to be proud of, maybe a little more than others."²⁰

In Macedonia, the report created quite a dilemma between all actors. Whether the report contains a recommendation to open accession negotiation or the recommendation is missing has been subject of debate. While the Prime Minister Nikola Gruevski said that there is such a recommendation in the report, the representatives of the civil society could not be louder in pointing out that the conditioned recommendation is tantamount to frozen recommendation.²¹ Actually, at the moment, there is no recommendation by the Commission communicated to the Council. It is a bit puzzling how the Commission intends to simplify the messages to the public with a whole new methodology if it does not clearly convey its basic conclusion. The declaration of the Prime Minister at the joint press conference with the head of the EU Delegation Aivo Orav caused quite a debate. According to the former, the report contains positive comments and evaluations; while there are marks and areas where there is insufficient progress, and there is criticism, the fact that there is a recommendation means that positive moments have prevailed in the EC assessment regarding the fulfillment of the criteria. Still, his main message was that "the people of Macedonia will write the progress report at the election in April." He added that additional assessments, apart from the one from the people, are not needed.²²

In Albania, as in the other Balkan countries, the progress reports was used as "good PR material" for political leaders and main institutions to make promises at least two weeks after the official publication of the report, and emphasize their commitment to accomplishing the EC recommendations. These declarations were mostly aimed at attacking the opposition instead of using the report as a key document and giving concrete reflections to set the direction of ongoing reforms. And this is always matter of culture on political discourse.

The report was received positively in Kosovo, with key politicians referring to the substantive developments outlined by the Commission. Prime Minister Isa Mustafa referred to the report as "[a] messenger of the intensification of the process of integration into the EU"; he praised the collaboration within the ruling coalition and gave assurance that the implementation of the EC recommendations will be a priority for the Government.²³ However, civil society has been significantly more reserved, and noted that many of the recommendations from the 2014 Progress Report on Kosovo were reiterated in the current report; they also requested that the institutions take seriously the findings and recommendations in the EC report.

¹⁶ Jovana Marović and Stevo Muk, Negotiations Between Montenegro and the EU: Data Access for the Privileged Only, Institute Alternative, October 2015, Available at: <http://institut-alternativa.org/crnogorski-pregovori-informacije-samo-za-odabrane/?lang=en>

¹⁷ "Milićević: Izveštaj je potvrda vidljivih rezultata" [Milićević: The Report is a Confirmation of Visible Results] <http://www.rts.rs/page/stories/sr/story/9/Politika/2100463/Mili%C4%87evi%C4%87%3A+lzve%C5%A1taj+je+potvrda+vidljivih+rezultata.html> [10.11.2015]

¹⁸ Vučić: Napredak u 33 od ukupno 34 poglavlja [Vučić: Progress in 33 out of 34 Chapters] <http://www.novosti.rs/vesti/naslovna/politika/aktuelno.289.html:576166-Vucic-Napredak-u-33-od-ukupno-34-poglavlja-Prosvetarima-7000-dinara-pomoci> [10.11.2015]

¹⁹ Vučić: EK uvažila rezultate Srbije u 33 poglavlja [Vučić: EC Acknowledged Serbia's Results in 33 Chapters] http://www.b92.net/info/vesti/index.php?yyyy=2015&mm=11&dd=10&nav_category=1262&nav_id=1061619 [10.11.2015]

²⁰ Ibid.

²¹ http://epi.org.mk/docs/Zamrznata%20preporaka_Analiza%20na%20Izvestajot%20na%20EK%20za%20RM%20za%202015_EPI.pdf

²² <http://www.mia.mk/mk/Inside/RenderSingleNews/281/132887870>

²³ <http://www.kryeministri-ks.net/?page=2.95363>

7. Appendixes

7.1 Appendix 1 - Methodology of the comparative overview

Subject of the analysis are:

1. Documents contained in the enlargement package of DG Neighbourhood and Enlargement Negotiations:

- Enlargement Strategy – Communication of the Commission
- Country reports – staff working papers

2. Immediate country reactions following the publication of the progress reports

The country reports are analysed through a content analysis method. Each area/chapter of the report is coded in terms of two variables:

- Progress done in the last year;
- Level of preparedness (to take on obligations for membership).

For the purpose of the coding, a coding matrix has been developed.²⁴

Since, the EC has not applied the harmonised assessment to all areas, coding is applied for areas where EC assigned clear grades. In areas where reports are descriptive, the main conclusions are derived from the Enlargement strategy, the countries summaries attached to the Strategy and conclusions from the report itself. Grades are presented as average values separately for political criteria, economic criteria and acquis/standards. Weighing: weighing is applied for the 33 chapters of the acquis, since some chapters are much more demanding than others.

The weighing is based on:

- number of EU measures (directives, regulations, etc.);
- complexity of transposition and implementation of the EU acquis.

The coding system is applied for all countries to ensure consistency and comparability.

In order to achieve comparability, the assessment of European standards for Bosnia and Herzegovina and Kosovo are classified according to chapters of acquis. In cases when the grade in the text is differentiated for areas/chapters, they have been coded as such in the matrix. If not, the same grade is repeated for all the chapters covered by the corresponding title.

In addition to the coding matrix, each think tank has produced a report with the main findings, separately on political criteria, economic criteria and acquis. These contain the main differences from last year, key challenges and observed trends.

²⁴ The methodology of this analysis has been developed by EPI – Skopje. EPI has used this methodology since 2011.

See EPI previous reports:

Same recommendation, New recommendation, the Report of the European Commission on the progress of the Republic of Macedonia in 2012 under scrutiny
http://epi.org.mk/docs/analiza_-_zakluchoci_-_ocenki_po_kriteriumi_i_poglavja_pr_2012_mk_commentary_%D0%9C%D0%9A.pdf

Initial analysis of the Report of the European Commission on the progress of the Republic of Macedonia in 2013, available at:

http://epi.org.mk/docs/prvicna_analiza_na_izvestajot_na_ek_za_napredokot_na_rm_za_2013.pdf

[Overshadowed recommendation. Analysis of the Report of the European Commission on the progress of the Republic of Macedonia in 2014](#)

http://epi.org.mk/docs/Preporaka%20vo%20senka_Analiza%20na%20Izvestajot%20na%20EK%20za%20napredokot%20na%20RM%20za%202014.pdf

7.2 Appendix 2 – Previous EC assessment scales and those introduced in 2015

Progress		Preparedness	
Previous years	2015	Previous years	2015
	Backsliding	Not initiated	Not initiated
No progress; no further progress	No progress	Early phase; very early phased; initial phase	Early phase
No substantial progress; no visible progress; insufficient progress; slow progress; initial progress, limited progress	* ²⁵	Not very advanced; advances; slowly advances	Some level of preparation
Little progress; modest progress, some progress	Some progress	Moderately advanced	Moderately prepared
Progress; further progress	*	Advanced; in an advanced phase	Good level of preparation
Good progress; visible progress; sustainable progress; satisfactory progress	Good Progress	Well advanced	Well advanced
Significant progress; important progress; substantial progress	Substantial Progress		

7.3 Independent analysis and follow up of EC country report of Western Balkan countries

7.3.1 Analysis and follow up of the EC country report for 2015 for Montenegro

7.3.2 Analysis and follow up of the EC country report for 2015 for Serbia

7.3.3 Analysis and follow up of the EC country report for 2015 for Macedonia

7.3.4 Analysis and follow up of the EC country report for 2015 for Albania

7.3.5 Analysis and follow up of the EC country report for 2015 for Kosovo

²⁵ Not used in 2015

²⁶ Next editions will include separate analysis of Bosnia and Herzegovina as well

Montenegro:

Frame is Here,
The Picture is Missing

institut alternativa

Montenegro started the EU accession negotiations in 2012 with a total of 20 chapters opened with two provisionally closed so far. In accordance with the new EU's approach, the most challenging chapters relating to the rule of law were opened at the beginning of the process to be closely monitored until the very end of the negotiations. So far, the most significant progress has been made on improving the legislation in these chapters, with a whole set of new laws that were passed in the last three years. However, progress on the ground is limited. This year's report again notes the lack of results in the prosecution of high-level corruption, the lack of progress in the implementation of the electoral legislation and the creation of conditions for fair and democratic elections. Highly politicized public administration, and its slow reform and rationalization remain a significant obstacle to the implementation of other reforms. Finally, there is still no media friendly environment, while attacks on journalists remain a cause for concern.

"The pace at which the rule of law reforms in Montenegro produce tangible results, will have an impact on the overall pace of the accession negotiations."

Johannes Han

Johannes Han, commissioner for European Neighbourhood Policy & Enlargement Negotiations, has noted the progress made in Montenegro, namely opening of the eight negotiating chapters. He once again reiterated the progress made with regards the legal and institutional frameworks, but also highlighted limited track record on corruption and organized crime. Hence, **the rule of law reform will be the key determinant of the pace of Montenegro's EU accession, together with the two other fundamentals – public administration reform and economic governance.**

Nonetheless, in the discourse of the both commissioner and representatives of the EU Delegation, the recent political turmoil, resulting in street protests and boycott of the Parliament by the largest opposition formation – Democratic Front, also found significant place.¹ "I would like to also take this opportunity to recall the need for constructive and inclusive dialogue between government and opposition – dialogue that has to take place in parliament!", commissioner Han firmly stated, suggesting that despite technical nitty-gritties of the membership talks with the EU, **the political developments are not of less significance.**

Montenegro's officials more focused on the positive side of the report. They have also linked the assessments presented in the report with another country's foreign policy priority – and that is joining the NATO, which is expected in early December. The report itself highlights **the rule of law as a priority inter-linking the Montenegro's bid to join both NATO and the EU.** In this context, Milo Đukanović, country's prime minister, said that the 2015 report, being "the most positive report" so far, will have an impact on invitation for joining the NATO to be delivered to the country. Aleksandar Andrija Pejović, chief negotiator, highlighted that the continuous progress is being made within the two thirds of negotiation chapters. Igor Lukšić, foreign affairs minister and vice prime minister, praised the new methodology of the report, which gives clear directions on the focus of Government efforts in the upcoming period. **Government rhetoric, largely focused on the more favorable assessments by the European Commission, is an integral part of Montenegro's pre-accession process.** IA has recently issued a paper on lack of transparency of accession negotiations² and launched an initiative in front of the European Commission, asking it to proactively publish expert opinions on Montenegrin draft laws, reports of TAIEK experts, together with the reports drawn upon within the Twinning Projects and Peer Review Missions. This would be, in IA's view, strong impetus to democratization of the country. On the other hand, it would prevent the Government to manipulate the findings on its progress (or lack of progress).

In accordance with the European Commission's assessments, most opposition parties have criticized the shortcomings of the electoral process and reminded once again the urgent need for establishing electronic identification of voters and updating the electoral register. Civil sector is unique in recognizing that effective punishment of the human rights violations, strengthening the independence, accountability and efficiency of the judiciary in general, and in particular the results of investigations, prosecution and final convictions for corruption at the high level are required.³

¹ Protests have started on September 27 by gathering of Democratic Front leaders and their supporters in front of the Parliament building in Podgorica. Their main request is fulfillment of preconditions for free and fair elections, although some speculations linked protests with anti-NATO campaign in the country, which is expecting invitation to join the NATO. In mid-October, with the license expiring for organization of the protests, they have turned into clashes between protesters and the police and radicalized the country's political scene, with the DF warning of boycott of the elections, which are due in 2016, if its requests are not met.

² Jovana Marović and Stevo Muk, Negotiations Between Montenegro and the EU: Data Access for the Privileged Only, Institute Alternative, October 2015, Available at: <http://institut-alternativa.org/crnogorski-pregovori-informacije-samo-za-odabrane/?lang=en>

³ See: The EC's Report on MNE Progress, Monitor, November 2015, Available at: http://www.monitor.co.me/index.php?option=com_content&view=article&id=6437:izvjetaj-evropske-komisije-o-napretku-crne-gore-za-2015-godinu-evropsku-trojku-dpsdp-ita-kao-peticu&catid=4425:broj-1308&Itemid=5758

Key Findings

1. Political Criteria

1.1 Democracy

Elections and electoral legislation continue to be the most pressing issues. This year's report highlights that the electoral legislation adopted in 2014 must be fully implemented, including, and in particular, **the electronic identification of voters**. However, its establishment is slowly progressing. The report further criticized the non-existence of progress in resolving and establishing political responsibility for cases which indicate the election irregularities, and leading thus promoting confidence in the electoral process. When it comes to Parliament, report once again underlines the high degree of transparency of the institution, but also criticizes the lack of procedures for acting on citizens' petitions, what is already stated in the civil sector's analysis.⁴ Regardless of the further strengthening of legislative, **oversight function remains limited**, especially in the capacity to monitor the conclusions and recommendations. Capacities of the parliament for both functions remain limited. Commenting on the recent protests, the European Commission reiterates that the parliament is the only place for dialogue among political parties on fair and democratic elections, and encourages its initiation. As for the part of the report on governance, it specifically highlighted **the financial problems of local governments** while the national government approved the restructuring of tax arrears for 14 out of 23 municipalities at the beginning of the year. Finally, this year's report criticized the system of financing civil society projects from public funds and poor institutional framework in this area. The need for improving **the role of civil society in public policy making is again highlighted**.

1.2 Public Administration

Although it is noted that Montenegro has made some progress under 2011-2016 Strategy for Public administration reform (PAR) and overall in this field, European Commission noted that not all of the strategy's objectives were met and the country is only moderately *prepared*.

With regards to **human resource management and public services**, the report follows the findings of the Baseline Measurement of Public Administration Principles, which were issued by the SIGMA on November 13, 2015,⁶ as well as previous findings by the IA in the field.⁷ In other words, it is concluded that despite the

"Results in ensuring merit-based recruitment and tackling politicisation are uneven."

legal framework being aligned with international standards, Montenegro's track record in ensuring merit-based recruitment is uneven and that current remuneration system in public sector is not transparent enough and does not follow the principle of equal pay for equal work. With regards to **the policy development and coordination**, the main noted problems are the under-developed medium-term planning and incoherent sectorial strategies, which lack costing. Montenegro has been also criticized for lack of systematic approach towards public consultations, which "do not necessarily include all the relevant stakeholders and often come too late in the process". **Accountability of public administration is undermined** by the non-adequate organization of state administration, a rather low number of Ombudsman recommendations and passive and non-responsive administration, in terms of access to information. One of the key recommendations is also for Montenegro to adopt multi-annual **public financial management** programme. Despite Montenegro's commitment towards **user-oriented public services**, major challenge ahead is simplification of administrative procedures, which is expected by the new legislation. Nonetheless, it is especially highlighted that nearly 150 special procedures will need to be either abolished or brought into line with the new law on administrative procedures. Country report also reiterates the importance of adoption of the new 2016-2020 PAR Strategy, which is expected to eliminate to overcome the previous weakness of **the strategic framework of PAR**, such as focus merely on output-level indicators and not on outcomes or impacts.

⁴ Institute Alternative, Committee for Anticorruption: Cure or Placebo?, November 2012, Available at: <http://institut-alternativa.org/kuca-gradanskog-drustva-tema-sjednice-savjeta-za-razvoj-nvo/?lang=en>

⁶ SIGMA Programme, Baseline Measurement Report: The Principles of Public Administration, Montenegro, April 2015, Available at: http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Montenegro.pdf

⁷ See: Institute Alternative, Monitoring Report: Recruitment and Promotion In State Authorities In 2014, May 2015, Available at: <http://institut-alternativa.org/monitoring-izvjestaj-zaposljavanje-i-napredovanje-u-drzavnim-organima-u-2014-godini/?lang=en>; Institute Alternative, Montenegro's Senior Civil Service: Between State and Politics, December 2014, Available at: <http://institut-alternativa.org/profesionalizacija-rukovodnog-kadra-u-crnoj-gori/?lang=en>

1.3 Rule of Law

In the rule of law field many questions require urgent improvement, while progress is noted mainly in the legislative part. The European Commission has identified a number of priority activities in this area including **strengthening the independence and professionalism of the judiciary by fully implementing the new recruitment, professional appraisal and promotion systems**. The same applies when it comes to reduction of length of the trial and the number of pending cases. Moreover, Montenegro still needs to strengthen the accountability of the judiciary and the capacity of the Judicial and Prosecutorial Councils, as well as to eliminate political influence on the work of these bodies. The lack of transparency in the work the Prosecutorial, as well as lack of financial resources for the operation of the Judicial Council stands out still as problematic. This year's assessment criticizes the delay in disposal of random assignment of cases to judges "overnight".

"Corruption remains prevalent in many areas and continues to be a serious cause of concern."

Corruption continues to be a central issue in efforts to strengthen the rule of law. EC criticized **the lack of a track record in prosecution of low and medium corruption, and especially for high-level cases**. The report underlines progress in improving the legislative and institutional framework, but further efforts are still needed particularly in **the establishment of the functional Agency for Prevention of Corruption by 1 January 2016**. Additional activities are particularly encouraged in **improving track records and the prevention of corruption, including effective penalties for irregularities**. Poor results were noted in the areas of conflict of interest, asset declarations as well as financing of political parties and electoral campaigns (especially in the prevention of abuse of state resources for electoral purposes), as well as the application of penalties. Capacity of prosecutors, judges and police to fight corruption remains insufficient.

As regards the fight against organized crime, report consider that **consolidating track records in this area is essential, especially when it comes to final decisions, permanent seizure of assets acquired through criminal activity, as well as the determination of suspicious transactions**. As priority actions, the European Commission further states stepping up intelligence-led investigation on anti-money laundering and financial cases, and on cases of trafficking in human beings, and ensuring stronger, proactive inter-agency cooperation among the established

1.4 Human Rights and the Protection of Minorities

Despite the improvements in legal framework, it is noted that institutions tasked with protection of human rights and minorities remain weak and that low penalties and lack of uniform approach create legal uncertainty. Roma minority is the most discriminated, while the impunity for abuses in prisons and pre-trial facilities is also particularly worrisome.

Freedom of expression is at the very centre of the European Commission's focus on the human rights. Nonetheless, it is **one of the areas receiving the lowest score**, with no progress made, and only some level of preparation. Repetition of earlier remarks illustrates that the country has been stagnating in the field. Despite the decrease in number of physical attacks against journalists, it is highlighted that **recommendations of Commission for investigation of attacks against journalists has not been sufficiently followed up by the Government**. It is particularly highlighted that the full **resolution of the most serious case of the 2004 murder of editor-in-chief of daily Dan** is still pending.

Full alignment with the case law of the European Court for Human Rights is also needed. **The insufficient independence of the public broadcaster and divided media community** remain persistent problems, while this year's report particularly highlights ongoing smear campaign by one tabloid newspaper, implying the Serbia-based Informer, targeting prominent civil society activists and some politicians.

"Montenegro is gradually shifting from incorporating EU standards into its legal framework to establishing an institutional framework with the potential to effectively protect and enforce human rights in practice."

1.5 Regional Issues and International Obligations

EC criticised that Montenegro still maintains a 2007 bilateral immunity agreement with the United States, granting exemptions for US citizens from the jurisdiction of the International Criminal Court, which will pose a problem in the **accession negotiations**.

Although the number of **missing persons** resulting from the conflicts in the '90s is low compared to the overall number for the region (61 out of 10880), EC still warned that revealing their fate is „vital for reconciliation and stability in the region“.

It is stated that Montenegro maintains good relations with all other enlargement countries and neighbouring EU Member States. However, the troubles arising from the demarcation agreement with **Kosovo**, now pending parliamentary approval, have not been mentioned.⁸ No developments concerning the constitutional recognition of the Montenegrin minority in Kosovo were made either. Also, as problems Border demarcation between Montenegro and **Croatia**, as well as Montenegro and **Serbia** is still ongoing. No progress with issues related to citizenship rights was achieved with Serbia.

3. Political Criteria

Existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union are equal to other Copenhagen criteria, although this is often not emphasised as much by either the EC or Montenegro in the discourse on EU integration. However, the significance of economic governance in the enlargement process has grown over the time and has resulted, among else, in this year's obligation of enlargement countries to prepare Economic Reform **Programmes** (ERP),⁹ that were then the basis of the specific, country tailored recommendations jointly adopted by the EU and WB countries and Turkey, at the Economic and Dialogue Meeting in May 2015.¹⁰

Montenegro received 8 recommendations related to diverse topics, ranging from commitment to fiscal discipline (including the municipal level), reforms of the pension system, common policy for public sector wages, to voluntary financial restructuring and amending the labour legislation to increase market flexibility. Regarding the second part of the programme, that is related to structural reforms of a sectoral nature (such as transport, energy, education, etc.), Montenegro received recommendation to continue education reform so it is better aligned with labour market needs, strengthen transport development and connectivity, regulatory guillotine enforcement as well as progress in implementing EU food safety and sanitary and phytosanitary standards.

After some dwindling during the last year, the economy has started showing some progress due to the big capital investments in 2015, but macroeconomic stability is hampered by low consumer spending, high unemployment, low wages and tight bank credit conditions among others. EC is particularly worried about the 17.7% unemployment rate on national average that goes from 6.7% in the south to the stunning **39% in the north**.

One of the major concerns is the tempo in which the public debt has grown, doubling from 2008 to reach 60.3% of GDP in June 2015. Although some fiscal consolidation measures that were undertaken did have an impact on curbing the budget deficit (from 5% of GDP to about 1.3% in 2014) and the Law on Budget and Fiscal Responsibility (adopted in April 2014) has introduced some strict thresholds on budget deficit and public debt. However, **the big investment projects are excluded from deficit calculations**, such as the construction of highway whose costs (with other capital projects)¹¹ amounted to 9.2% of GDP in 2015.

⁸ Read more at: <http://www.reuters.com/article/2015/10/23/us-kosovo-opposition-teargas-idUSKCNOSH21G20151023>

⁹ In January 2015, Montenegro submitted its first Economic and Reform Programme (ERP) covering the period 2015-2017

¹⁰ Read the full text of the joint conclusions of the Economic and Financial Dialogue between the EU and the Western Balkans and Turkey: <http://www.consilium.europa.eu/en/press/press-releases/2015/05/12-ecofin-joint-conclusions/>

¹¹ Read more about the (non) transparency of capital budgets <http://institut-alternativa.org/ia-na-raspravi-o-prijedlogu-budzeta-za-2013-godinu/?lang=en>

Municipal debts are also a growing concern for the stability of public finance, now with the newly approved raising of limits for state guarantees in order to enable them to service their debts. With no improvement to trade deficit, the net financial inflows consist mainly of foreign direct investments (10% of GDP).

With the size of the non-banking sector remaining modest (in 2014, 3.2% of GDP, which is the highest level in years), the banking system's recovery is also very slow — this causes the interests rates on loans to be still as high as 8.93% on average and the non-performing loans ration to be 16.4% of the total loans. Licensing, contract enforcement, access to credit and cumbersome tax administration procedures are the **main obstacles for the business community**, although the previous year has seen a rise in establishing new companies (3179 in 2014).

4. Ability to Assume the Obligations of Membership

4.1 Progress

First striking fact about the assessment of progress made, is that no chapter can boast that *substantial progress made*. Also, in one chapter, *Freedom of movement for workers*, no progress was made, after last years *limited progress*. There are six chapters where good progress was made, two financial (public procurements and financial control) and the rest sectoral. Among them, particularly important is the Fishers, in which previous report, no progress was recorded, or Free movement of goods, where last year limited progress was recorded. The remaining majority of 26 chapters fall into the broad and ambivalent category of some progress. Especially important is that this label was given to chapters like *Financial and budgetary provisions*, where for the past three years no or *limited progress* was reported. The same goes for *Environment and climate change*, another chapter where now, after many years, some progress was reported.

Assessment	Chapters
No progress (0)	2 - Freedom of movement for workers
Some progress (1)	3 - Right of establishment and freedom to provide services Free movement of capital 6 - Company law 7 - Intellectual property law 8 - Competition policy 9 - Financial services 10 - Information society and media 12 - Food safety, veterinary and phytosanitary policy 14 - Transport policy 15 - Energy 16 - Taxation 17 - Economic and monetary policy 18 - Statistics 19 - Social policy and employment 20 - Enterprise and industrial policy 21 - Trans-European networks 23 - Judiciary and fundamental rights 24 - Justice, freedom and security 25 - Science and research 26 - Education and culture 27 - Environment and climate change 28 - Consumer and health protection 29 - Customs union 30 - External relations 31 - Foreign, security and defence policy 33 - Financial and budgetary provisions
Good progress (2)	1 - Free movement of goods 5 - Public procurement 11 - Agriculture and rural development 13 - Fisheries 22 - Regional policy and coordination of structural instruments 32 - Financial control
Substantial progress (3)	

Table 1. Negotiation chapters and level of progress.

4.2 Preparedness

In terms of the assessment of Montenegro's preparedness for membership, all stages of preparedness are represented. Preparations are most advanced in the chapter relating to intellectual property law, while four chapters are in an early stage.

<i>Assessment</i>	<i>Chapters</i>
<i>Early stage of preparation (1)</i>	2 - Freedom of movement for workers 13 - Fisheries 27 - Environment and climate change 33 - Financial and budgetary provisions
<i>Some level of preparation (2)</i>	11 - Agriculture and rural development 12 - Food safety, veterinary and phytosanitary policy 18 - Statistics 19 - Social policy and employment
<i>Moderately prepared (3)</i>	1 - Free movement of goods 3 - Right of establishment and freedom to provide services 4 - Free movement of capital 5 - Public procurement 6 - Company law 8 - Competition policy 9 - Financial services 10 - Information society and media 14 - Transport policy 15 - Energy 16 - Taxation 17 - Economic and monetary policy 20 - Enterprise and industrial policy 21 - Trans-European networks 22 - Regional policy and coordination of structural instruments 23 - Judiciary and fundamental rights 24 - Justice, freedom and security 28 - Consumer and health protection 29 - Customs union 32 - Financial control
<i>Good level of preparation (4)</i>	25 - Science and research 26 - Education and culture 30 - External relations 31 - Foreign, security and defence policy
<i>High level of preparedness (5)</i>	7 - Intellectual property law

Table 2. Negotiation chapters and their level of preparedness.

With a **moderate level of preparation** sustained in the vast majority of chapters, as the table above shows, the corresponding average numerical grade for the level of Montenegro's preparation for accession would be 2.8.