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**MONTENEGRO**



# Potential application of the Staged accession model

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## Introduction

Although Montenegro has been considered a leader in European integration in comparison to other Western Balkans countries, it is the country that, after Turkey, has already achieved the record length of negotiation process for joining the European Union (EU). As of November 2022, it has been negotiating for as twice as long as the countries that joined the European Union last - Croatia, Bulgaria, and Romania. During more than 120 months of negotiations, Montenegro has managed to open all 33 chapters (the first being opened in 2012, and the last in 2020). It has temporarily closed only three chapters (the last being closed in 2017). After harmonizing the legal and strategic frameworks with the EU standards, Montenegro has been stagnating for years or making very limited progress, having failed to deliver concrete results and to implement the most complex reforms by applying EU standards on the ground, while the European Commission (EC) has been reiterating its concerns and recommendations year by year.

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*It became evident over the years that the EU does not have the ability to encourage or sanction the lack of reforms in the accession process, and that the negotiations need more “carrots and sticks”. In order to address this stagnation, it is necessary to overcome the existing binary model, according to which most of the EU integration benefits occur only after full membership, without sufficient incentives to reward reforms on the way or to sanction the lack of progress.*

Apart from the challenges in relations with Serbia in the last few years, unlike its neighbors, Montenegro is not burdened by bilateral disputes with other countries, which puts it in a much better position. However, the key reforms are missing, especially in chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom, and Security), whose implementation is necessary in order to progress in the overall integration efforts. The key stumbling blocks are organised crime and corruption, together with the concerns over the non-functional judiciary and failure to reach political consensus on top judiciary appointments in the country, especially after the Constitutional Court had lost its quorum in mid-September 2022. Against this context, it became evident over the years that the EU does not have the ability to encourage or sanction the lack of reforms in the accession process, and that the negotiations need more “car-

rots and sticks”. In order to address this stagnation, it is necessary to overcome the existing binary model, according to which most of the EU integration benefits occur only after full membership, without sufficient incentives to reward reforms on the way or to sanction the lack of progress.

An idea that is more often mentioned in this context is the introduction of [the Model of staged accession to the EU](#), which was developed by the [European Policy Centre](#) (CEP) in Belgrade and the [Center for European Policy Studies](#) (CEPS) in Brussels. This model sparked discussion about the issue on a strategic level. It can serve as the basis for the institutions to define and formalise this proposal. This model envisaged the introduction of four stages in the accession process, whereby, based on a quantified assessment of preparedness, a country moves from one stage to another, while the level of funding and participation in EU institutions increases proportionally in each of the stages.

This document will analyse whether and in what way the proposed model could be applied in Montenegro. First of all, the document tries to show what are the key shortcomings of the current Enlargement process, as well as whether the proposed model would stir up or solve some specific problems in the case of Montenegro. The document also analyses key stakeholders and their potential role in deciding on the application of this model within Montenegro’s EU talks. A special section of this document is the assessment of the level of preparedness of Montenegro to join the EU, expressed in figures, by quantifying the assessment from the most recent EC country report. Finally, recommendations that Montenegro must fulfill in order to meet the conditions for entering one of the stages and move from one stage to another in line with the proposed Staged accession model, have been singled out.

## Shortcomings of the current European Union's approach to the Enlargement process

Montenegro and the countries from the region bear the main burden of responsibility for implementing the necessary reforms on their way to the EU. However, the inability of the EU to produce comprehensive changes in the rule of law area in the Western Balkans countries with its current approach has also [been recognised](#) and confirmed by the European Court of Auditors' report on the impact of the EU-funded projects in the rule of law area. [The report](#) stressed that numerous reform activities of the EU have not contributed to curbing state capture and widespread corruption, since they lack political will or ownership of reforms, contributing to the lack of sustainability of the reforms in the area of the rule of law. Additionally, the fact that the EU did not "reward" major steps taken by certain countries, such as North Macedonia, had a negative impact on willingness to implement reforms in other countries of the region. North Macedonia waited for the [opening](#) of negotiations with the European Union for 17 years to initiate them only conditionally in 2022 following numerous concessions, firstly due to the conditions imposed by Greece and later by France and [Bulgaria](#). It is difficult to expect governments to engage in changing undemocratic practices if the EU membership is out of sight.

The key shortcomings of the current approach to the EU in Montenegro are mostly pronounced in the area of the rule of law. Since there are no measurable standards in the EU member states to be applied in this field, the key reforms in this area are encouraged in a way that is reduced to certain technical prerequisites and laws, focusing insufficiently on sustainable results. It was expected that the adoption of the revised Enlargement methodology by the European Commission in 2020 would contribute to the intensification of Montenegro's negotiation process by shifting from a dominantly technocratic approach to the frontloading of essential reforms. Methodology aimed at closer integration of the countries of the region with the EU, by enabling a gradual inclusion in the EU policy-making through observer status together with a gradual increase of financial support. However, fundamental changes in the accession process are still not visible. Apart from the grouping of chapters into six clusters, the new methodology has not been further elaborated in practice. For elements such as conditioning institutional integration and financial support by the progress or regression in a certain area, there are no specific guidelines, which means it is unknown how this conditionality would be applied.<sup>1</sup>

For years Montenegro has been rated as achieving only "limited progress" in the negotiation process, as already identified issues remain unsolved. Organised crime and corruption stand out as the gravest concern, while the necessary deeper transformations are still missing. This indicates that the existing accession model, even with the revised methodology, does not produce results in negotiation process, except in terms of maintaining the *status quo*. The conditionality policy does not sufficiently refer to the necessity of making major reforms. There is no credible and clear structure of incentives that would point to the necessity of effectively making major reform steps. Altogether, this may affect the reduction of citizens' support for the accession process to the European Union in the long run. Although the support is currently at [a high level](#), there is a real possibility that the longer the negotiations last, the level of citizen support will decrease.

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<sup>1</sup> According to the [Regulation on the establishment of IPA III](#), certain conditionality of aid is foreseen depending on the progress, that is, when the relevant indicators show a significant setback or a persistent lack of progress, in particular in the cluster Fundamentals, the scope of support will also decrease proportionally. Although it is stated that the European Commission will assess the implementation of IPA III on an annual basis, it has not been worked out how the conditioning would be specifically applied.

## The model of staged accession – key risks and new opportunities

A new dimension of negotiations, which could be based on the existing negotiation frameworks, is provided by the Staged accession model, presented in October 2021. The Model represents a well-developed idea of how the candidate states would get out of the current impasse through gradual accession to the EU in four stages, by intensifying the negotiation process and revitalising the reform processes. The Model essentially represents a set of tools for monitoring and evaluating reforms in all clusters with a clear quantification of the level of preparedness for membership, with an emphasis on reversibility. It also represents a mechanism that foresees pre-determined measures regarding the use of the “stick” and the reduction of the acquired benefits if states backslide. This model builds strongly on the revised enlargement methodology, but it has not been fully specified how it could be applied in different national contexts. Would applying the Staged accession model to Montenegro in the current circumstances represent a new way to delay accession? Are there enough interested parties in Montenegro that would support the implementation of this model?

### The rule of law in Montenegro

The rule of law was set as a key priority from the very beginning of the negotiations when the focus was placed on chapters 23 and 24, which dictate the negotiations dynamics. When assessing the situation in these areas, the EU often insisted on certain technical solutions, while not taking into account the broader political and social context, such as the political instrumentalization of the judiciary and other key institutions. Not all weaknesses were clearly measured, which could best be seen in the example of the prosecution in the previous period, where the insistence on formal prerequisites (e.g., the formation of the Special State Prosecutor’s Office with appropriate capacities) continued, while cases such as the former chief special prosecutor overstepping his authorities were given less attention. Cases of housing loans granted to judiciary representatives by the Government, which directly disrupted the system of checks and balances, were not sufficiently addressed either. These cases point to the need for better measurement of progress in the area of the rule of law, whereby formal and informal influences impeding progress in key areas must be considered together with all technical, legal, and other preconditions.

Since the Staged accession model also implies better measurement of progress in the so-called fundamental chapters, including chapters 23 and 24, the application of this model in Montenegro means that it could respond more effectively to the so-far registered shortcomings. The Model proposes a new set of tools for monitoring and evaluating reforms in all clusters, whereby progress would require at least the average rating of each cluster for a certain stage, which means that quantification would enable transparent decision-making for progress, but also reversal of the acquired benefits if the average rate of reforms falls below a certain level. Moreover, the emphasis is placed on reforms in the rule of law area, that is, on the Fundamental Rights cluster, for which stricter conditions are set in order to progress from one stage to another. Unlike the other clusters where an average grade is required, Cluster Fundamentals requires a minimum prepared-

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ness grade in all chapters and areas with stronger reversibility mechanism. However, although the Staged accession model would significantly improve the monitoring of progress through ratings by clusters (that is, chapters and areas), it is necessary for the European Commission's reporting to include the elements described in the previous section of this paper, so that the chapters ratings reflect substantially the progress in reforms, primarily in the rule of law area. A good example of quantifying complex areas and expressing the progress assessments in numbers is the measurement of progress through principles in the field of public administration reform (PAR) implemented by SIGMA, a joint initiative of the OECD and the EU. This approach could also be applied to a better and more uniform measurement of the rule of law, which would go a step beyond legal compliance and technical prerequisites.

It is also important to mention that Montenegro is already part of some EU programmes and structures important for progress in the rule of law area, such as EMPACT (European Multidisciplinary Platform Against Crime), FRONTEX (European Border and Coast Guard Agency), CEPOL (European Union Agency for law enforcement training) and others. However, these early integration measures are not uniformly distributed and implemented, since there are no clearly defined criteria for when, under which circumstances and to what extent the non-EU countries could be gradually included in those structures. Consequently, the measures of gradual inclusion in EU programmes and policies currently suffer from unpredictability. The aspiring countries are not integrated in a uniform manner which would be proportional to the efforts achieved in the accession process. In this regard, the Staged accession model offers a clearer road map for implementation of early integration measures, in line with their preparedness and progress levels, as an important incentive for countries in the EU integration process.

### **...Montenegro: Already too long on the waiting list**

Although it has been negotiating to enter the EU for more than a decade, Montenegro is considered a leader in the negotiation process in comparison to countries from the region, despite all the previously described process flaws. Changing the accession model by applying the new Staged accession model could be understood by some as a decision that would slow down the process of obtaining full EU membership. The adoption of the revised methodology in 2020, expected to breathe in different dynamics in the negotiations but failed to do so, could be partly responsible for this attitude. Such a new initiative could be understood as a bureaucratic EU exercise adding to the risk of delaying the moment of accession.

However, things should be viewed differently since the initiative to change the accession model would also come from the countries aspiring to EU membership, which would indicate regional ownership of the model. In addition, since the Model has already been elaborated to a large extent, and its final additions are actively being developed, this enables its effective operationalisation and avoids slowing down the process yet again. In the context of Montenegro, it is particularly important to point out that, according to the current situation across different clusters, this country is little short of fulfilling all the criteria for achieving significantly higher benefits by entering the Stage I than those it currently has (explained in more detail in Section 5). Therefore, the negotiations progress would be clearly visible through the more immediate benefits along the way.

Given how long Montenegro has been in the accession process, another key concern with the Model is that reaching Stage III – the new member state stage - of the negotiations would mean a trade-off for full membership. With regard to certain institutional restrictions compared to conventional membership, the Model addresses the fear that Montenegro would become a “second-class member” of the EU by proposing the time limit of those restrictions, a mechanism that already partially exists in the EU practice. These temporary time limits would be agreed upon prior to the entry into Stage III and stated into the Accession Treaty, thus preventing any kind of institutionalization of

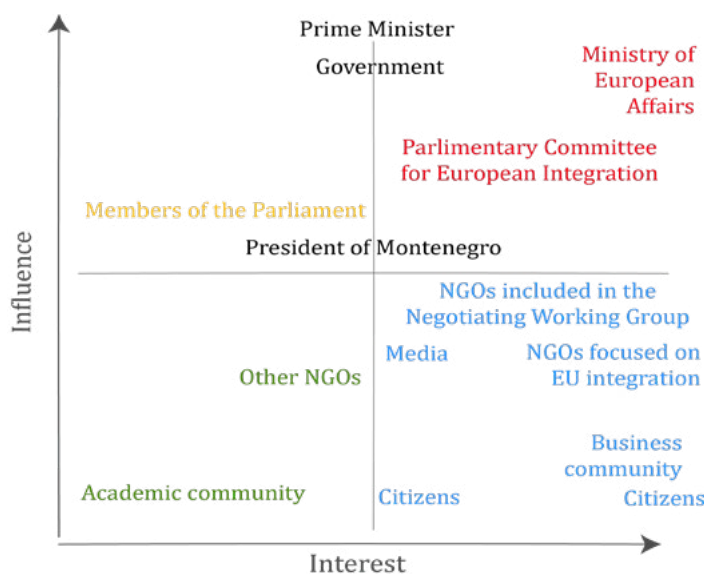
permanent “second-class membership” under the Staged accession model. Looking at it from the citizens’ perspective, accessing the Stage III would also mean the right to the EU passport, the right to vote and run for office in elections for the European Parliament and local elections in other EU member states, as well as to be employed in the EU institutions, which avoids discrimination in relation to citizens of conventional EU members.

The third concern regarding the application of the model in Montenegro is that entering the first two stages would be satisfactory because of the benefits they bring and that the leaders would “give up” on full membership. This concern stems from the model itself, which brings significant benefits that precede the final (fourth) stage of conventional membership. The leaders in the region could be satisfied with those benefits and thus lose incentives to strive further by integrating fully into the EU. In practice, this would mean that after entering the first two stages, Montenegro would stop the reforms, as it would get significant funds without being compliant with the Copenhagen criteria. This concern is fueled by behaviour of political leaders who, despite declaratively prioritizing the EU and its benefits for citizens, have so far avoided essential reforms that would lead to such outcome during the negotiation process. What solves this concern is the strengthened reversibility mechanism which implies that any stagnation or regression would not be tolerated, and it would then be up to the conventional member states to reduce the level of funding or even downgrade the status of Montenegro to a lower level. The possibility of previously acquired financial and institutional benefits being denied would therefore serve as a mechanism to deter Montenegrin leaders from stagnation in the reform process.

## Stakeholder mapping

If Montenegro decides to accept and advocate for the Staged accession model, it would not be the first time that this country, although in an advanced stage of negotiations, has modified its way to the EU, since it previously adopted the revised accession methodology. The interested parties’ views on this issue and whether they would support or oppose the application of the model are still unknown, which is why the stakeholders who would be affected by the application of this model are presented below. The following maps those stakeholders who would have the greatest interest in operationalization and application of the proposed model, as well as stakeholders that can influence the decision to apply the Model.

Figure Stakeholder Matrix<sup>2</sup>



<sup>2</sup> The Influence reflects the actor’s ability to stop or change the primary direction and approve the Model entirely. The actor/institution that is expected to have an interest in terms of operationalising the Model is highlighted on the interest axis, i.e., these are the actors that are affected by the Model or whose work would be affected by it.

The Ministry of European Affairs, as well as the Parliamentary Committee on European integration are the stakeholders with the highest interest in the application of the Model. The

**Ministry of European Affairs (MEA)** should be the first point of advocacy for this model. It has the greatest influence in decision making on the negotiation process itself, so the application of the Model would significantly affect its work. It would also be the focal point for communication about the Model with other structures within the Government and Parliament and would later be in charge of managing and applying the Model. The proposed model gives the Montenegrin institutions, and especially the MEA, the opportunity to cooperate more closely with the EU institutions even before joining the EU, since inclusion in the dialogue on EU policies is foreseen already in the first stage. The MEA's interest in the application of this model is reflected in the introduction of new dynamics into the negotiation process, where this Ministry would have a key role in insisting on the implementation of recommendations by the institutions in order to achieve the benefits foreseen by the Model as soon as possible. **The Parliamentary Committee on European Integration**, as the competent parliamentary committee in charge of monitoring accession negotiations, needs to be informed about the possibilities the Model offers. Through the MPs involved in the work of the Committee on European integration, other **MPs** can be further influenced in order to attract the support of other interested actors.

**The Prime Minister and the Government of Montenegro** are also important stakeholders since the burden of the negotiation process is placed on them. Making the decision to switch to the proposed model depends solely on them. Their interest is reflected in showing that, in addition to officially having EU membership on the agenda, they are considering all possible options for closer and faster integration into the EU and the intensification of the negotiation process, especially if a new executive power is elected in the meantime.

Although without many constitutional powers, the support of the **President of Montenegro** would certainly mean that all institutions of the system agree and support the change of the accession model and it would have high symbolic importance due to the fact that the President, although without direct mandate to decide on the most pressing issues, is directly elected by citizens in presidential elections. The presidential elections in Montenegro in 2023 are relevant because the space opens up to strongly advocate for the Model and to put the Model on the agenda during the next presidential term.

Since the Model focuses on the implementation of reforms, which is what the representatives of civil society in Montenegro stand for, **non-governmental organizations and the media** could be expected to have a great interest in applying this model. Some non-governmental organizations and the media can be potential proponents of this model, even though a uniform attitude cannot be expected from the entire civil society. **NGOs that are involved in the work of working groups for negotiations with the EU** are singled out here since through the "bottom-up" approach they can have more influence and opportunity to advocate for this model. There are also other **NGOs that deal with EU integration** which can advocate for the Model application and promote its benefits through their regular work. Given that the Model foresees earlier access to the EU funds, **the business community** has the most interest in its adoption, so they should be seen as a stakeholder that would support the proposed model. **Citizens of Montenegro**, as well as researchers, have a great interest, primarily in better integration into the EU. Although the business community and citizens do not have much influence on the negotiation modality itself, they need to be adequately informed. Their support of the Staged accession model could be measured through public opinion survey, and it would certainly be an added value to the application of the model.

On the other hand, the biggest opponents of this model can be found in certain political actors who are not EU-oriented, as well as in interested parties for informal spheres (organized crime, informal interest groups, etc.) who would not support a new approach to the rule of law. Resistance

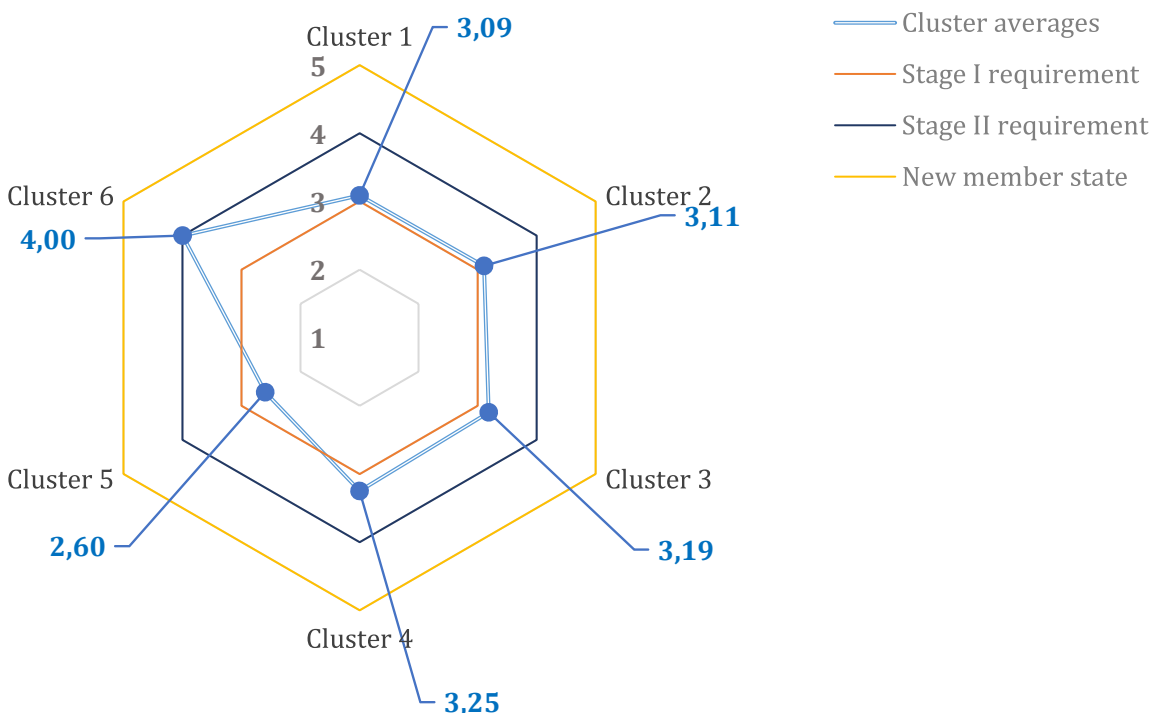
to changes on the way of joining the EU would not have to be expressed through a strict refusal to support a change in the negotiation model, but also through (in)action or by not providing the necessary preconditions for the implementation of reforms, ignoring the recommendations necessary for progress in the negotiation process, etc.

In addition, it is especially necessary to bear in mind the political pluralism in Montenegro and the fact that it is not always easy to reach a consensus due to the volatile political situation in the country where it is not clear who is in a position of power. Therefore, when advocating for this model, all political parties should be taken into account, regardless of their current position. Consensus on this issue would be a huge step forward in easing down the political tensions, because it would show that the EU is an overarching priority. The current political situation in Montenegro is such that every topic is used to accuse the other side of deviating from the European path. Furthermore, this model being supported by certain political actors could also be an argument for the opposite side that, this way, they want to slow down the negotiation process and leave the space for influences of other kinds. Therefore, the discussion about the benefits of the Model must be as inclusive as possible and accompanied by clear guidelines and analyses.

### Implementation of the model in practice

The Staged accession model introduces four stages of the negotiation process – the initial stage of accession, the intermediate stage of accession, the new member state, and the conventional membership. The transition to each of the stages is conditioned by a certain average score for all clusters, while each phase increases the level of financing as well as the participation in EU policies and institutions. Conditioning for Stage I and other stages refer to the average assessment of preparedness for the EU membership expressed in figures, which changes depending on the stage. According to the last assessment in 2022, Montenegro does not meet the requirements for any of the stages. However, Montenegro is the closest to fulfilling the criteria necessary for Stage I.

Graph 2. Applying the model to Albania





Graph 1 – Applying the Model to Montenegro

Quantification of preparedness ratings by the European Commission	
Early stage of preparation	1
Some level of preparation	2
Moderately prepared	3
Good level of preparation	4
Well advanced (High level of preparation)	5

Based on the [2022 report](#), Montenegro’s rating of preparedness for a membership in the EU is **3.12**, which means that it is moderately prepared (detailed presentation of ratings can be found in the Annex). To enter Stage I, it is necessary for each cluster to have a minimum average grade of 3 (moderately prepared). The Fundamentals cluster is subject to a special requirement because each chapter and area within this cluster (functioning of democratic institutions, economic criteria, and the area of public administration reform) must have a minimum score of 3. The condition for the other clusters is that they have an average score of 3 and that their individual chapters do not present a score below 2. To enter Stage II, a minimum average score of 4 (good level of preparation) is required across all clusters, with no chapter scored with less than a 3. Following the logic of the first stage, the Fundamentals cluster is evaluated more strictly, whereby each chapter and area within the cluster must have at least a grade of 4.

Average grades by clusters based on the latest European Commission Report on Montenegro from October 2022

Cluster 1 Fundamentals	Cluster 2 Internal market	Cluster 3 Competitiveness and inclusive growth	Cluster 4 Green agenda and sustainable connectivity	Cluster 5 Resources, agriculture and cohesion	Cluster 6 Foreign affairs
3,09	3,11	3,19	3,25	2,6	4

It is important to note that the Fundamentals cluster, in addition to the five chapters, also contains three areas that were introduced with a revised methodology. These are: 1) the functioning of democratic institutions, 2) public administration reform, and 3) economic criteria. Since the European Commission gives a membership preparedness assessment only for the areas 2 and 3, the assessment for democratic institutions is derived from the latest [Freedom House Nations in Transit report on Montenegro](#). For this assessment, four elements assessed by the FH Nations in Transit were taken into account – democratic governance, electoral process, civil society, and democratic governance at the local level – in order to match the Commission’s scope in annual reports. The average score of those elements is then converted to a rating on the 1-5 scale, as explained in footnote 4.

## Cluster 1 – Fundamental rights

Chapter 5		3.5
Chapter 18		3
Chapter 23		3
Chapter 24		3
Chapter 32		3
Public administration reform Area		3
Economic criteria Area		3
Functioning of democratic institutions (political criteria) Area		3.2 <sup>3</sup>
- Democratic management	3.5	
- Election process	4.25	
- Civil society	5.25	
- Democratic governance at the local level	4.25	

According to the last report, in order to **enter the Stage I of accession** under this model, Montenegro would have to increase its level of preparedness only within Cluster 5 – *Resources, agriculture and cohesion* by increasing the grades for two chapters. Besides this, there are two more options to reach the requested criteria to access Stage I. This means that there are three options with a total of 11 opportunities to reach the criteria for entering Stage I, as it is presented in the table below.

<sup>3</sup> Since the scores of the Freedom House Nations in Transit report are presented on the 1-7 scale, and the other ratings based on the EC assessment are presented in the report on the 1-5 scale, scores are adjusted by the following methodology. To quantify the political criteria, scores for those 4 selected elements from FR Nations in Transit report are added up and divided by 4, which presents average score on a 1-7 scale (x7). To convert this score (x7) to a 1-5 scale, the following formula is used  $x5 = (x7 - 1)(4/6) + 1$ .

## Identifying and addressing key gaps for the Stage I entry

**OPTION A:**

Montenegro must improve its scores in the lowest-rated chapters 13 and 33, going up from some level of preparation to moderately prepared for membership. In order to achieve the desired rating, within the framework of Chapter 13 – Fisheries, Montenegro should:

- bring to an end the work on the development of a new strategy for the field of fisheries and aquaculture with an action plan for harmonization with the EU acquis and its implementation;
- continue to strengthen administrative capacities and capacities for data collection, scientific consulting, inspection and control;
- continue the implementation of the multi-year plan for demersal species in the Adriatic Sea as part of the General Fisheries Commission for the Mediterranean (GFCM).

Also, in order to achieve the moderately prepared grade for Cluster 5, within Chapter 33 – Financial and budgetary provisions Montenegro should:

- undertake additional activities to establish the institutional framework and administrative rules for the own funds system;
- additionally harmonize the legal basis for related areas of public policies that affect the correct application of the system of own resources: taxation (VAT), customs union, financial control and statistics;
- continue strengthening the capacities of the Directorate for coordination and management of EU funds in all institutions that participate in the system of own funds.

**OPTION B:**

In order to achieve an average score of 3 for Cluster 5, Montenegro needs to improve the scores for some of the chapters that currently are moderately prepared for membership (3) to a good level of preparation (4).

- B1. Chapter 11 and Chapter 12
- B2. Chapter 11 and Chapter 22
- B3. Chapter 12 and Chapter 22

**OPTION C:**

In order to achieve an average rating of 3 for Cluster 5, Montenegro will have to advance in the mix of chapters where a shift will be made for some from some level of preparation (2) to moderately prepared (3), that is, from moderately prepared to a good level of preparation. (4)

- C1. Chapter 11 and Chapter 13
- C2. Chapter 11 and Chapter 33
- C3. Chapter 12 and Chapter 13
- C4. Chapter 12 and Chapter 33
- C5. Chapter 13 and Chapter 22

Cluster 5 (2,6)

Chapter 11 – 3

Chapter 12 – 3

Chapter 13 – 2

Chapter 22 – 3

Chapter 33 – 2

Montenegro achieved the required average score **for the transition to Stage II** – the intermediate phase of accession - in only one of the six clusters. It is Cluster 6 – External relations with an average score of 4 – a good level of preparation. As already mentioned, apart from the average score per cluster being 4, one of the conditions is that all chapters and areas united under the Cluster Fundamentals must reach a score of 4. This means that Chapter 5 would have to receive a score of 4 instead of 3.5 and that the other four chapters (18, 23, 24 and 32) would need to be assessed with grade 4 – a good level of preparation, instead of being moderately prepared (3). Three special areas within this cluster will also need to improve the grade from 3 to 4. Chapters in the other clusters would, in most cases, have to up their current ratings of preparedness, whereby none of the chapters must fall behind, meaning they do not receive a rating lower than a certain level of preparedness. By moving to Stage II, Montenegro would increase the level of financing to 75% compared to conventional membership, while becoming more deeply involved in the EU policies and institutions, such as, for example, the right to address the Council of the EU and the European Parliament, but without the right to vote.

**Moving to Stage III**, the new member state stage, would mean that Montenegro has mostly good grades (5) across chapters, that is, an average grade of 4.5, implying that the country has made significant progress in all areas and that it has a high level of preparation<sup>4</sup> for EU membership. Since currently no chapter is graded with 5, in order to reach Stage III, Montenegro must improve grades in all chapters. What is more, in five chapters currently graded as 2 / some level of preparation (2, 13, 19, 27, and 33), it is necessary to make extremely good results and achieve an excellent grade. In relation to Stage II, this would also imply the improvement of all grades, which hypothetically could be most easily achieved in chapters 6, 15, 25, 26, 30, and 31, which are currently graded as 4. In essence, Stage III would imply that the reforms have already been implemented and that in addition to the harmonized legal framework, Montenegro delivers good results in all areas. On the other hand, entering Stage III also means that Montenegro is a new member of the EU, with all benefits as defined by the Model.

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*Since currently no chapter is graded with 5, in order to reach Stage III, Montenegro must improve grades in all chapters.*

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<sup>4</sup> The Staged accession model proposes a regime where a status score of 5 represents a good level of implementation of the EU legal acquis, which should be a respectable, normal performance of the existing Member States, and that should not be exaggerated as requiring perfection.



## Conclusions

If it is to apply the Staged accession model, by improving grades in only two chapters, Montenegro would meet all the conditions for entering the Stage I, which it could hypothetically achieve in a short period of time. Bearing in mind that the necessary level of preparedness for this stage has been achieved in the Fundamentals Cluster, it is possible to meet the desired average grade by combining several options in other clusters presented in this paper. This scenario is achievable in case the Government's focus is placed on fulfilling the EU recommendations.

In that regard, it is particularly important to keep in mind the current political situation in Montenegro. In 2020, the change of the regime after 30 years has brought political instability to the country, which is also reflected in the fact that two governments have been voted no-confidence since then. This instability has also affected Montenegro's integration efforts. Even though some countries in the region have managed to use the momentum related to the war in Ukraine and the EU's greater focus on the Western Balkans, in comparison, Montenegro was even warned of freezing negotiations if it failed to unblock the work of the Constitutional Court and, consequently, faced a very harsh criticism by the EU officials.<sup>5</sup> In late February 2023, political parties reached a qualified majority for appointing three out of four missing judges of Constitutional Court, alleviating some of the concerns previously voiced by the EU.<sup>6</sup>

Nonetheless, with presidential elections underway, as well as parliamentary on the horizon, there are high chances that the political instability will last for some time and that the EU integration will be sidelined from the focus of the political parties. Political instability as a significant aggravating factor can negatively affect the decision to apply the Model, as well as to enter Stage I. From this perspective and bearing in mind the current political situation in Montenegro, it is difficult to predict when the transition from Stage I to Stage II, or later on from Stage II to Stage III, would be possible. In the previous period year 2025 was set as the target (desired) year in which the finalization of negotiations according to the current model could be expected following the implementation of the needed reforms. However, this would be hardly realistic especially given the current political situation and the track record.

Speaking about the membership perspective, should it decide to apply the Staged accession model, Montenegro would reap the benefits immediately after entering Stage I. Based on the quantification of the current assessments presented in this paper, there are numerous options to reach the criteria for entering the I stage. It is difficult to estimate the time frame for accessing the other accession stages, since it primarily depends on the intensity and quality of the implementation of reforms, which will also depend on the unfolding of the political situation in the country. The presented model certainly does not aim to accelerate the road to membership since the emphasis is on the implementation of reforms. The chapter V itself shows that Montenegro still has a lot of work ahead. Nevertheless, it is encouraging that the Model offers incentives that should motivate decision-makers to commit more strongly to the implementation of the remaining reforms. This would represent a significant step forward compared to the current situation with insufficient incentives and the stagnation in Montenegro for some time now.

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5 N1, EU threatens to suspend Montenegro's accession negotiations, 21<sup>st</sup> December 2022, available here: <https://n1info.hr/english/news/eu-threatens-to-suspend-montenegros-accession-negotiations>

6 Radio Free Europe, *EU pozdravila imenovanje sudija Ustavnog suda Crne Gore, 28th February 2023*, available here: <https://www.slobodnaevropa.org/a/eu-pozdravila-imenovanje-sudija-ustavnog-suda-crne-gore/32291949.html>

# Annex

## Montenegro: Level of preparedness by clusters and chapters

Cluster I – Fundamentals		
5 Public procurement	3.5	Implementation of the e-procurement system, good progress, improvement in the functioning of the remedy system
18 Statistics	3	insufficient financial and human resources, lack of expertise
23 Judiciary and fundamental rights	3	no progress on the implementation of key judicial reforms
24 Justice, Freedom and Security	3	systemic deficiencies in terms of how cases are handled in courts, plea bargains, hosting people fleeing Ukraine
32 Financial control	3	to further strengthen the internal control and internal audit practices, focusing on performance rather than on compliance, communication SAI - Parliament
Public administration reform	3	reorganisation of the public administration contributed slowing of the pace of reforms
Economic criteria	3	kept growing at a steady pace, an ambitious fiscal reform programme, inflation, the banking system remained stable
Functioning of democratic institutions	3.2	Polarisation, the absence of constructive engagement between political forces and the failure to build consensus
Cluster 2 – Internal market		
1 Free movement of goods	3	Toward full membership - CENELEC; CEN; human resources and funding in the sector still remain inadequate
2 Freedom of movement for workers	2	No legislative developments on access to the labour market, coordination of the social security system
3 Right of establishment and services freedom to provide services	3	Establishment of a Point of Single Contact, electronic registration
4 Free movement of capital	3	Legal framework on payment systems was further aligned, decided to extend the life of its investors citizenship scheme
6 Company law	4	Rulebook on company financial statements still needs to be adopted

7 Intellectual property law	4	preparation of a new national intellectual property strategy; limited progress in track record on investigations, prosecutions and judicial follow-up.
8 Competition policy	4	Transparency increased, established State aid register
9 Financial services	3	good progress in the area of bank and financial conglomerates, no progress on capital markets
28 Consumer and health protection	3	Limited progress regard health protection, information system for consumer protection
<b>Cluster 3 – Competitiveness and inclusive growth</b>		
11 Agriculture and rural development	3	IPARD II and III; strengthening capacities of the IPARD Agency, fully decoupling direct payment measures from production, IACS needs to be speeded up, good progress related to FADN
12 Food safety, veterinary and phytosanitary policy	3	strengthening of administrative on disease surveillance and vaccination
13 Fisheries	2	reliable partner in international fora; finalized sectorial study, laws are pending adoption by the Parliament, dialogue with Albania
<b>Cluster 4 – Green agenda and sustainable connectivity</b>		
14 Transport policy	3.5	Some progress, strategic framework for implementation of intelligent transport systems (ITS) no progress on alignment with the EU <i>acquis</i> concerning public service obligations
15 Energy	4	moving to market-based schemes for renewable energy production, No progress was made on the revision of the action plan on compulsory strategic reserves of oil and petroleum products, Oil stocks still remain very low
21 Trans-European networks	3.5	development of rail projects, actively participate in the TCT, numerous projects in the areas of energy and transport (SPP)
27 Environment	2	Significant efforts are still needed on implementation and enforcement - on waste management, water quality, nature protection and climate change
<b>Cluster 5 – Resources, agriculture and cohesion</b>		
11 Agriculture and rural development	3	IPARD II and III; strengthening capacities of the IPARD Agency, fully decoupling direct payment measures from production, IACS needs to be speeded up, good progress related to FADN
12 Food safety, veterinary and phytosanitary policy	3	strengthening of administrative on disease surveillance and vaccination
13 Fisheries	2	reliable partner in international fora; finalized sectorial study, laws are pending adoption by the Parliament, dialogue with Albania

22 Regional policy and coordination of structural instruments	3	Weak administrative capacities, institutional set up and the system for management of IPA funds in indirect management still needs to be adapted, coordination between the contracting authorities and line ministries still requires strengthening
33 Financial and budgetary provisions	2	increased capacities of the Directorate for coordination and management of EU own resources, there was little progress in the underlying policy areas indirectly affecting the own resources system
<b>Cluster 6 – External relations</b>		
11 Agriculture and rural development	3	IPARD II and III; strengthening capacities of the IPARD Agency, fully decoupling direct payment measures from production, IACS needs to be speeded up, good progress related to FADN
12 Food safety, veterinary and phytosanitary policy	3	strengthening of administrative on disease surveillance and vaccination
13 Fisheries	2	reliable partner in international fora; finalized sectorial study, laws are pending adoption by the Parliament, dialogue with Albania
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33 Financial and budgetary provisions	2	increased capacities of the Directorate for coordination and management of EU own resources, there was little progress in the underlying policy areas indirectly affecting the own resources system
<b>Cluster 6 – External relations</b>		
30 External relations	4	adoption of the law on export control of dual-use goods; ratification of CEFTA Additional Protocol 6, Montenegro supported notably the Joint Statement on aggression by the Russian Federation against Ukraine
31 Foreign, security and defence policy	4	actively engaged in promoting and defending the rules-based international order, full alignment with the EU CFSP, restrictive measures towards Russia





## OPEN SOCIETY FOUNDATIONS



The **National Issue Paper Series** was developed within the project “**Support for further development of the model of the Western Balkans staged accession to the European Union**” implemented by the **European Policy Centre (CEP – Belgrade)** and the **Centre for European Policy Studies (CEPS – Brussels)**. The essence of the Project has been to focus on operationalising the **Staged accession model**, co-designed by CEP Belgrade and CEPS Brussels. In order to achieve the set goal, the Project has been supporting the research and analysis needed to develop a series of 14 issue papers. **Six national issue papers** have been created on potential application of the Staged accession model in each of the Western Balkan countries, with a focus on the political and economic specificities of each WB country, the potential implementation dynamics at national level, the stakeholder analysis, as well as the analysis of opportunities and risks that should be considered in the context of the potential model application.

The national issue paper series will directly contribute to the full elaboration of **the Staged Accession Model 2.0** and showcase its application in practice in all the countries in the region.

The core project team has also counted on the valuable expertise of **prominent regional researchers**, as well as individual members of the **Think for Europe Network (TEN)**, such as the **European Policy Institute (EPI – Skopje)**, **Institute Alternative (IA – Podgorica)**, and **Foreign Policy Initiative Bosnia and Herzegovina (FPI BH – Sarajevo)**.

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