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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
OF THE COUNCIL OF EUROPE
(VENICE COMMISSION)

MONTENEGRO

**FOLLOW-UP OPINION
TO PREVIOUS OPINIONS**

ON

THE DRAFT LAW ON THE GOVERNMENT

**Adopted by the Venice Commission
at its 147th Plenary Session
(Venice, 12-13 June 2026)**

On the basis of comments by

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I. Introduction

1. By letter of 6 May 2026, Mr Marash Dukaj, the Minister of Public Administration of Montenegro requested a follow-up opinion of the Venice Commission of the Council of Europe on the draft law on the Government of Montenegro ([CDL-REF\(2026\)018](#), hereinafter “the draft law”).

2. Mr Warren Newman, Mr François Séners, and Mr Vladimir Vardanyan acted as rapporteurs for this Follow-up Opinion.

3. On 22 May 2026, the rapporteurs, together with Mr Khagani Guliyev and Ms Tone Sorfonn Moe from the Secretariat, held online meetings with the Minister of Public Administration, representatives of the Office of the Prime Minister and Members of the Parliament. Despite the attempts, it was not possible to hold online meetings with representatives of civil society and international partners. The Commission is grateful to the authorities of Montenegro and the Council of Europe Programme Office in Podgorica for the excellent organisation of the online meetings.

4. This opinion was prepared in reliance on the English translation of the draft law. The translation may not accurately reflect the original version on all points.

5. This opinion was drafted on the basis of comments by the rapporteurs and the results of the online meetings on 22 May 2026. Following an exchange of views with Ms Jelena Pejović, Director General, Ministry of Public Administration of Montenegro, it was adopted by the Venice Commission at its 147th Plenary Session (Venice, 12-13 June 2026).

II. Background

6. The Venice Commission already issued two opinions on the previous versions of the draft law on the Government of Montenegro at the request of the Montenegrin authorities: Opinion on the draft law on the Government of Montenegro ([CDL-AD\(2023\)036](#), hereinafter “the 2023 Opinion”) and Follow-up Opinion to the Opinion on the draft law on the Government of Montenegro ([CDL-AD\(2025\)030](#), hereinafter “the 2025 Opinion”).

7. In the conclusion of the 2025 Opinion, the Venice Commission welcomed “*the fact that the revised draft law addresses most of its 2023 key recommendations, in particular as regards the transparent and inclusive legislative process and the explanatory report, dual nationality for members of government, the upper limit of the number of ministries, the powers of an outgoing government and the entry into force of the Law*”.

8. The Commission also took note of “*the partial implementation of its two key recommendations on the principle of legality and constitutional entrenchment and the First Deputy Prime Minister’s inability to temporarily exercise his/her duties*”, drawing attention to its following key recommendations in this regard:

“- *to ensure full alignment of Chapters XII and XIII of the revised draft law with the Constitution, as well as the principles of legality and separation of powers; to align the revised draft law with Articles 103 and 110 of the Constitution. It is highly recommendable to envisage the constitutional revision as a more sustainable solution in this regard;*
- *to specify that in the case the First Deputy Prime Minister cannot replace the Prime Minister during the latter’s absence or temporary inability, the Deputy Prime Minister who has served the longest in the government or is the most senior in terms of age shall temporarily exercise the Prime Minister’s duties*”.

9. In addition, the Commission referred to the following pending recommendations:

*“- to clarify in Article 19 that the proposal of the Prime Minister as to the composition of the government should reflect the constitutional aims of gender balance and minority representation;
- to reconsider the rules concerning quorum and voting majorities set out in Article 28 of the revised draft law;
- to specify in Article 3 of the revised draft law that the action of the Government is subject to parliamentary accountability;
- to provide for a right of scrutiny by Parliament regarding the Code of Ethics to ensure legislative control over this sensitive subject;
- to elucidate further the reasons for including legal persons amongst the protected categories in Article 46 of the revised draft law”.*

10. Lastly, the Commission noted that *“given the importance of integrity checks and the possible impact that their consequences may have on the process of the formation of the new government and the functioning of the institutions in the country, the Venice Commission recommends specifying the steps to be taken, in keeping with the Constitution, in case of negative results of the integrity check”.*

11. There is currently no Law on the Government in Montenegro. The draft law in question is a new version of the previous draft law which was revised in the light of the 2025 Opinion. The draft law was adopted by the Government of Montenegro on 19 February 2026 and is currently before the Parliament of Montenegro.

III. Scope of the Opinion

12. The Venice Commission welcomes the opportunity to provide its expertise on this draft law. This Follow-up Opinion will examine the draft law in light of the key and other recommendations that the Commission considered necessary to be taken into account during the revision process. The absence of remarks on other aspects of the draft law should not be interpreted as tacit approval by the Commission.

IV. Analysis

A. Follow-up to the key recommendations

1. The principle of legality

- *to ensure full alignment of Chapters XII and XIII of the revised draft law with the Constitution, as well as the principles of legality and separation of powers; to align the revised draft law with Articles 103 and 110 of the Constitution. It is highly recommendable to envisage the constitutional revision as a more sustainable solution in this regard*

13. The Venice Commission notes at the outset that the subject matter of this draft law, which concerns the composition and functioning of the Government, as well as its interaction with other state authorities, is also regulated by the Constitution of Montenegro. Accordingly, as the Venice Commission previously observed, the Montenegrin authorities must ensure that the draft law is consistent with the Constitution, not contradicting or ignoring constitutional provisions. The legislation can, of course, go beyond certain minimum requirements of the Constitution, and enhance the implementation of some of the Constitution's underlying principles, as well as provide more statutory details as may be contemplated by the terms of

the Constitution, but it must not be incompatible with those terms and provisions.¹ Furthermore, the Venice Commission reiterates that changing the provisions on the formation of the Government or introducing any complementary provisions which affect the system of checks and balances contemplated by the Constitution should not be done by ordinary law adopted by the simple majority but by means of constitutional revision, following the procedure described in Article 156 of the Constitution of Montenegro, which requires a qualified majority of two thirds of all members of Parliament.²

14. In that connection, in the 2025 Opinion, while the Venice Commission welcomed and considered positive the removal of several provisions introducing detailed rules not specified in the Constitution as regards the composition of the Government, the timeframe concerning the designation of a government member and the powers of a caretaker Government, it also recommended a further alignment of the draft law with the Constitution.

15. The Venice Commission observes that further changes were made to Chapter XIII (Chapter XII in the previous draft law)³ related to the interaction with the President (removal of the second part of Article 47) and to Chapter XIV (Chapter XIII in the previous draft law) related to the interaction with the Parliament (removal of Article 52 of the previous draft) in order to ensure alignment of these Chapters with the Constitution. However, the draft law does not contain any change as regards the alignment of the draft law with Articles 103⁴ and 110⁵ of the Constitution.

16. The Venice Commission does not overlook the fact that in their comments on this recommendation of the 2025 Opinion, the Montenegrin authorities submitted that, in accordance with the rules for drafting laws in the Montenegrin legal system, it is not appropriate to rewrite into the law the legal norms which are already provided in the Constitution. The Montenegrin authorities reiterated these submissions during the online meetings held with the Venice Commission delegation, as well as in their subsequent written comments.

17. However, the Venice Commission's recommendation was not for a mere repetition of the relevant constitutional provisions in the draft law, but rather for the text of the draft law to be aligned with the Constitution in order to avoid any possible inconsistencies between the two legal documents. In this regard, the Venice Commission notes that, in order to achieve further alignment of the draft law with the Constitution, the Montenegrin authorities could also consider adding a preamble to the draft law, referring to the relevant constitutional framework.

18. In the light of the above-mentioned observations, the Venice Commission considers that the recommendation has been only partially followed.

¹ Venice Commission, [CDL-AD\(2023\)036](#), Montenegro – Opinion on the Draft Law on the Government, para. 23, and Venice Commission, [CDL-AD\(2025\)030](#), Montenegro – Follow-up Opinion to the Opinion on the Draft Law on the Government, para. 10.

² Venice Commission, [CDL-AD\(2022\)053](#), Montenegro – Urgent Opinion on the Law on amendments to the Law on the Government, paras. 52-53.

³ For the text of the previous draft law, see [CDL-REF\(2025\)025](#).

⁴ Article 103 (Election) of the Constitution reads as follows:

“The President of Montenegro proposes the mandator within 30 days from the day of constitution of the Parliament. The candidate for the position of the Prime Minister presents to the Parliament his/her program and proposes composition of the Government. The Parliament shall decide simultaneously on the program of the mandator and the proposal for the composition of the Government”.

⁵ Article 110 (Cessation of mandate) of the Constitution reads as follows:

“The Government mandate shall cease: with the expiry of the Parliament mandate, by resignation, when it loses confidence and if it fails to propose the Budget by March 31 of the budgetary year.

The Government whose mandate has ceased shall continue with its work until the election of the new composition of the Government.

The Government whose mandate has ceased shall not dissolve the Parliament”.

2. Prime Minister's inability to temporarily exercise his/her duties

- *to specify that in the case the First Deputy Prime Minister cannot replace the Prime Minister during the latter's absence or temporary inability, the Deputy Prime Minister who has served the longest in the government or is the most senior in terms of age shall temporarily exercise the Prime Minister's duties;*

19. The draft law addresses this recommendation by proposing to add a new paragraph 3 to Article 9 which provides that *"If that Deputy Prime Minister is absent or prevented, another Deputy Prime Minister designated by the Prime Minister shall substitute, within the scope of authority from paragraph 2 of this article"*.⁶

20. The Venice Commission observes that, in accordance with the proposed provision, if the Deputy Prime Minister designated by the Prime Minister at the beginning of the mandate to substitute the Prime Minister during his or her absence or inability to perform duties is also absent or prevented from exercising his or her duties, another Deputy Prime Minister, who is also designated by the Prime Minister, shall substitute. This provision aims to regulate the issue of the exercise of the Prime Minister's powers if the Deputy Prime Minister designated by the Prime Minister at the beginning of the mandate is also unable to perform his or her duties.

21. The Venice Commission notes that the introduction of such a rule implies that there should be in the Government at least two Deputy Prime Ministers. The Venice Commission does not see any legal obstacle in this regard in the Montenegrin legal system since Article 102 of the Constitution and Article 8 of the draft law on the Government provide that *"the Government shall consist of the Prime Minister, one or more Deputy Prime Ministers and the ministers"* and there are six Deputy Prime Ministers in the current Government of Montenegro.⁷

22. The Venice Commission observes that the proposed solution gives to the Prime Minister the power to designate another Deputy Prime Minister if the Deputy Prime Minister initially designated to replace the Prime Minister is prevented from substituting for the Prime Minister. However, unlike paragraph 2 of Article 9 of the draft law, the proposed paragraph 3 of Article 9 does not require the Prime Minister to designate another Deputy Prime Minister at the beginning of the mandate. The absence of this element may appear problematic in the light of the fact that if such a designation is not carried out at the beginning of the mandate it will be hardly possible for the Prime Minister to designate another Deputy Prime Minister when this Prime Minister is unable to exercise his or her functions.

23. Therefore, the Venice Commission considers that the new paragraph 3 of Article 9 of the draft law proposes an acceptable solution. In addition, to avoid any practical problems in the future, it recommends that the designation of another Deputy Prime Minister is also carried out at the beginning of the mandate.

⁶ The full text of Article 9 of the draft law reads as follows (proposed amendments are indicated in bold and underlined): *"The Prime Minister represents the Government **and directs its work**, maintaining political harmony within the Government, calling and presiding over Government sessions, signing acts passed by the Government, coordinating the activities of Government members, and carrying out other responsibilities as set forth in the Constitution and the law.*

*At the beginning of the mandate, the Prime Minister shall designate a Deputy Prime Minister to substitute during **his absence** or inability to perform duties, within delegated authority.*

If that Deputy Prime Minister is absent or prevented, another Deputy Prime Minister designated by the Prime Minister shall substitute, within the scope of authority from paragraph 2 of this article.

The Prime Minister shall be accountable to the Parliament of Montenegro (hereinafter: "the Parliament")."

⁷ Information available on the official website of the Montenegrin Government: www.gov.me/en/deputy-prime-minister

24. Consequently, the Commission's recommendation may be considered to be followed.

B. Follow-up to other recommendations and new provisions

1. The composition of the Government

- *to clarify in Article 19 that the proposal of the Prime Minister as to the composition of the Government should reflect the constitutional aims of gender balance and minority representation*

25. Article 8 of the draft law addresses the Venice Commission's recommendation concerning the gender balance and the minority representation in the composition of the Government. It provides that *"at least 40% of the members of the Government shall be from the less represented gender. If the Government has more than one Deputy Prime Minister, at least one Deputy Prime Minister shall be from the less represented gender. If the Government has more than two Deputy Prime Ministers, at least one Deputy Prime Minister shall be from among minority peoples and other minority national communities"*.

26. The Venice Commission welcomes the introduction of this provision which sets out clear rules relating to the gender balance and minority representation in the composition of the Government, reflecting the constitutional aims of gender balance⁸ and minority representation.⁹ The Commission is of the view that the proposed provision is a right step to ensure the legal basis for the effective implementation of the gender balance and minority representation in the composition of the Government. The Venice Commission considers that the adoption of this provision is all the more important in the light of the fact that there is no Deputy Prime Minister belonging to the less represented gender in the current Government of Montenegro.

27. The Venice Commission considers that the recommendation has been fully followed.

2. Limiting the number of ministries and naming seven mandatory ministries

28. The Venice Commission observes that unlike the previous versions of the draft law, the draft law in question does not contain any limitation on the number of Deputy Prime Ministers or ministers within a Government. The only limitation in this regard in the draft law is that a Government may have a maximum of two ministers without portfolio as proposed in the previous draft laws (Article 8). Moreover, like the previous draft laws, Article 12 of the draft law names seven mandatory ministries in a Government, indicating that their administrative areas cannot be merged with other administrative areas.

29. The lack of limitation of number of ministries within a Government does not in principle raise any issue of compatibility with international standards. As the Venice Commission previously observed, from a comparative law perspective, flexibility seems to be the rule and limitation seems to be the exception in this field.¹⁰ In addition, this approach is also in compliance with Article 102 of the Constitution of Montenegro, which provides that *"the Government shall consist of the Prime Minister, one or more Deputy Prime Ministers and the ministers"*, without containing any limitation.

⁸ Article 18 (gender equality) of the Constitution provides as follows: *"The State shall guarantee the equality of women and men and shall develop the policy of equal opportunities"*.

⁹ Paragraph 10 of Article 79 (protection of identity) of the Constitution reads as follows: *"Persons belonging to minority nations and other minority national communities shall be guaranteed the rights and liberties, which they can exercise individually or collectively with others, as follows: ... 10) the right to proportionate representation in public services, state authorities and local self-government bodies"*.

¹⁰ Venice Commission, [CDL-AD\(2020\)034](#), Kosovo – Opinion on the Draft Law on the Government, para. 33.

30. Therefore, the Venice Commission considers that the absence of the limitation on the number of Deputy Prime Ministers or ministers within a Government is not incompatible with international standards.

31. The Venice Commission considers that the recommendation has been fully followed.

3. Status of Deputy Prime Minister

32. The Venice Commission observes that paragraph 3 of Article 11 of the draft law provides that “a Deputy Prime Minister can be a Minister”. The Venice Commission considers it necessary to recall that the initial draft law provided that “as a rule, the Deputy Prime Minister is a minister” and, in the 2023 Opinion, the Venice Commission noted that “the use of the phrase “as a rule”, may create a misunderstanding on the possibilities of having Deputy Prime Ministers without the status of minister. The issue of the possibility of combining the position of a Minister (including without portfolio) with that of a Deputy Prime Minister should be clarified”.¹¹ The revised draft law of 2025 proposed a new wording, indicating that the Deputy Prime Minister may not hold the position of a minister. In the 2025 Opinion, the Venice Commission welcomed this clarification of the status of the Deputy Prime Minister.¹²

33. The Venice Commission notes that the new provision appears to be similar in its wording to the one proposed in the initial draft law of 2023. During the discussions the Montenegrin authorities stated that the possibility for a Deputy Prime Minister of combining the position of a minister with that of a Deputy Prime Minister had functioned very well in practice and had proved its efficiency in Montenegro. The Venice Commission takes note of these explanations. However, it refers to its previous observations that, as in the case of “as a rule”, the expression “can be” may create a misunderstanding on the possibilities of having Deputy Prime Ministers without the status of minister. In addition, it is not clear whether a Deputy Prime Minister can also combine the position of a minister without portfolio with that of a Deputy Prime Minister. Accordingly, the Venice Commission considers that more clarification is needed in this regard.

34. The Venice Commission considers that the recommendation has been partially followed.

4. Quorum for holding sessions and adopting decisions

- to reconsider the rules concerning quorum and voting majorities set out in Article 28 of the revised draft law

35. The new wording of Article 28¹³ of the draft law provides that the decisions of the Government are taken by the majority of votes of the members of the Government present as recommended previously by the Venice Commission.¹⁴ The new wording also specifies that in case of an equal number of votes, the Prime Minister has a casting vote. The requirement of the majority of votes of the members of the Government was kept only in respect of decisions made during a state of war or state of emergency.

¹¹ Venice Commission, [CDL-AD\(2023\)036](#), Montenegro – Opinion on the Draft Law on the Government, para. 70.

¹² Venice Commission, [CDL-AD\(2025\)030](#), Montenegro – Follow-up Opinion to the Opinion on the Draft Law on the Government, para. 38.

¹³ Article 28 of the draft law reads as follows (proposed amendments are indicated in bold and underlined): “The Government works and decides if more than half of the members of the Government attend the session. The Government makes decisions by the majority of votes of the members of the Government **present. In case of an equal number of votes, the decision is considered adopted if the Prime Minister voted for it.** During a declared state of war or state of emergency, decisions are made by majority vote of all members of the Government”.

¹⁴ Venice Commission, [CDL-AD\(2023\)036](#), Montenegro – Opinion on the Draft Law on the Government, para. 65, and Venice Commission, [CDL-AD\(2025\)030](#), Montenegro – Follow-up Opinion to the Opinion on the Draft Law on the Government, para. 31.

36. The Venice Commission welcomes the reconsideration of the rules concerning quorum and voting majorities in compliance with the Venice Commission's recommendations and considers that this recommendation has been fully followed.

5. Accountability of the Government to the Parliament

- *to specify in Article 3 of the revised draft law that the action of the Government is subject to parliamentary accountability*

37. Article 3 of the draft law provides that "*the Government acts independently within its sphere of authority*", without providing a special provision concerning the accountability of the Government to the Parliament. The Venice Commission observes that while different provisions of the draft law set out the accountability of different members of the Government to the Parliament (Article 9 for the accountability of the Prime Minister to the Parliament, Article 11 for the accountability of the Deputy Prime Minister to the Parliament, and Article 13 for the accountability of the Minister to the Parliament), there is no general provision regarding the accountability of the entire Government to the Parliament in the draft law. The Venice Commission is also aware of the absence of such a provision in the Constitution of Montenegro. However, the powers of the Parliament to elect and dismiss the Government (Articles 106, 107 and 110 of the Constitution) clearly implies the Government's accountability to the Parliament in Montenegro. In that regard, the Venice Commission considers it necessary to reiterate that parliamentary systems, like in Montenegro, are defined by the fact that the Government is collectively responsible before Parliament.¹⁵

38. Therefore, the Venice Commission is of the view that to avoid any ambiguity, it would be preferable to specify that the action of the Government is subject to parliamentary accountability, as is understood in other provisions of the draft law and the Constitution. The Venice Commission thus considers that this recommendation has not been followed.

39. The Venice Commission also observes that the draft law clarifies in its Article 20 that the Prime Minister and the members of the Government, immediately after being elected by Parliament, take the oath "*in front of the deputies in the Parliament*". The Venice Commission welcomes this clarification which is in line with its previous recommendation made in the 2023 Opinion.¹⁶

6. The Code of Ethics and integrity check

- *to provide for a right of scrutiny by Parliament regarding the Code of Ethics to ensure legislative control over this sensitive subject*
- *given the importance of integrity checks and the possible impact that their consequences may have on the process of the formation of the new government and the functioning of the institutions in the country, the Venice Commission recommends specifying the steps to be taken, in keeping with the Constitution, in case of negative results of the integrity check*

40. The draft law contains no provisions concerning a right of scrutiny by Parliament regarding the Code of Ethics. During the discussions with interlocutors, the Venice Commission delegation was informed that the Code of Ethics will be adopted as a governmental regulation and will be published in the Official Gazette after its adoption. The Venice Commission is aware that there might be some practical difficulties of subjecting the Code of Ethics, which is

¹⁵ Venice Commission, [CDL-AD\(2024\)016](#), Report on the relations between Parliament and the Government: confidence and responsibility, para. 5.

¹⁶ Venice Commission, [CDL-AD\(2023\)036](#), Montenegro – Opinion on the Draft Law on the Government, para. 70.

to be adopted as a governmental regulation, to parliamentary scrutiny. However, it notes that the purpose of such scrutiny is to help citizens to better monitor the transparency of governmental practices.¹⁷ The Venice Commission considers that this recommendation has not been followed.

41. The Venice Commission notes that the draft law does not contain any provisions regarding the consequences for the formation of the new government and the functioning of the institutions in the country in the event of negative results of the integrity check. Several interlocutors argued that no restriction could be adopted on the composition of the Government in the event of negative results of the integrity check because there are no such restrictions in the Constitution of Montenegro. They further submitted that a constitutional reform in this field is underway.

42. The Venice Commission takes note of the information and acknowledges the difficulty to adopt the relevant provisions concerning the consequences for the formation of the new government and the functioning of the institutions in the country at the legislative level in the absence of the relevant constitutional provisions. It welcomes the preparation of a constitutional reform in this field. The Venice Commission also does not lose sight of the fact that the question of integrity check is under consideration of GRECO within the framework of the fifth GRECO evaluation round.¹⁸

43. In view of the above considerations, the Venice Commission recommends that, following the relevant constitutional reform, the steps to be taken in the event of negative integrity check results are specified at the legislative level at the earliest opportunity.

V. Conclusion

44. At the request of the Minister of Public Administration of Montenegro, the Venice Commission assessed the draft law on the Government of Montenegro. In this Follow-up Opinion, the Venice Commission has examined to which extent the draft law follows the Commission's previous two Opinions on the draft law on the Government of Montenegro.

45. The Venice Commission praises the efforts made by the Montenegrin authorities in order to revise the draft law on the Government of Montenegro in the light of the recommendations made by the Venice Commission in its previous Opinions. In particular, the Venice Commission welcomes the fact that its key recommendation concerning the Prime Minister's inability to temporarily exercise his/her duties and further recommendations concerning the gender balance and minority representation in the composition of the Government, limiting the number of ministries and naming seven mandatory ministries, quorum for holding sessions and adopting decisions and several other recommendations have been followed.

46. The Commission also takes note of the partial implementation of its key recommendation on the principle of legality. In particular, the Commission draws the attention of the authorities to the following pending key recommendation:

- to ensure full alignment of the draft law with the Constitution, namely with Articles 103 and 110 of the Constitution, in accordance with the principle of legality.

¹⁷ Venice Commission, [CDL-AD\(2023\)036](#), Montenegro – Opinion on the Draft Law on the Government, para. 70.

¹⁸ See: www.coe.int/en/web/greco/evaluations/montenegro

47. Furthermore, the Commission refers to the following other recommendations which have yet to be implemented:

- to specify in Article 3 of the draft law that the action of the Government is subject to parliamentary accountability;
- to provide for a right of scrutiny by Parliament regarding the Code of Ethics to ensure some degree of legislative oversight in respect of this sensitive subject;
- to clarify the status of Deputy Prime Minister.

48. Lastly, the Venice Commission recommends that, following the relevant constitutional reform, the steps to be taken in the event of negative integrity check results are specified at the legislative level at the earliest opportunity.

49. Other recommendations for further improvement are made in the analysis section.

50. The Venice Commission remains at the disposal of the Montenegrin authorities for further assistance in this matter.