

## **Thought Leader: 'Radical reform' needed in Montenegro before EU accession: Pavel Priymakov**

Written by Pavel Priymakov on 20 January 2014 in Thought Leader  
Thought Leader

Major problems over good governance and the rule of law obstruct Montenegro's EU membership path, writes Pavel Priymakov.



The European parliament's foreign affairs committee is to vote on the resolution on the 2013 progress report on Montenegro. Positive noises have been heard about the country's progress, but the EU must recognise that grave problems persist regarding Podgorica's outing of the rule of law, the separation of powers and the legitimate protection of foreign investors.

The Central European Aluminium Company (CEAC) suffered recurring interference and obstruction of its investment in Kombinat Aluminijuma Podgorica (KAP) since acquiring 65.43 per cent of the aluminium plant, which represented 15 per cent of Montenegro's GDP and 50 per cent of its exports in 2005. From misrepresenting the nancial health of the company, inappropriately using bankruptcy

proceedings, to removing CEAC from its management role and recently illegally deciding to sell off KAP assets; Montenegro has waged a sustained campaign to undermine CEAC's legitimate interests. The latest decision is just another in a litany of examples of Podgorica's peculiar understanding of the rule of law: taken without discussions with KAP's largest private creditors, and without establishing a board of creditors - supervisory body required by Montenegro's own bankruptcy law.

CEAC launched international arbitration proceedings against Montenegro to seek redress, and is not the only foreign investor to have been subject to such arbitrary treatment at the hands of the Montenegrin government. Netherlands-based company MNSS, which acquired the largest metallurgical plant in Montenegro, Zhelezara, has also started international arbitration proceedings against the Montenegrin government.

There are serious questions regarding the separation of executive and judicial powers in Montenegro. A clear example is the arrest of former KAP CFO Dmitry Potrubach on the ludicrous - and still unsubstantiated - accusation of stealing electricity from the European grid. No formal charges have been brought against him, but he remains detained in Montenegro under restriction notice, prohibited from leaving Podgorica. Montenegrin law restricts his right of defence, and there is no time limit to the investigation, even in the absence of formal charges. This is clearly in conflict with European standards, and it is no surprise that Potrubach has now lodged a complaint with the European court of human rights against his unacceptable treatment at the hands of Montenegro. The three recent attacks on journalists and newspaper offices in as many weeks has been rightly condemned by Reporters Without Borders and adds more grist to the mill of those who deplore the lack of respect of the rule of law and human rights in Montenegro.

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CEAC is not opposed to Montenegro's EU accession and keen to see the country join the EU in order to enjoy easier access to a large market. However, certain minimum standards and fundamentals should be respected, allowing for a secure investment environment and a level playing field. We believe the actions of the government of Montenegro represent a pattern of behaviour which is far from compliant with the requirements of the stabilisation and association agreement. We applaud the EU's tireless efforts to encourage Montenegro to reform radically, but we believe that the latter's progress risks being dangerously overstated, particularly when it comes to the protection of foreign investors' rights. To that end we commend the amendments to the draft report that have been tabled, and we call on the European parliament to reflect these areas of concern in its resolution on the 2013 progress report on Montenegro.

## **About the author**

Pavel Priymakov is general counsel at the Central European Aluminium Company

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