



MFIC | Montenegrin Foreign
Investors Council

WHITE BOOK 2015

FOREIGN INVESTORS' VIEW OF THE INVESTMENT
CLIMATE IN MONTENEGRO



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WHITE BOOK 2015

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FOREWORD

I am pleased to present to you the seventh edition of the White Book, which is the most recognized and valuable publication of the Montenegrin Foreign Investors' Council. The Montenegrin Foreign Investors' Council (MFIC) continued to grow in 2015 as well. We continued to expand by attracting the most important and the largest investors in the country, with the mission to help further improve the business environment in Montenegro.

If we look back at the year 2015 in Montenegro, we can say that it was a year of stability, with no larger movements. This stability and a slower pace were recognized by our members whose overall assessment of the ease of doing business in Montenegro was 6.2 (on a scale of 1 to 10) compared to 6.3 rating for 2014. Over the past several years, the MFIC rating has been very well perceived by readers as a very quick, simple and illustrative indicator of local investment and business environment related trends. The decrease of rating by 0,1 comparing to the last year, is most probably attributable to certain persistent old and newly emerged obstacles having negative impact on our members' business. More specifically, Labor Market and Employment, Taxation and Corporate Governance are evaluated by our members as the areas that need further improvements, while, the Rule of Law and Property Development have been recording positive trends. Also industry-wise, indicators for Tourism, Energy and Telecommunications have increased, but banking/finance rating has been decreasing.

In addition, it was our pleasure to analyze the Government's document Economic Reforms' Program for Montenegro 2016 – 2018 and to discover that focus of economic policy in 2016 and in the mid run will be removing barriers to economic growth and development and, consequently, increase of economic competitiveness, creating new jobs and improving the standard of living for all citizens of Montenegro.

To this end, Montenegro has continued making dynamic progress in its EU accession process and so far, 20 chapters, out of 35, were opened. Opening of new chapters also implies further harmonization with the EU rules, which is a very demanding process since it implies constant education of human resources. This confirms that Montenegro fosters the spirit of euro-optimism and European values. Montenegro also received the invitation to join NATO and thus achieved one of its most important foreign policy goals. The NATO membership will ensure long-term stability and security and will bring along many economic benefits, positively impacting the business climate.

I hope that these achievements will be an additional incentive for the Government to continue carrying on already introduced reforms.

By publishing this edition of the White Book we demonstrated a more proactive approach towards establishing a more stimulating and relaxed business environment in our country. We wanted to underline all the



improvements in the area of legislation through introduction of regulatory reform and implementation of the reform of certain procedures, increased administrative capacities of some of the ministries, etc. However, the fact that we are repeating certain recommendations from the previous editions shows that our members are still experiencing gaps in implementation and everyday practice, embodied in a complex legal and regulatory framework, and less-than-transparent business processes.

We sincerely hope that we have provided a practical contribution to improving legal and regulatory framework for doing business in Montenegro and that the Government will show understanding for our proposals. Based on our previous cooperation with the Government, we believe that this understanding will come and will continue to develop. This makes perfect sense since so far the increase in wealth in Montenegro has primarily been driven by significant foreign investments which are mostly our members.

Finally, we would like to thank all contributors to this edition of the White Book, especially to our members.

Miroslav Hiršl,

MFIC President



INTRODUCTION

In the seventh MFIC White Book (WB) we will present an overview of the investment and business environment as seen by major foreign investors in Montenegro. As with the previous editions, we will revisit the recommendations on improving the business environment we provided over the years and offer new ones. We are thankful to the Government of Montenegro for attention they give to our recommendations by providing detailed commentary which we will present in this edition of the WB too.

The changes that we have seen over the years have improved the general business environment, as evidenced by numerous research organizations. Nevertheless, some changes were unfortunately for the worse, while there

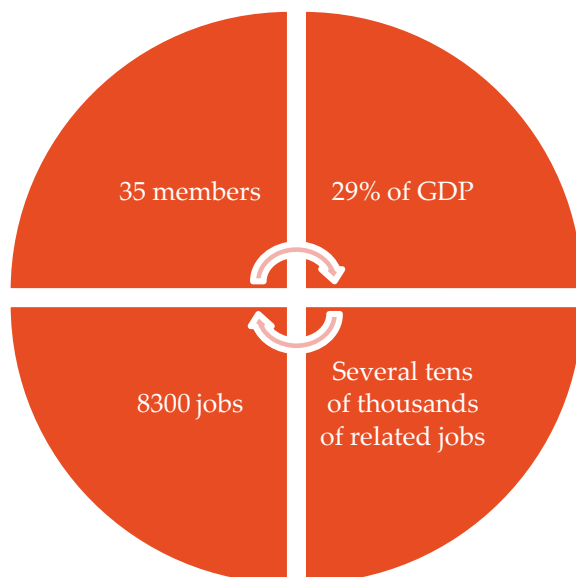


Figure 1: MFIC in numbers

are still important areas that have not seen enough needed improvement.

It is our common desire to see Montenegro become one of the most attractive destinations for FDI, something not easily achieved amongst such fierce competition coming from jurisdictions with a much longer tradition of attracting foreign capital and more developed infrastructure, regulatory environment and practices. But we would not be here if we did not believe Montenegro has something to offer that others do not. This is what we need to build our strategy on – the uniqueness that will set this country apart and make it a regional hub for business and investment.

MFIC: WHO WE ARE



The Montenegrin Foreign Investors' Council (MFIC) is an association of leading foreign investors in Montenegro established in January 2009. Our aim is to:

Improve the investment climate and support business development in Montenegro;

Promote communication, cooperation and dialogue between the Council and the Montenegrin authorities;

Cooperate with the Montenegrin authorities to help overcome issues and obstacles that foreign investors may face, including those concerning economic relations with other countries;

Liaise with other investors' organizations within the SEE region.



As the number of foreign investors has grown in Montenegro, so has our membership, from the five companies that established the MFIC back in 2009, to 35 in 2016.

White Book 2015





SUMMARY

In discussing with MFIC members about what their general feeling was about the developments affecting the business environment in 2015, most were not able to clearly define whether the feeling was positive or negative. And perhaps that is exactly the main feature, as some improved and some were a step back, thus creating largely a similar situation from the previous years.

This year we received comments from the Government on our 96 recommendations from the previous White Book. The Government commented on a total of 90 recommendations while committing itself to consider or accept 61 and dismissing 28.

The Government's comments on MFIC recommendations - a statistical overview

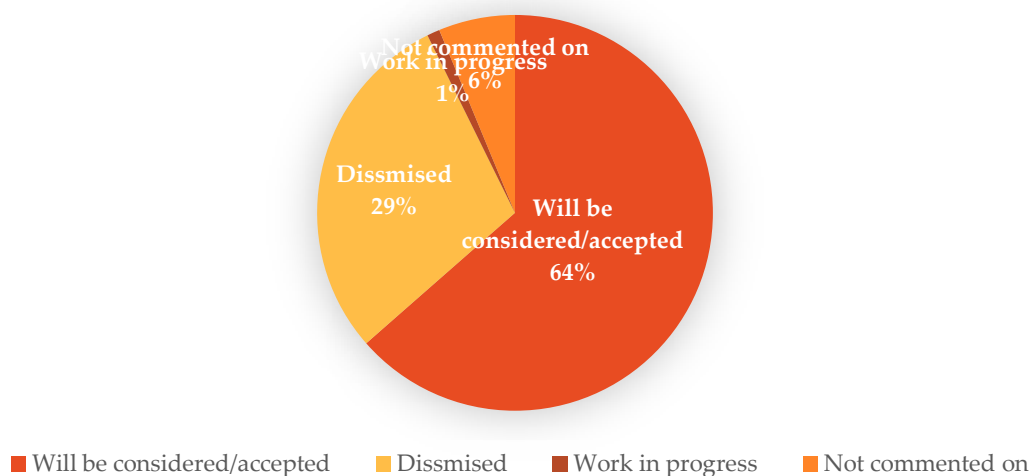


Figure 2: The Government's comments on a total of 90 MFIC recommendations

Government's institutions provided their comments in a joint document that we found very useful. We have quoted all the comments we received from the Government after each of the recommendations, adding further comments from the members where applicable.

In the chapter titled "MFIC members' recommendations for improving the regulatory environment" we discuss laws and regulations proposing changes that we believe would bring about a positive impact on the investment and business environment and further align the regulations with the EU and international standards.

As in the previous White Book, we have identified several key issues such as Labour Law, Property Development, Taxation, Corporate Governance and the Rule of Law. Our members noted improvements in the environment in these aspects, however, there were also new challenges.



In the chapter devoted to the Industry Overview, the White Book deals with issues and recommendations that are specifically related to the industries which our members come from and have not been mentioned in the focus areas in the previous chapter.

In the final part we offer further details on the well-established cooperation the MFIC has with the Government and the MFIC's activities relating to education.



1. MFIC BUSINESS ENVIRONMENT INDEX 2015

ABOUT THE INDEX

The MFIC Index is a perception-based evaluation of the ease of doing business in Montenegro. It is derived solely from the opinions of its members who grade the individual industries which they represent on a scale of 1 to 10, where 1 is the poorest score and 10 the best. The aim is to provide foreign investors and local decision makers equally with a quantitative overview of how the investors already running a business in the country perceive the business environment on the basis of several indicators (see below). It is divided into two categories: in the first, investors provide a rating of the industry in which they operate as a whole, and in the second, individual focus areas that the MFIC has identified on the basis of input from our members.

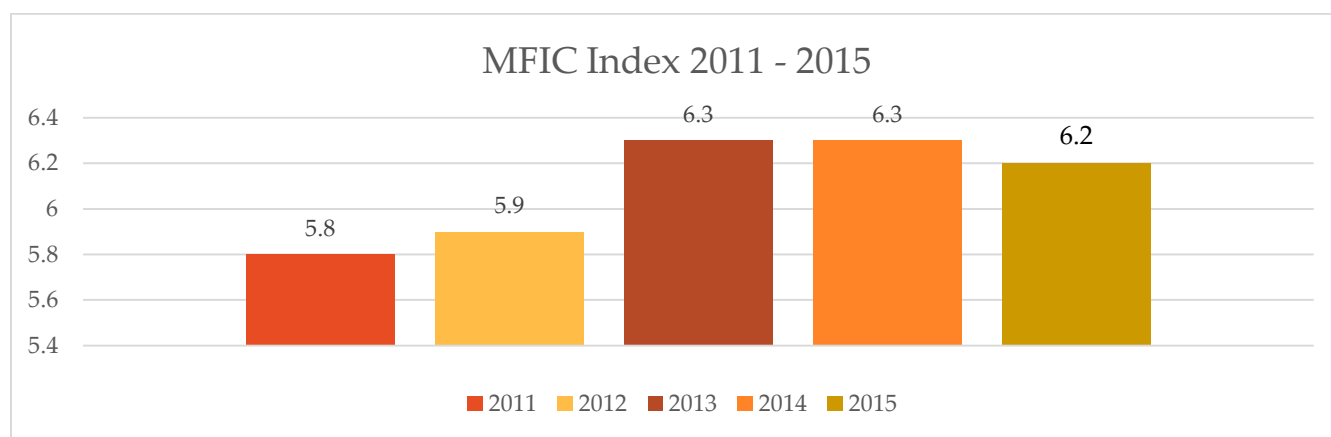
1.2. FIFTH YEAR OF THE MFIC INDEX

In the fifth year of the MFIC index we see the index stabilizing, with a somewhat decreased result compared to the previous year. Our members in general felt there were not enough positive changes, and the index is a good reflection of that. But what is more interesting is that this is the second time with no increase. Why is this happening for the second year in a row? This is what we tried to discover talking to our members, and this is what the WB 2015 is about.

OVERALL RATING 2015



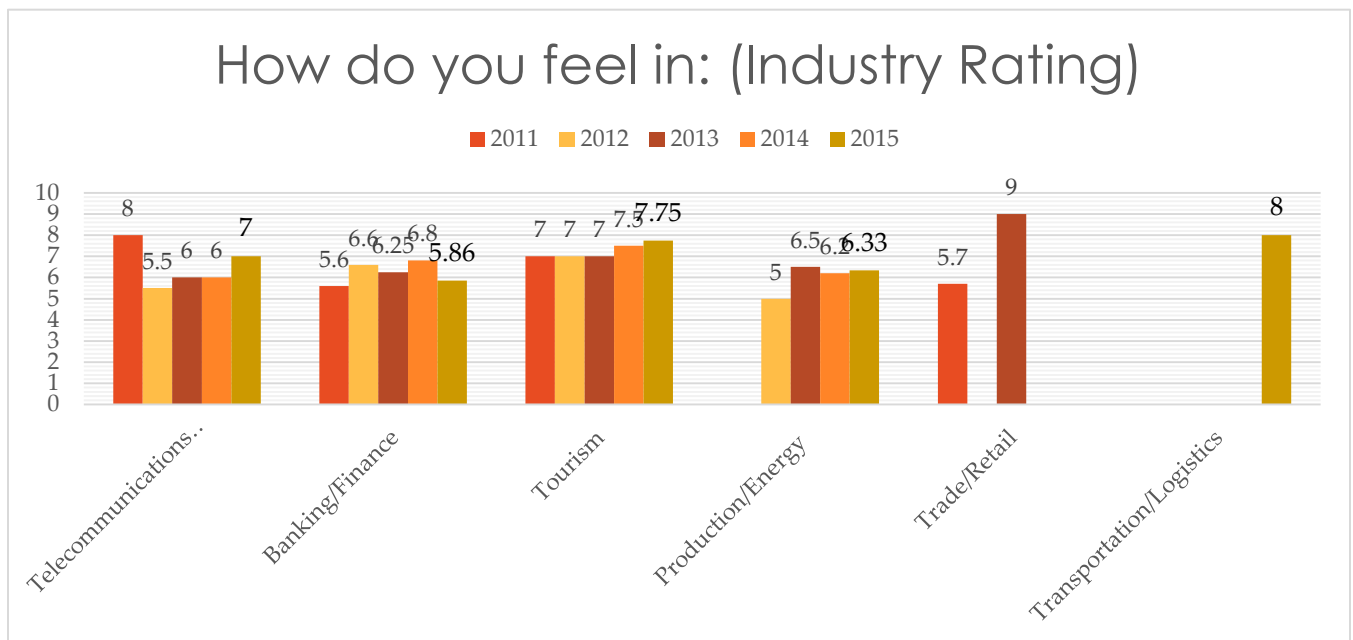
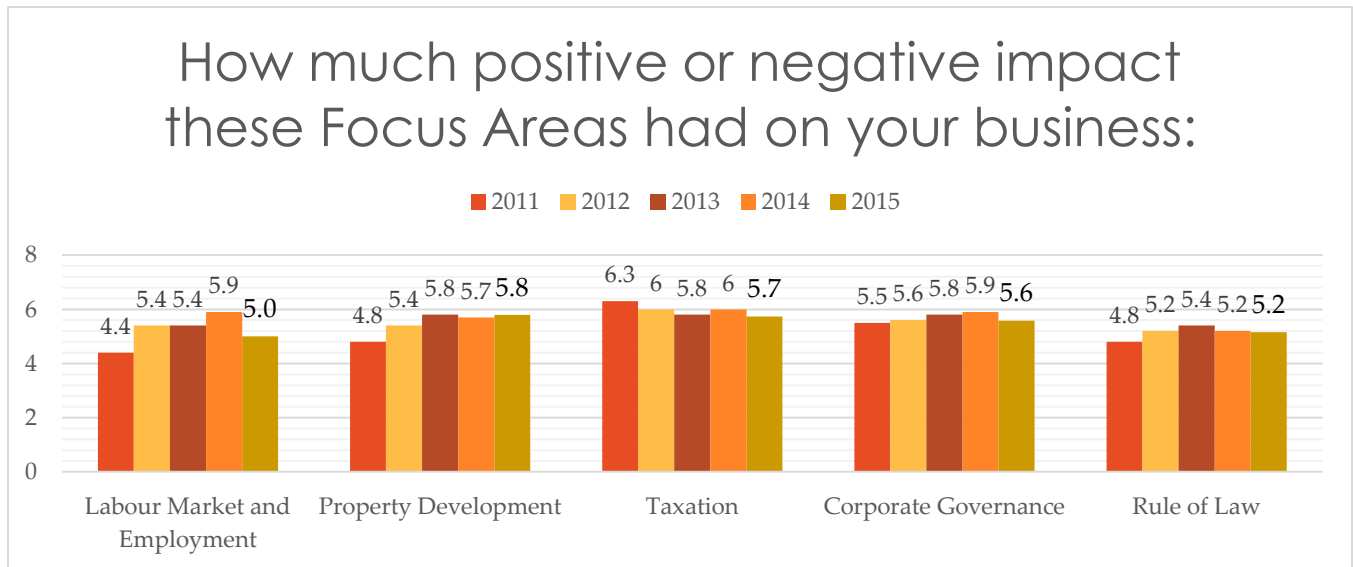
MFIC INDEX: 6.2 (6.3¹)



¹ 2014 result



This is what the results in individual categories of the index looked like over the past four years:



When rating the industry, our members considered how easy or difficult their daily operations are due to the general business climate and regulatory environment, and other factors such as:

- administration,
- the legal framework including laws and institutions,



- other business infrastructure areas like roads, education, etc.

These represent conditions as “provided” by the state, and do not reflect current conditions or other external factors such as an economic crisis.

For rating the individual focus areas, our members considered how much positive or negative impact to their business each of the categories listed below has:

We would like to emphasize that there is no specific methodology behind this ranking, it reflects the subjective perception of MFIC members and not generally accepted facts.

- **The labour market and employment** include several issues such as severance payments, fixed-term contracts, sick leave, etc.
- **Property development** for this particular purpose relates to construction permits, registration, cadastre, enforcing mortgage contracts, real-estate appraisal, etc.
- **Taxation/contributions** refers to various fees, taxes, levies and the overall consistency and transparency in paying taxes/evasion of payments.
- **Corporate governance** includes financial reports, bankruptcy regulation, VAT harmonization with the EU and audit practices.
- **Rule of Law** and provisioning of public services includes the length of commercial disputes and court cases, permits and licences, temporary residence and work permits, etc.

2. THE YEAR IN REVIEW

2015 was a year with several significant developments for the business and investment environment. Below is the list of major developments according to the EBRD's annual publication "The Transition Report for 2015", and what the key priorities are for 2016:

Highlights 2015



Economic growth in 2014 was disappointing. A rebound on the back of strong foreign direct investment (FDI) inflows and progress on a major highway project is expected in 2015

Construction of a section of a motorway from the capital to the north east of the country has begun. The Chinese construction company CRBC will be in charge of construction of the 44-km long priority section (about one-third of the total motorway), while 85 per cent of financing will be covered by a 20-year loan from China EximBank.

Steady progress is being made on EU accession negotiations. Montenegro has now opened more than half of the EU acquis chapters, and two chapters are provisionally closed.

Key priorities for 2016



Public finances need to be managed carefully. The new highway project has added significantly to the public debt burden, notwithstanding the favourable interest rate and lengthy repayment period, and carries significant currency risk. Prudent management of spending will be vital to maintaining macroeconomic stability.

Further business environment reforms are needed. Although Montenegro has been successful in attracting FDI, investor surveys point to dissatisfaction with areas such as the rule of law and property development, as well as tax policy stability and flexibility. Addressing rule-of-law issues will also be needed for further EU approximation.

Privatisation impetus needs to be restored. Progress over the past year has been minimal, and a new effort is needed to bring assets to sale and attract further investment into key sectors such as energy and tourism.

After the economy went into recession in 2012, with real GDP contracting by 2.5%, growth resumed in 2013, and according to Monstat data, GDP grew at 3.3%, followed by an even more moderate pace in 2014 at 1.8%, and a more generous 4.3 percent in 2015².

² Source: Ministry of Finance.

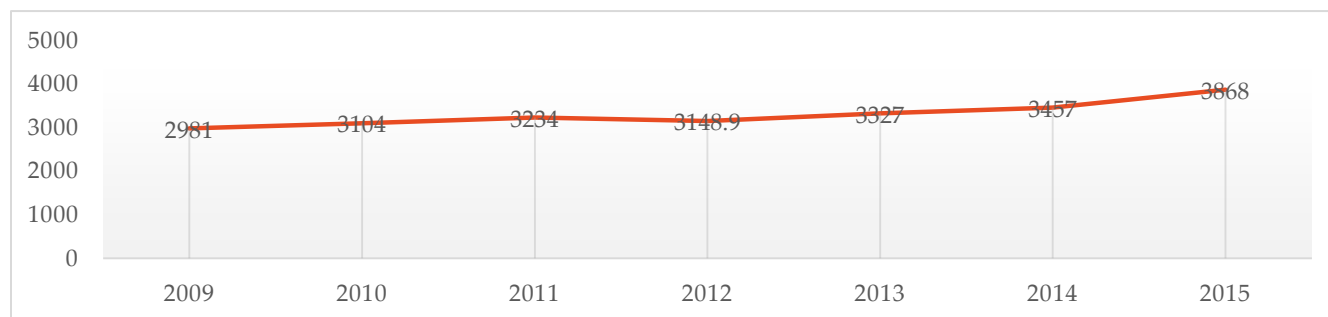


Figure 3: GDP in thousands of euros, Sources: Monstat 2009-2014, Ministry of Finance estimate for 2015

In 2015, a significant increase in FDI inflow was recorded, thus reversing the negative trend from 2013. According to the Central Bank of Montenegro's preliminary data for 2015, net FDI inflow amounted to €619.2 million, or almost doubling the amount from 2014:

	2010	2011	2012	2013	2014	2015
Direct investment, € millions³	543	389	482	324	353.9	619.2

Table 1: Foreign Direct Investment, source Central Bank of Montenegro

³ Source: Central Bank, for 2014 estimates by the Montenegrin Ministry of Finance.



In relative terms, such as per capita or percentage of GDP, Montenegro remains the regional leader among the five countries of South-East Europe. For example, in 2013, which saw one of the lowest levels of FDI for several

In relative terms such as per capita or percentage of GDP, Montenegro remains the regional leader among the five countries of South-East Europe. For example, in 2013, which saw one of the lowest levels of FDI in several years, FDI as percentage of GDP in Montenegro was the highest in the region at 10.37 percent. In addition, in 2011, also with one of the lowest levels of FDI during the past five years, per capita FDI at €869 was more than double the next best result – €341 in Serbia.

years, FDI as a percentage of GDP in Montenegro was the highest in the region at 10.37%.⁴ In addition, in 2011, also with one of the lowest levels of FDI during the past five years, per capita FDI at €869 was more than double the next-best result – €341 in Serbia.⁵

Many research papers and indicators emphasize the importance of FDI for the Montenegrin economy. In order to achieve an increase in the level of FDI and return to much needed stronger growth, Montenegro needs a competitive environment for FDI more than ever before.

2.1. MACROECONOMIC BACKGROUND

Montenegro's economy grew at an outstanding pace in the pre-crisis period with an average of almost 7% from 2004 to 2008. This was mainly due to strong domestic demand especially in the area of real estate, fueled by large FDI inflows and rapid credit growth. The growth proved unsustainable as demand contracted due to the impact of the global crisis and internal factors. The steep decline in demand was followed by a drastic fall in FDI, leading to an almost total freeze in the real estate market and a sudden liquidity shortage. The impact of the crisis on the Montenegrin economy was severe and fully unfolded during 2009, with annual GDP contracting by 5.7% YoY from an already high 6.9%. After contracting for almost two years, the industry began to grow again in the second half of 2010. Nevertheless, industrial production at the end of 2010 was still considerably below its pre-crisis peak, and economic performance remained depressed until 2012, while growth resumed during 2013 at a moderate

⁴ Source: United Nations Conference on Trade and Development

⁵ According to the central banks of the five countries in the region: Montenegro, Serbia, Albania, Macedonia, B&H.



pace at 3.3%⁶, continuing at an even more moderate rate in 2014 at 1.8%⁷. Somewhat stronger growth was resumed in 2015 with projections currently standing at 4.3 percent⁸.

On the fiscal side, policies have become more prudent in the past few years, but the deteriorating economic situation and the activation of state loan guarantees caused a surge in public debt, reaching almost 59% of GDP in September 2015 from 27.5% in 2007.⁹ Nevertheless, the authorities have made good progress in consolidating Montenegro's public finances in recent years. Even so, with construction of the 41-kilometre (km) priority section of the 164-km Bar-Boljare highway project which started in 2015, the long-planned construction project is expected to put significant strain on public finances. Thus, Standard and Poor's (S&P) projects that the general government deficit will widen from 0.9% of GDP in 2014 to 5% in 2015, and to over 4% thereafter.

These unfavorable public debt dynamics have resulted in a sovereign debt rating downgrade (by S&P) from BB- to B+ in November 2014. As the rating company explained, the primary reasons for the further downgrade are the signing of a "loan agreement to finance the construction of a section of the long-delayed Bar-Boljare highway in October, while the stable outlook reflects a balance of risks from worsening external, fiscal, and debt metrics against the country's growth potential."

Sovereign Credit Ratings ¹⁰				
Dec 2011	Mar 2012	Jun 2012	Nov 2014	Nov 2015
MNE: BB	BB	BB-	B+	B+/B

3. WHAT OTHERS THINK

Numerous international organizations and think-tanks have published their research on Montenegro. We would like to take a look at some of them.

According to the Global Competitiveness Index produced by the World Economic Forum (WEF), Montenegrin competitiveness resumed growth after a decline in 2013, and stagnation from there on.¹¹

⁶ Source: Monstat.

⁷ Source: Monstat

⁸ Source: Ministry of Finance.

⁹ Ministry of Finance data.

¹⁰ Source: Standard & Poor's

¹¹ <http://www3.weforum.org/docs/gcr/2015-2016/MNE.pdf>. The ranking is out of 140 countries, lower is better.

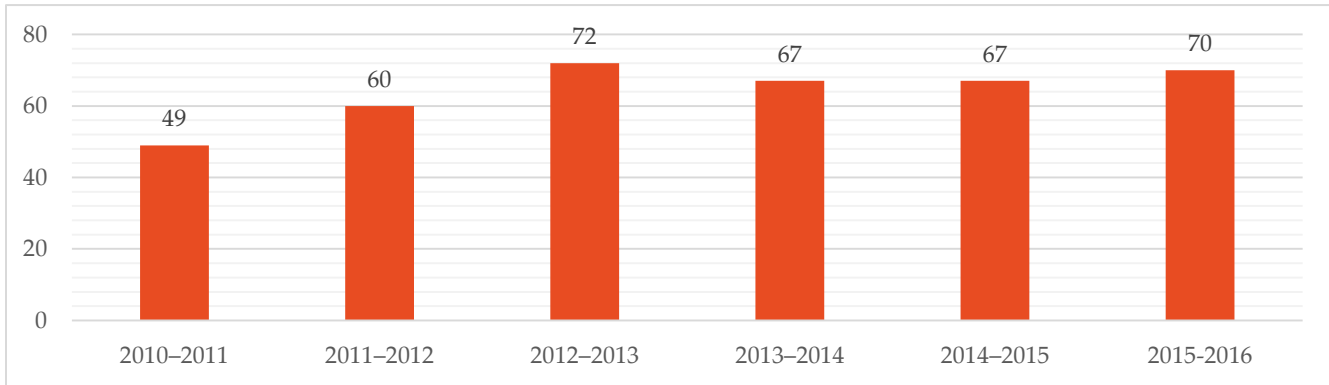


Figure 4: Montenegro's ranking in the Global Competitiveness Index 2010-2015

Just like the previous years, the findings of the GCI correspond exactly to the general perception of our members quantified in the MFIC index. The MFIC index shows that our members feel that the reforms have not progressed, with even a slight downwards trend just the same as GCI. What is more important, there is a clear trend in both indicators over the years that shows relative stagnation or only incremental progress, demonstrating a need for reforms that go deeper into the core issues to achieve results that would turn the lingering progress into more rapidly advancing development.

“...a need for reforms that go deeper into the core issues to achieve results that would turn the lingering progress into more rapidly advancing development.”

According to World Bank's Doing Business 2015, Montenegro achieved some progress in improving the business environment going from 47 to 46 in rank out of the 189 economies surveyed. Relative to its regional peers, Montenegro progressed more slowly, especially when compared to FYR Macedonia which got ever closer to the top ten world economies at number 12. Regardless, Montenegro remains one of the best ranked economies in the region.

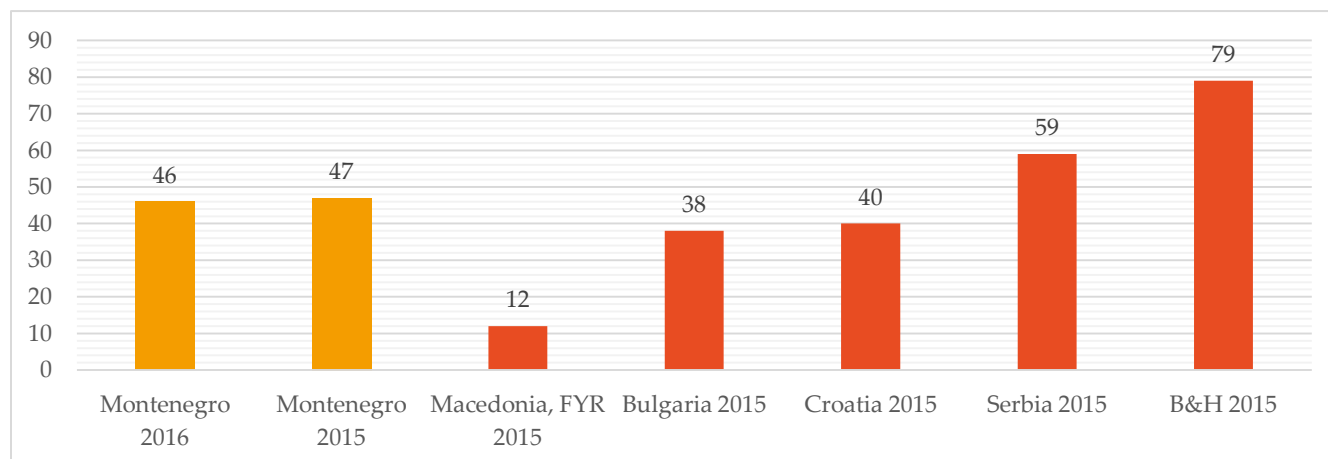


Figure 5: WB Doing Business 2016 – Overall rating, regional comparison¹²

In sum, all economies in the region improved their rankings, with Macedonia, Croatia and Bulgaria in the first three positions in the order given.

Thus, Montenegro has continued to improve its business environment over the years, according to the DB report. However, it should be noted that this progress is the result of a relatively significant advances in two one of the rated fields, “Dealing with Construction Permits”, where Montenegro increased its rank from 102nd to a still relatively poor 91st position, and “Paying Taxes”, from 97 to 64. All other indicators were either on a slight

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downward trend, or no changes were noted.

According to the Heritage Foundation’s 2016 Index of Economic Freedom, Montenegro’s economic freedom score is 64.9, making its economy the 65th freest in the 2016 Index, up one position from the 2015 Index.¹³

¹² DB2015 ranking shown is not last year’s published ranking but a comparable ranking for DB2015 that captures the effects of such factors as data revisions and the changes in methodology.

¹³ 2016 Index of Economic Freedom, Heritage Foundation;
<http://www.heritage.org/index/country/montenegro>

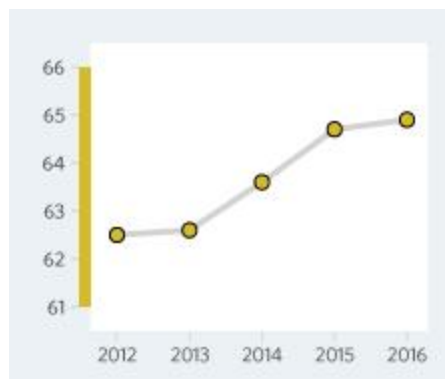


Figure 6: Montenegro's score over time, the Heritage Foundation's Index of Economic Freedom.

As the report summarizes:

ECONOMIC FREEDOM SNAPSHOT:

- **2016 Economic Freedom Score:** 64.9 (up 0.2 point)
- **Economic Freedom Status:** Moderately Free
- **Global Ranking:** 65th
- **Regional Ranking:** 31st in Europe
- **Notable Successes:** Trade Freedom and Fiscal Freedom
- **Concerns:** Management of Government Spending and Corruption
- **Overall Score Change Since 2012:** +2.4

“The government has pursued reforms to curb chronically high levels of spending and improve public-sector efficiency, but progress has been sluggish. Despite the relatively well-maintained rule of law, the pace of legislative and judicial reform has been slow, and corruption is still perceived as significant.”

2016 Index of Economic Freedom, Heritage Foundation

3.1. IN CONCLUSION

Following a generally positive trend from the past few years, Montenegro's global rankings in the most important research works such as Doing Business and the Global Competitiveness Index either stagnated or improved



slightly. However, two points stand out from the findings of the reports and the perception of our members as well:

1. The pace of reforms and improvements is not at a level necessary to produce the desired results.
2. Even though Montenegro is improving the business environment, as the starting point is rather low and the country remains in the upper middle rankings with significant room for additional improvement.

In addition, according to the majority of the research presented here, some of the areas such as the rule of law, corporate governance and infrastructure remain underdeveloped.

Montenegro 2015 Progress Report by the European Commission on the Legal System:

“Licensing, contract enforcement, access to credit and cumbersome tax administration procedures are the main obstacles for the business community.”



3.2. THE CHALLENGES AHEAD

In summary, it is illustrative here to quote the findings of the IMF's staff team's visit to the country¹⁴ which offers a balanced and informed view of what Montenegro will have to deal in the short and medium term:

**IMF
Executive
Board 2015
Article IV
Consultation
with
Montenegro**

"The medium-term outlook is boosted by the construction of the Bar-Boljare highway. The government intends to pursue other fiscal incentives and public infrastructure projects to promote economic development and connectivity. However, although the government's growth strategy can bring substantial gains, it also carries sizable risks, notably to the public finances. Montenegro also remains vulnerable to fluctuations in external demand and global financial conditions."

"Even with relatively high growth, staff projects deficits of around 8 percent of GDP over the next three years, contributing to substantial financing needs. During that time, gross public debt is expected to reach 80 percent of GDP, from 66 percent in 2015."

"Low labor productivity and employment hold back potential growth. In this context, the process of aligning labor laws with those of the EU provides an opportunity to improve the flexibility of labor market outcomes, boost participation rates, and reduce informality."

¹⁴ <http://www.imf.org/external/np/sec/pr/2016/pr1695.htm>



4. MFIC MEMBERS' RECOMMENDATIONS FOR IMPROVING THE REGULATORY ENVIRONMENT

The regulatory environment in Montenegro has seen many changes during the past few years primarily related to the EU reform agenda. We will list some of the observations of our members on specific issues that can be further improved to better accommodate the needs of business and economic development. In this edition of the White Book, we will continue by offering more specifics and will add the Government's responses which we received to some of our recommendations.

NOTES:

- We will number each recommendation using the letter R followed by the recommendation number, such as R1, R2, Rx...
- The recommendations from the White Book 2013 and 2014 keep the numbers that were assigned in previously, while the new recommendations will continue numbering.
- Recommendations from 2014 are marked by a border and font: *2014 recommendations*

4.1. LAWS (R1-R48, R93-R98, R117)

In this section we have compiled the suggestions from our members on how to update the regulation that creates business barriers and bring it in line with modern international standards and best practices. We repeated all the recommendations from the previous WB, adding comments we received from the Government on some of our recommendations.

- LAW ON ASSESSMENT OF ENVIRONMENTAL IMPACT (R1, R117)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R1	Amend the conditions set out in Articles 20 to 24 to shorten the deadlines defined therein		✓		
R117	The Phase I should be minimized as its outcome is already known in advance.	NA			



Article 8 of the Law defines **stages in the process of producing an assessment of environmental impact** which increases the time for approval of the project, thus prolonging the timeframes for obtaining a building permit.

(R1)¹⁵ Our proposal is to amend the conditions set out in Articles 20 to 24 to shorten the deadlines defined therein, which would greatly shorten the procedure for obtaining the approval for the assessment and consequently the building permit.

Government's comment: *If a comparative practice of duration of the procedure is taken into account, the period for this procedure is very short in Montenegro. Any shortening would make the procedure of environmental impact assessment pointless, having in mind the necessity to involve public participation.*

Even though our members consider that the three-month deadline is still far too long, we will accept Government's explanation.

Previously in recommendation R2, we proposed: amending the Rulebook on projects which need to have an assessment of the environmental impact, so that telecommunication facilities are classified in a list that omits Phase I (request for the assessment) and goes directly to Phase II (project development). The issue here is that the base stations are always treated as buildings that have an impact on environment. This is why would like to offer a new recommendation: **(R117)** The Phase I should be minimalized as its outcome is already known in advance.

- LAW ON COMPANIES (R3)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R3	It is necessary to reinsert the provision in the Law on Companies according to which a Registrar is not liable for the authenticity of information from the application for registration, rather the responsibility lies with the requestor.	✓			

*(R2) It is necessary to reinsert the provision in the Law on Companies according to which a **Registrar is not liable for the authenticity** of information from the application for registration, rather the responsibility lies with the requestor.*

¹⁵ As explained in the note above, the symbol **(Rx)** throughout the document denotes a recommendation and assigns a number to it.



The reason is that in the practice, the registration procedure is being delayed while the Registrar is verifying all the submissions including the notarized documents which should be a part of this institution's responsibility.

Government's comment: *Drafting of the new Law on Business Organizations is planned for Q4 2015, in which this recommendation will be taken into account as well.*

- LAW ON SPATIAL PLANNING AND CONSTRUCTION (R4 – R7)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R4	It would be necessary to define timeframes for processing the requests and possible penalties for local governments that do not act in accordance with this law.	✓			
R5	It is necessary to establish unified cadastral maps at the State level, where it would update the information on underground installations and create a unique database that would be accessible to everyone.				✓
R6	It is necessary to equalize the Price list on charges for utility equipment in municipalities	✓			
R7	The current Law on Spatial Planning and Construction deals with construction, reconstruction, renovation of facilities, but not the replacement of equipment, so we think that we should adopt by-laws that deal with this area		✓		

Article 91 established the authority for the issuance of building permits in a way that divides the jurisdiction in this matter between the government administration and local government administration. For example, telecommunication facilities are under the jurisdiction of the local government administration, however some local governments still do not process requests submitted by mobile operators for issuing building permits or construction of temporary buildings which causes significant difficulties for them in conducting business operations in those municipalities.

(R3) *In this sense, it would be necessary to define timeframes for processing the requests and possible penalties for local governments that do not act in accordance with this law.*

Government's comment: *Having in mind that drafting of the new Act on Spatial Development and Construction of Structures is ongoing, this proposal will be presented to the Working Team for consideration.*



Article 128 of the Law defines a Cadastre of Ducts (underground and above-ground ducts), in the sense of keeping records on such facilities, but is not applied in practice since the record has not been created. This means that it is impossible to register underground reservoirs of gas stations and similar.

(R4) *It is necessary to establish unified cadastral maps at the State level, where it would update the information on underground installations and create a unique database that would be accessible to everyone.*

Government's comment: *None.*

Fees for utility equipment differ from municipality to municipality. Some municipalities have extremely high prices, so it does not pay for the operators to invest in construction of new infrastructure.

(R5) *It is necessary to equalize the Price list on charges for utility equipment in municipalities.*

Government's comment: *As previously said, telecommunication structures are exempt from the payment of fees for provision of utility infrastructure for construction land.*

Telecommunications is an area that is rapidly developing in terms of technology, so the replacement of equipment is unavoidable.

(R6) *However, the current Law on Spatial Planning and Construction deals with construction, reconstruction, renovation of facilities, but not the replacement of equipment, so we think that we should adopt by-laws that deal with this area.*

Government's comment: *Reconstruction means replacement of installations, devices, plants and equipment thus the existing capacity is altered (Article 9). Therefore, the Law regulates the replacement of "equipment" and separate regulations are not needed.*

- LAW ON YACHTS (R10 – R15)

No	Recommendation	Will be considered / accepted	Dismissed	Work in Progress	Not commented
R10	Article 20 of the Law on Yachts should be amended as follows: "The shipmaster, or the skipper of a foreign yacht which is sailing into Montenegrin waters may, prior to sailing into the destination port, send copies of	✓			



	documents via mail, fax or email to the Port Authority or a Branch Office for the purposes of conducting border controls, obtaining a vignette and notarization of the signature of the crew and passengers, in which case he shall warrant by means of his signature on an appropriate form from the Port Authority that the copies of all documents submitted are equal to their originals.				
R11	A penalty provision in the Article 42 of this Law should also be added for a person who verifies that copies are authentic for which he knows or must know that they are not equal to the originals.	✓			
R12	Article 20 of the Law on Yachts: paragraph 4 should be amended to define the minimum time frame as follows: “The Port Authority of a Branch Office shall, in case not all documentation from paragraph 3 of this Article for obtaining a vignette has been submitted, order the Shipmaster, or the skipper of a foreign yacht that within a timeframe which cannot be longer than 48 hours to submit the required documentation, and within that time the yacht will stay in the destination port.	✓			
R13	Article 25 of the Law on Yachts – paragraph 2 (R13) should be amended as follows: “A foreign yacht that participates in a sports competition or is arriving in Montenegro in order to be presented at a nautical fair does not have to have a vignette, under the condition that the organizers of the sports competition or the nautical fair notify the Port Authority or a Branch Office no later than 48 hours from the beginning of the competition or fair. This exception applies to the period of 48 hours before and after the dates in the organizer’s notification.	✓			
R14	Article 28 of the Law on Yachts – the following should be added: (R14) a daily vignette fee and a price list of administrative fees paid with this fee.	✓			
R15	Article 29 of the Law on Yachts – (R15) a sentence should be added at the end of paragraph 3: “As an exception from paragraph 1 of this Article, pilotage is not mandatory for a yacht commanded by	✓			



<p>a person who has sailed into the same port more than five times with previous approval from the Port Authority or a Branch Office. The Port Authority or a Branch Office shall respond to a request by the Shipmaster for exemption from mandatory pilotage within 24 hours of the reception of the request. In case there is no response within the given deadline, it shall be considered that the approval has been granted.</p>				
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(R7) *Article 20 of the Law on Yachts should be amended as follows:*

“The shipmaster, or the skipper of a foreign yacht which is sailing into Montenegrin waters may, prior to sailing into the destination port, send copies of documents via mail, fax or email to the Port Authority or a Branch Office for the purposes of conducting border controls, obtaining a vignette and notarization of the signature of the crew and passengers, in which case he shall warrant by means of his signature on an appropriate form from the Port Authority that the copies of all documents submitted are equal to their originals.

Government’s comment: *Implemented through the Amendments to the Law on Yachts, entered into force in August 2015.*

(R8) *A penalty provision in the Article 42 of this Law should also be added for a person who verifies that copies are authentic for which he knows or must know that they are not equal to the originals.*

Article 20 of the Law on Yachts: paragraph 4 (R9) *should be amended to define the minimum time frame as follows:*

“The Port Authority of a Branch Office shall, in case not all documentation from paragraph 3 of this Article for obtaining a vignette has been submitted, order the Shipmaster, or the skipper of a foreign yacht that within a timeframe which cannot be longer than 48 hours to submit the required documentation, and within that time the yacht will stay in the destination port.

Government’s comment: *Will be implemented in the forthcoming period.*

Article 25 of the Law on Yachts – paragraph 2 (R10) *should be amended as follows:*



“A foreign yacht that participates in a sports competition or is arriving in Montenegro in order to be presented at a nautical fair does not have to have a vignette, under the condition that the organizers of the sports competition or the nautical fair notify the Port Authority or a Branch Office no later than 48 hours from the beginning of the competition or fair. This exception applies to the period of 48 hours before and after the dates in the organizer’s notification.

Article 28 of the Law on Yachts – the following should be added: **(R11)** a daily vignette fee and a price list of administrative fees paid with this fee.

Article 29 of the Law on Yachts – **(R12)** a sentence should be added at the end of paragraph 3:

“As an exception from paragraph 1 of this Article, pilotage is not mandatory for a yacht commanded by a person who has sailed into the same port more than five times with previous approval from the Port Authority or a Branch Office. The Port Authority or a Branch Office shall respond to a request by the Shipmaster for exemption from mandatory pilotage within 24 hours of the reception of the request. In case there is no response within the given deadline, it shall be considered that the approval has been granted.

Government’s comment: Implemented through the Amendments to the Law on Yachts, entered into force in August 2015 (R13, 14 and 15)

- **LAW ON CONSUMER PROTECTION (R16 – R17)**

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R16	It is necessary to harmonize the provisions of the Law on Customer Protection for both users and service providers in order for them to clearly know their rights and obligations	✓			
R17	This is why our proposal is to revoke this provision	✓			

The user’s rights defined in Article 25 are different from the rights of consumer guaranteed by the Law on Contract and Tort and Law on electronic communication, which are *lex specialis* for the area of electronic communications.

(R13) *It is necessary to harmonize the provisions of the Law on Customer Protection for both users and service providers in order for them to clearly know their rights and obligations.*



Moreover, according to Article 36 of the new Law on Consumer Protection (Official Gazette No. 2/14 and 6/14), public service providers are required to get approval from the Organization for Consumer Protection prior to forming the final price of a service.

As the electronic communications sector is already under a strict regulatory regime, this legal provision creates unnecessary additional obligations for providers, i.e. seeking an opinion from a non-governmental organization, although a regulatory body exists – the Agency for Electronic Communications whose purpose is, among other things, to regulate wholesale and retail prices, and operators of electronic communications are required to notify the Agency of all price changes.

(R14) *This is why our proposal is to revoke this provision.*

Government's comment: *The proposal will be taken into account within the upcoming changes to the Act on Consumer Protection.*

- LAW ON FOREIGNERS (R18 – R19, R93-R95, R117-120)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R18	The validity of a residence permit should be extended to 3 years from the existing 12 months as that would significantly simplify the procedure for employing foreigners.			✓	
R19	There should be a possibility for an employee, when changing employers, to only obtain a new working permit without revoking the residence permit when such a permit is still valid.	✓			
R93	The condition for applying for a permit is now a certificate issued by the Employment Agency stating that there are no unemployed persons who fulfil the conditions for engagement in such a position or that an unemployed person has refused employment.... we propose that this provision be reconsidered.	✓			
R94	A permit for employment and residence of foreigners may be issued for one year and be prolonged for another two years "meaning in total three years". This requires further clarification, as to whether this is a maximum time, in which case foreigners will not be able to apply for a permit for permanent residence				✓
R95	The system of confirmation of foreigners' qualifications needs a complete overhaul that		✓		



	would include not only shortening the entire procedure but streamlining it and introducing more transparency into the process. In addition, there is a clear need for foreign engineers to be able to acquire a licence in Montenegro based on their existing credentials.				
R118	Understanding the importance of these documents our recommendation is to provide possibility to foreigners to get this statement from their countries through their Embassies without the need to go personally go to their country just to take over of this certificate.	NA			
R119	We recommend to consider liberalization or simplifying the procedure for obtaining permanent residence or citizenship for such cases after a certain period based on employment and/or property ownership.	NA			
R120	Introduce the same procedure for obtaining a residence permit for partners which are not married	NA			
R121	The limit for temporary contracts as the base for work permits, should be decreased	NA			

(R15) *The validity of a residence permit should be extended to 3 years from the existing 12 months as that would significantly simplify the procedure for employing foreigners.*

Government's comment (excerpt): "...If the recommendation is accepted with regard to issuing three-year permit to a foreigner, we think it would be contrary to the intention of the Act on Foreigners which places emphasis on employment of local labour force"

In response to the comment from above, the MFIC members noted that the new Law on Foreigners (entering into force on 1 April) contains certain restrictions which are a step backwards in comparison to the existing regulation. The condition for applying for a permit is now a certificate issued by the Employment Agency stating that there are no unemployed persons who fulfil the conditions for engagement in such a position or that an unemployed person has refused employment. What is even more burdening is the 30-day deadline which the Employment Agency is given to issue this certificate.



(R93) *Even though this condition is not stipulated for managerial positions, such regulations only contribute to increasing the inflexibility of the labour market in Montenegro and therefore we propose that this provision be reconsidered.*¹⁶

In addition, it is stated that a permit for employment and residence of foreigners may be issued for one year and be prolonged for another two years “meaning in total three years”.

(R94) *This requires **further** clarification, as to whether this is a maximum time, in which case foreigners will not be able to apply for a permit for permanent residence, since the condition for such a permit is a five-year residence period in Montenegro.*

(R16) *There should be a possibility for an employee, when changing employers, to only **obtain a new working permit without revoking the residence permit** when such a permit is still valid.*

Government’s comment: In accordance with the Act on Foreigners (Official Gazette of Montenegro 56/2014 and 28/15), a single document - permit for temporary residence and work (in the form of ID) - will be issued to foreigners who are employed and work in Montenegro, which means that the residence and work of a foreigner coincide and the period of residence will not be entered into travel document. This means that the period which a foreigner spent in Montenegro will not be noted in their passport.

(R95) *The system of confirmation of foreigners’ qualifications needs a complete overhaul that would include not only shortening the entire procedure but streamlining it and introducing more transparency into the process. In addition, there is a clear need for foreign engineers to be able to acquire a licence in Montenegro based on their existing credentials.*

Government’s comment: The procedure of recognition of foreign educational certificates is transparent and very simple, meaning that only formal control of foreign certificates is performed (credibility of the certificate, status of the institution).

Our members disagree with the above statement, emphasizing that in practice these requirements create significant obstacles for investors.

Certificate on clean criminal record is part of the necessary documentation for extending the permit for foreigners, from both the applicant’s home country and Montenegro. To get it from the country of origin, the applicant has to return to the home country to start procedure (which lasts an approximate 3 weeks)

¹⁶ This has been revoked in the latest amendments during 2016



and sometimes again to take over the certificate. **(R118)** Understanding the importance of these documents our recommendation is to provide possibility to foreigners to get this statement from their countries through their Embassies without the need to go personally go to their country just to take over of this certificate.

Our members report that currently we have a situation where foreigners have been working in Montenegrin companies for almost 10 years, and they decided to stay in Montenegro, bought property and are still going through the same procedure of permits extension every year, thus being unable to have permanent employment contract. **(R119)** We recommend to consider liberalization or simplifying the procedure for obtaining permanent residence or citizenship for such cases after a certain period based on employment and/or property ownership.

Numerous expatriates that are coming to Montenegro bring their families with them. In cases where an expatriate is married, his/her partner can obtain residence permit, while those that are not married but live with a partner this is quite difficult. **(R120)** It would be recommendable to introduce the same procedure for obtaining a residence permit for partners which are not married.

Companies which have branches all around the country often have issues in finding adequate candidates for temporary jobs in branches on south of the country among Montenegrin citizens. However, our members have noticed interest in such position from citizens from other countries in the region. However, to obtain a work permit they need to present a contract for a minimum of 6 months, while most of these jobs are needed only for 3 months. **(R121)** In order to overcome this, the limit for temporary contracts as the base for work permits, should be decreased.

- LAW ON PENSIONS AND DISABILITY INSURANCE (R20)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R20	Article 82 of the Law on Pensions and Disability Insurance should be amended with norms that would make an appearance before the Committee mandatory, including the penalty provisions. We propose that failure to appear be considered a breach of work obligation.		✓		

Article 82 of the Law on Pensions and Disability Insurance defines that the procedure for pensions and disability insurance is initiated upon a request from an insured person, or the employer of the insured person and upon the proposal of a health organization that has provided the health protection.

In practice this Article cannot be implemented since if an employer initiates the procedure for establishing the right of an employee to a disability pension, and the employee does not respond to the invitation of the Committee of the state Pension Insurance Fund, the procedure is cancelled. The same



situation happens when a health organization initiates the procedure, and in practice the only way a disability is established is on the basis of a personal request.

(R17) This Article should be amended with norms that would make an appearance before the Committee mandatory, including the penalty provisions. We propose that failure to appear be considered a breach of work obligation.

Government's comment: *The proposed changes to the Act are not accepted because the rights deriving from pension and disability insurance are personal rights, which cannot be transferred to other persons. Also, the Act on General Administrative Procedure provides a party's failure to act may be considered waiving of the request.*

- LAW ON HEALTH INSURANCE (R96)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R96	It would be advisable to consider introducing a provision that would define a definite number of repeated sick leaves in succession after which an employer should have the right to request a Medical Board review.				✓

(R96) It would be advisable to consider introducing a provision that would define a definite number of repeated sick leaves in succession after which an employer should have the right to request a Medical Board review.

- LAW ON ELECTRONIC COMMUNICATIONS (R25, 27, 28, R97-R99, R118, 122-127)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R122	Article 192 should be revised in at least these areas, protection of end users, personal data protection and protection of competition.	NA			
R97	Implementation of paragraph 4 of Article 159 excludes the implementation of paragraph 6, which first leads to confusion in their interpretation, and then in their implementation. For this reason, the manner for implementation of this article needs to be defined, especially taking into account the high penalties provided in Article 192 of this Law in case of behavior of operators		✓		



	contrary to Article 159 of the Law.				
R98	We encourage the authorities to reconsider the provision from Article 117, paragraph 3 of the Law on Electronic Communications, which regulates the renewal of licences for the use of publicly available frequencies. This obligation puts operators in an extremely disadvantaged position, creating uncertainty for a business in which millions have been invested previously.		✓		
R99	Article 178 of Law on Electronic Communications, defining the issue of direct marketing, is a constraint for operators as communication with users is brought into question...Therefore, we urge the Government to define this matter in a way that encourages and not discourages technological advances.		✓		
R25	Article 159 regulates the charging of the services in a manner that is contradictory because in one part it gives operators certain rights (the existence of several tariff packages) while in paragraph 7 of the same Article makes the existence of tariff packages pointless.		✓		
R27	Operators, other than the Universal Service Operator (USO), should not have an obligation to provide information on subscribers as it is unnecessary after introduction of the Universal Service Operator and the universal service information directory.		✓		
R28	The obligation imposed to the Universal Service Operator to print the Directory book should also be revoked, as it is an outdated form in which there is no interest at all. Even more importantly, if a user requests deletion of his or her personal data, this is impossible prior to the printing of a new edition.		✓		
R123	Discrimination as a legal institution is mentioned only in the Article 3, but unfortunately without a clear elaboration and clarification of what actually constitutes discrimination of users. This makes the designing and implementing offers for users difficult, because some of them are often labelled as discriminatory without a clear explanation on what the specifics discrimination applies. More detailed regulation in this regard would need to be prescribed in order to avoid possibilities of	NA			



	abuse.	
R124	The procedure of the Agency in bringing the decision represents also one of barrier in our operations ... In this regard, the Government should consider the involvement of operators in shaping the legal framework.	NA
R125	Article 151, paragraph 2, point 13 - the obligation of the operators to obtain prior subscribers' consent for changing or withdrawing tariff package from the offer and migrate subscriber to another tariff with similar or more favourable tariff, should be amended in a way that instead of subscribers consent the Agency's consent should be required.	NA
R126	Article 152 paragraph 5 should be amended in a way that informing subscribers 30 days earlier in case of changing the terms and conditions defined by the subscriber contract is obligatory only if such changes are not in subscribers favour.	NA
R127	We propose to make changes to initially allowed SMS messages to be sent without the users' consent with the possibility that if users do not want to receive messages, they shall have the right at any time to unsubscribe from any of them.	NA

Even though our recommendation 24¹⁷ was dismissed last year, our members consider this recommendation is still valid. This year we would like to expand the recommendation:

(R122) Article 192 should be revised in at least these areas:

- Protection of end users (points 12 and 13, paragraph 2 Article 192). The special Law defining this field, the Law on Consumer Protection does not stipulate fines this high.
- Personal data protection (point 15 paragraph 1 Article 192). The Law on Protection of Personal Data does not stipulate fines this high (as high as 20 thousand euros) and we believe there is no need to make an exception in the area of telecommunications.
- Protection of competition. The Law on Protection of Competition already has penalties equally high (1-10% of yearly income) rendering stipulating equal fines unnecessary when it comes to

¹⁷ The provisions of Article 192 of the new Law on Electronic Communications (2013) stipulate unreasonably high penalties, which we consider to be inappropriate for the offences (for as many as 21 cases of breaking the Law)



fulfilment of certain obligations prescribed in the points 6, 7 and 8 of the same paragraph in the Article 192).

(R97) Implementation of paragraph 4 of Article 159 excludes the implementation of paragraph 6, which first leads to confusion in their interpretation, and then in their implementation. For this reason, the manner for implementation of this article needs to be defined, especially taking into account the high penalties provided in Article 192 of this Law in case of behaviour of operators contrary to Article 159 of the Law.

Government's comment: *Paragraphs 4 and 6 of Article 159 are not in collision, as indicated by operators, but in compliance with regulations on consumer protection, oblige operators to include in their offer minimum one package of services with interval of 1 second, and oblige them with regard to the price of such package which must not differ from the price of other packages of the operators. The reason for this is that the operators whose offers used to include packages with tariffing per 1 second established higher prices for such packages compared to other packages and users avoided them for that reason.*

(R97) Implementation of paragraph 4 of Article 159 excludes the implementation of paragraph 6, which first leads to confusion in their interpretation, and then in their implementation. For this reason, the manner for implementation of this article needs to be defined, especially taking into account the high penalties provided in Article 192 of this Law in case of behaviour of operators contrary to Article 159 of the Law.

Government's comment: *Paragraphs 4 and 6 of Article 159 are not in collision, as indicated by operators, but in compliance with regulations on consumer protection, oblige operators to include in their offer minimum one package of services with interval of 1 second, and oblige them with regard to the price of such package which must not differ from the price of other packages of the operators. The reason for this is that the operators whose offers used to include packages with tariffing per 1 second established higher prices for such packages compared to other packages and users avoided them for that reason.*



(R98) Article 117, paragraph 3 of the Law on Electronic Communications, regulates the renewal of licences for the use of publicly available frequencies. The Article stipulates that upon expiration of the licence a new tender should be implemented, but such that any new provider can take over the existing operator's frequencies. This puts operators in an extremely disadvantaged position, creating uncertainty for a business in which millions have been invested previously. We encourage the authorities to reconsider this provision.

Government's comment: We disagree with the operators' statement that this creates uncertain business climate, because the existing licenses have been given for the period of 15 years, which is a sufficiently long period for investments and return thereof. We also point out that the practice of leasing frequencies following the principle of auctions/tenders exists in all European countries and in the region, and that we have received a positive opinion from the European Commission for this provision of the Act.

(R99) Article 178 of Law on Electronic Communications, defining the issue of direct marketing, is a constraint for operators as communication with users is brought into question. It negatively impacts everyday technological advances, cost savings, speed of communication, environmental protection, and better-informed users. Therefore, we urge the Government to define this matter in a way that encourages and not discourages technological advances.

Government's comment: This provision is fully harmonized with regulations on consumer protection, and also in compliance with European directives, and we point out that it was the section of the Act addressing consumer protection that received the most positive comments from the European Commission.

(R18) Article 159 regulates the charging of the services in a manner that is contradictory because in one part it gives operators certain rights (the existence of several tariff packages) while in paragraph 7 of the same Article makes the existence of tariff packages pointless.

Government's comment: (this is) ...about offering users an option to choose the most favourable package.

(R19) Operators, other than the Universal Service Operator (USO), should not have an obligation to provide information on subscribers as it is unnecessary after introduction of the Universal Service Operator and the universal service information directory.



Government's comment: *It is now generally considered that since there is a USO, other operators do not need to provide such information. We highlight that the focus of this provision is the users, keeping them informed. Users already know the numbers of their operator's services for information and are contacting them, and it would certainly cause a blockage in calls only with the USO, which is absolutely unacceptable from the viewpoint of protection of users and their right to information at all times.*

(R20) *The obligation imposed to the Universal Service Operator to print the Directory book should also be revoked, as it is an outdated form in which there is no interest at all. Even more importantly, if a user requests deletion of his or her personal data, this is impossible prior to the printing of a new edition.*

Government's comment¹⁸: *We do not believe that it is unnecessary to print the Directory, because there is a need to inform users in this way, as well in case they do not have internet or telephone access. In addition, it is prescribed how to leave out personal data from new registries.*

We are of the opinion that the recommendations R27 and R28 are well grounded and ask the Government to reconsider one more time.

(R123) Discrimination as a legal institution is mentioned only in the Article 3, but unfortunately without a clear elaboration and clarification of what actually constitutes discrimination of users. This makes the designing and implementing offers for users difficult, because some of them are often labelled as discriminatory without a clear explanation on what the specifics discrimination applies. More detailed regulation in this regard would need to be prescribed in order to avoid possibilities of abuse.

(R124) The procedure of the Agency for Telecommunications in bringing the decision represents also one of barrier in operations of our members. Specifically, the issue lies with the Article 32 paragraph 5, stating that the decisions of the Agency shall be final, and operators are bound to implement them regardless of their merit. However, the paragraph 6 of the same Article states that in the event an administrative procedure is initiated at the request of the petitioner, the enforcement of the decision can be postponed until the court reaches final decision, but in practice this is not happening. In this regard, the Government should consider the involvement of operators in shaping the legal framework.

(R125) Article 151, paragraph 2, point 13 - the obligation of the operators to obtain prior subscribers' consent for changing or withdrawing tariff package from the offer and migrate subscriber to another tariff with similar or more favourable tariff, should be amended in a way that instead of subscribers consent the Agency's consent should be required.

¹⁸ Citing here the last year's comment which has not changed.



(R126) Article 152 paragraph 5 should be amended in a way that informing subscribers 30 days earlier in case of changing the terms and conditions defined by the subscriber contract is obligatory only if such changes are not in subscribers favour.

According to the Article 178, paragraph 1, the operators are not allowed to inform their customers via SMS about their offers that benefit the users themselves. **(R127)** We propose to make changes to initially allowed SMS messages to be sent without the users' consent with the possibility that if users do not want to receive messages, they shall have the right at any time to unsubscribe from any of them.

- LABOUR LAW¹⁹ (R30, R100)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R30	The Labour Law is incomplete and to a large extent relies on the General Collective Agreement, i.e. the Industry-wide Collective Agreement, which makes managing human resources in companies significantly difficult. In practice, it often happens that regulations of the Labour Law are interpreted differently due to their links to the General Collective Agreement.	✓			
R100	The MFIC would like to add that it is our position that the rules on disciplinary procedure should not be regulated by the collective bargaining agreement at any level, as this is a very strict and formal procedure similar to court proceedings, for which few employers are properly equipped.	✓			

The **inflexibilities that the current Labour Law incorporates**, may lead to negative consequences for the whole of Montenegro's economy. This is an area that is still subject to criticism from the business community, primarily due to rigid provisions that only serve to inhibit a stronger labour market and to indirectly protect people with inadequate performance, thus contributing significantly to a higher unemployment rate.

(R21) *The Labour Law is incomplete and to a large extent relies on the General Collective Agreement, i.e. the Industry-wide Collective Agreement, which makes managing human resources in companies significantly difficult. In practice, it often happens that regulations of the Labour Law are interpreted differently due to their links to the General Collective Agreement.*

¹⁹ For further information, see chapter Labour Market and Employment



Government's comment: *"The proposals relating to inflexibility of provisions of the Labour Act, which prevent development of stronger labour market and indirectly protect workers with inadequate performance, and incompleteness of the Labour Act due to relying on provisions of the General Collective Agreement will be taken into consideration in the process of drafting of the new Labour Act the passing of which is planned under Action Plan for Chapter 19 Social Policy and Employment for quarter IV of 2017."*

(R100) *The MFIC would like to add that it is our position that the rules on disciplinary procedure should not be regulated by the collective bargaining agreement at any level, as this is a very strict and formal procedure similar to court proceedings, for which few employers are properly equipped.*

Government's comment cited above relates to the recommendation R100 and we welcome the readiness of the Government to improve the regulations in these two very important areas.

- LAW ON PROTECTION AT WORK (R31 – R33)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R31	A new paragraph should be added in Article 34 after paragraph 3 to read as follows: "In case an employer has outsourced work safety tasks to a certified agency or individual, joint responsibility will lie with both the employer and a certified agency to whom the work safety tasks are outsourced if this agency did not provide the employer with proper information on the work safety measures to be undertaken. If the certified agency provided the employer in a timely manner with the work safety obligations and if the employer did not follow the instructions, the employer is responsible for the work safety of employees."		✓		
R32	The following should be added to Article 19 after paragraph 1: "Training for safe job performance should be conducted within 15 days unless, in accordance with the findings of a certified agency or a certified individual, an employee was not exposed to higher risk due to a transfer to another position,		✓		



	introduction of new technology or assets, or as a result of changes in the job process.”				
R33	Additionally, we consider that it is not necessary to force an employee to again take work safety training after changing position if the level of risk or the tools for performing the job have not changed.		✓		

(R22) *A new paragraph should be added in Article 34 after paragraph 3 to read as follows:*
 “In case an employer has outsourced work safety tasks to a certified agency or individual, joint responsibility will lie with both the employer and a certified agency to whom the work safety tasks are outsourced if this agency did not provide the employer with proper information on the work safety measures to be undertaken. If the certified agency provided the employer in a timely manner with the work safety obligations and if the employer did not follow the instructions, the employer is responsible for the work safety of employees.”

Government’s comment: *“The cited Law has been abolished, and the Law on Safety and Health at Work (Official Gazette of Montenegro 34/14) entered into force in August 2014. The Law is harmonized with Council Directive 89/391/EEZ of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.*

Article 19 does not clearly define the deadline for performance of work safety training in cases when a company’s regulation risk assessment does not define the risks or danger on the job. It is not clear whether in such situations an employee may start working and later on receive adequate work safety training.

(R23) *The following should be added to Article 19 after paragraph 1:*

“Training for safe job performance should be conducted within 15 days unless, in accordance with the findings of a certified agency or a certified individual, an employee was not exposed to higher risk due to a transfer to another position, introduction of new technology or assets, or as a result of changes in the job process.”

Government’s comment: *With respect to recommendations referring to provisions of Article 19 of earlier Act, current Article 20 of the Act relating to training and assessing of skills, we note that*



the provisions relating to this matter are harmonized with the said Directive (Article 12 of the Directive).

(R24) *Additionally, we consider that it is not necessary to force an employee to again take work safety training after changing position if the level of risk or the tools for performing the job have not changed.*

Government's comment: *The recommendation is not accepted, that is to say the recommendation relating to provisions of Article 19 of earlier Act, currently Article 20 of the Act, because Article 20 paragraph 2 of the Act on Safety and Health at Work provides: "Training of employees shall be adapted to new and changing risks, and if necessary, it shall be repeated at regular intervals in accordance with the programme referred to in paragraph 2 of this Article".*

- LAW ON EMPLOYMENT AND WORK OF FOREIGNERS (R34 – R35)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R34	We consider that Article 12 should be formulated in the following manner: "The employer shall hire a foreign national according to the educational level for which the work permit is issued".	✓			
R35	A work permit should be issued according to the educational level and not to positions or tasks a foreigner performs, as that should be a part of the employer's and employee's freedom.	✓			

Article 12, according to which an employer may employ a foreigner national only in a position for which a work permit has been granted is not acceptable and may create problems in practice. This provision does not benefit either the employer or the employee.

(R25) *We consider that **Article 12 should be formulated in the following manner:** "The employer shall hire a foreign national according to the educational level for which the work permit is issued".*

(R26) *A work permit should be issued according to the educational level and not to positions or tasks a foreigner performs, as that should be a part of the employer's and employee's freedom.*



Government's comment: *The recommendations (R34) and (R35) relate to the Act on Employment and Work of Foreigners (Official Gazette of Montenegro 22/08 and 32/11) which was revoked on 1.04.2015 by entry into force of the new Act on Foreigners (Official Gazette of Montenegro 56/14). The Ministry believes that recommendations given in the document "White Book" should be adjusted to the new Act on Foreigners, which provides that a unique document is issued for residence and work of foreigners – permit for residence and work of foreigners, and after that the Ministry could give opinion regarding potential recommendations.*

In addition, the labour market in Montenegro does not treat domestic and foreign employees equally: nationals may be promoted (meaning may change their position without interruptions in employment) but if a foreigner wants to do the same for his employment, work permit and residence permit must be

In addition, the labor market in Montenegro does not treat domestic and foreign employees equally: nationals may be promoted (meaning may change their position without interruptions in employment) but if a foreigner wants to do the same his employment, work permit and residence permit must be terminated, after which he will have to apply for new ones.

terminated, after which he will have to apply for new ones.

- LAW ON GENERAL ADMINISTRATIVE PROCEDURE (R36)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R36	Articles 236–240 should be amended in such a manner that will reduce the procedure for deciding on appeal, and stipulating the second instance should resolve the matter independently after several repetitions of the same procedure, and will do so by removing all serious violations of the rules of procedure, instead of returning the matter to the first instance authority for retrial an unlimited number of times	✓			



(R27) *In this Law **Articles 236–240** should be amended in such a manner that will reduce the procedure for deciding on appeal, and stipulating the second instance should resolve the matter independently after several repetitions of the same procedure, and will do so by removing all serious violations of the rules of procedure, instead of returning the matter to the first instance authority for retrial an unlimited number of times.*

Government's comment: *Practice so far has shown that we have long, exhausting and inefficient procedures which incur high costs to the parties and authorities, and prevent the creation of a favourable business environment. The Draft Law on Administrative Procedure (consolidated by the Government on 12 June 2014 and undergoing Parliamentary procedure) envisages the obligation of the second-instance authority, when it has already annulled once the decision of the first-instance authority on the grounds of a complaint, and the party has filed an appeal against the new decision of the first-instance public law body, to annul the first-instance decision and decide independently on the administrative matter. The objective of this norm is to stop in practice the so-called "ping-pong" effect and the frequent returning of cases to the first-instance authority, which usually makes the same decision in the repeated proceeding. This will ensure for parties a quicker exercising of rights, reduce the number of unlawful administrative acts and, thus, reduce the costs borne by the parties and authorities.*

The MFIC welcomes the fact that the Government has recognized this issue as well. Although the Government offers the view that this recommendation is implemented, it remains to be seen how much in practice the new Law on Administrative Procedure will effectively change the issue at hand.

- **LAW ON STATE SURVEYING AND CADASTRE OF IMMOVABLE PROPERTY (R37 – R38)**

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R37	<p>The MFIC proposes the addition of four new paragraphs in Article 12 after paragraph 3 as follows:</p> <p>"Immediately upon receiving the request from paragraph 3 of this Article, the state body shall enter a note on the submitted request to the cadastre of immovable property.</p> <p>The note from paragraph 4 of this Article shall be deleted after the procedure before the state body is complete.</p> <p>The state body shall make no special decision on</p>	✓			



	entering and deleting the note from paragraph 4 of this Article”.				
R38	We propose the Law on Property Rights to be amended (“Official Gazette of Montenegro”, No. 19/09), so that a new paragraph is added to Article 378 after paragraph 2 as follows: “The taxpayer for an immovable property which is subject to a fiduciary transfer of ownership shall be the debtor”.	✓			

(R28) *The MFIC proposes the addition of four new paragraphs in **Article 12 after paragraph 3** as follows:*

“Immediately upon receiving the request from paragraph 3 of this Article, the state body shall enter a note on the submitted request to the cadastre of immovable property.

The note from paragraph 4 of this Article shall be deleted after the procedure before the state body is complete.

The state body shall make no special decision on entering and deleting the note from paragraph 4 of this Article.

Entry and deletion of the note from paragraph 4 of this Article may be automated in an information system of the state body”.

The current paragraph 4 would become paragraph 8.

Government’s comment: *Changes and amendments to the Act on State Surveying and Cadastre of Immovable Property, published in the Official Gazette of Montenegro 43/15 of 31.07.2015, introduced changes to Article 12 which is now worded as follows: registration of rights in the cadastre of immovable property shall be performed based on a time sequence of submission of registration requests. Legal effect of registration on third parties shall start from the time of the submission of the registration request to the administration authority. The administration authority shall register the number of the request and time of the submission of the request in the immovable property certificate immediately upon the receipt of the registration request and publishes at the same time the data from the request on its website, except the data which are considered protected under the law.*



By ceding the order of priority of the request for full registration or pre-registration that such requests have in the order of priority, the order of priority of such request may be substituted.

Fiduciary ownership

Some municipalities levy a tax on immovable property over which banks have fiduciary ownership rights. According to **Article 4 of the Law on Tax on Immovable Property**, the taxpayer is the owner of the property on 1 January of the year for which the tax is being calculated. As the bank is not an owner of such properties but only has a right (fiduciary) used to secure its outstanding credit, as noted in the information on mortgages and limitations (in the same way a mortgage is registered), it cannot be considered a taxpayer for the relevant properties.

Fiduciary property according to the Law on Property Rights, **Article 14** is only a conditionally acquired right to an immovable property which gives the creditor an authorization to collect its debts before other creditors. The debtor continues to use the property, with benefits belonging to him, and thus he is the taxpayer in this case.

(R29) In order to prevent such cases from occurring in the future, we propose the Law on Property Rights to be amended ("Official Gazette of Montenegro", No. 19/09), so that a new paragraph is added to Article 378 after paragraph 2 as follows:

"The taxpayer for an immovable property which is subject to a fiduciary transfer of ownership shall be the debtor".

Government's comment: *Remarks have been accepted and implemented through the Law on Amendments and Additions to the Law on Immovable Property Tax (Official Gazette of Montenegro 9/15) - Article 1 paragraph 5 of this Law, the solutions of which will be implemented from 1 January 2016.*

As we mention throughout the document, the MFIC is concerned primarily with creating a business environment in which Montenegro's economic potential will be able to flourish, and we leave it to the lawmakers to decide which particular law should regulate a particular issue.



- LAW ON ENFORCEMENT AND SECURITY (R42, R43)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R42	Much stricter control of the court processes with special regard to the deadlines of the objection would inevitably be needed. Besides the deadlines, the objection of the clients shall also be handled in accordance with the provisions of the Law. Our members have been expecting practical implementation of the law governing the institution of public enforcement officers since 2011. Since the practical implementation of the law started recently in April 2014 it might bring some improvement in the identified deficiencies as well especially in relation to the shortening of the processes and the meeting of the stipulated deadlines.	✓			
R43	Change of the Article 173 paragraph 4 of the Law on Enforcement and Security is needed in such a way as to include the mortgagee as an entity which has the right to object to the discounted sales price of the real estate for which the enforcement procedure is initiated.	✓			

The process of enforcement under the Law on Enforcement and Security

The process of enforcement under the Law on Enforcement and Security is supposed to be a short procedure overall as the court must decide upon a motion for execution within 5 days of its submission. This deadline is hardly ever met in practice. Sometimes it takes several months or even a year to block the accounts of the debtor. Furthermore, the law clearly stipulates that the appeal does not suspend the enforcement order, unless it is required by it in some specific cases. However, very often completely ungrounded objections of the debtors are taken into account and the court takes the decision to transfer the case into the litigation process, making it extremely difficult or even impossible for the bank to block the account of the debtor even though it is obviously in default and undoubtedly fulfils the objective criteria for an account block.



Proposal:

(R30) Much stricter control of the court processes with special regard to the deadlines of the objection would inevitably be needed. Besides the deadlines, the objection of the clients shall also be handled in accordance with the provisions of the Law. Our members have been expecting practical implementation of the law governing the institution of public enforcement officers since 2011. Since the practical implementation of the law started recently in April 2014 it might bring some improvement in the identified deficiencies as well especially in relation to the shortening of the processes and the meeting of the stipulated deadlines.

Government's comment: *In those terms, the Law on Amendments and Additions to the Law on Enforcement and Securing of Claims (Official Gazette of Montenegro 20/2015 of 24.4.2015, which entered into force on 02 May 2015) has changed functional competence for deciding on legal remedies against decisions of public bailiffs by providing that an individual judge decides on objection to decisions made on the basis of executive document, while a panel of three judges is still competent for acting upon objections to decisions reached on the basis of an authentic document. In this way conditions have been created for more regular acting of courts in proceedings regarding legal remedies submitted against decisions of public bailiffs which have been reached on the basis of an authentic document, having in mind that authentic documents were preceded by a corresponding proceeding before the court which had already established the facts.*

Problems occurred during the “court sale” of the mortgaged real estate initiated by other creditors

Article 160 of the Law on Enforcement and Security provides that in case of a “court sale” of real estate, the mortgagee who has not initiated the enforcement proceeding shall also be reimbursed. In Article 173 paragraph 4 it is stipulated that if the real estate is not sold at the second auction, a new auction shall be scheduled where the discount of the sales price can be set with no restrictions, but only with the consent of the enforcement creditor which has initiated the subject enforcement proceeding. Some of our members have had the experience where the sales price of the real estate was lower than the secured amount of the bank's 1st-ranking mortgage right, therefore with such action the recovery of the bank's claim was jeopardized.

(R31) Change of the Article 173 paragraph 4 of the Law on Enforcement and Security is needed in such a way as to include the mortgagee as an entity which has the right to object to the discounted sales price of the real estate for which the enforcement procedure is initiated.



Government's comment: *Namely, the Act on Changes and Amendments to the Act on Enforcement and Securing of Claims (Official Gazette of Montenegro 20/2015 of 24.4.2015, which entered into force on 2 May 2015), through changes to Article 173 paragraph 4 has limited the lower selling price of immovable property in a way that if the immovable property is not sold at the second public auction, the public enforcement officer shall schedule a new public auction at which the immovable property can be sold at below 50% of set value, but not below the amount of claim of the judgement creditor, which provides protection of the creditor's right to collect claims..*

- LAW ON VALUE ADDED TAX (R44)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R44	It is not clear enough what managing banking accounts means, what it encompasses and whether all related services are not taxable. It also remains unclear what debt collection is, meaning can debt collection be considered as collection of forfeited assets?		✓		

Article 27 – other exemptions

Paragraph 4 (b) defines that banking and financial services are exempt of VAT, while the same paragraph states the following:

“b) services related to the management (handling) of deposits, savings, banking accounts, payment operations, payment orders, activating due payments, checks or other instruments, excluding the collection and purchase of debts”.

(R32) *It is not clear enough what managing banking accounts means, what it encompasses and whether all related services are not taxable. It also remains unclear what debt collection is, meaning can debt collection be considered as collection of forfeited assets?*

Government's comment: *This provision is harmonized with the EU acquis. Operations of banks are specified by the Act on Banks, and they are not generally VAT exempt, but only the affairs under the said provision. According to the Act on Banks, forfeiting is classified as purchase, selling and collection of claims, and they are not VAT exempt under the said provision.*



- LAW ON DEPOSIT PROTECTION (R46)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R46	Article 28 states that “The decision on the rate for calculating the regular premium and methods of calculation of premium shall be reached by the Board of Directors, as per rule until November of the current year for the next year”, however, the Law does not list which conditions may affect the increase of a rate of a premium. At the beginning of 2014 the rate of the premium was increased, while the guaranteed deposit remained unchanged (€50,000).	✓			

(R33) Article 28 states that “The decision on the rate for calculating the regular premium and methods of calculation of premium shall be reached by the Board of Directors, as per rule until November of the current year for the next year”, however, the Law does not list which conditions may affect the increase of a rate of a premium. At the beginning of 2014 the rate of the premium was increased, while the guaranteed deposit remained unchanged (€50,000).

Government’s comment: “Changes to the Deposit Protection Act are planned for 2017.”

- LAW ON OWNERSHIP RIGHTS (R47)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R47	A clearly defined standpoint of the lawmakers is needed to announce firmly and bindingly that if in cases where the bank had established a mortgage on the land, the building which was subsequently built on such encumbered property is also subject of the same mortgage, i.e. the mortgage right is automatically extended to the constructed facility, regardless of whether the extension of the mortgage is prescribed in the particular Mortgage Agreement or not.	✓			



The Law on Ownership Rights clearly stipulates the principle of the extension of the mortgage right as follows: “If the value of the property increases during the period of the mortgage, the mortgage right also refers to the improvement of the property.” There are substantial differences in the interpretation and application of this provision by the competent authorities. Our members had different experiences in this area where some land registry offices accepted the requests and included a newly-built building on an encumbered land plot as mortgage, but there were opposite examples where the banks came across with an interpretation according to which a facility that is subsequently built on the mortgaged land cannot be automatically a subject of the mortgage right unless it is otherwise stipulated by the Mortgage Agreement.

Proposal:

(R34) *A clearly defined standpoint of the lawmakers is needed to announce firmly and bindingly that if in cases where the bank had established a mortgage on the land, the building which was subsequently built on such encumbered property is also subject of the same mortgage, i.e. the mortgage right is automatically extended to the constructed facility, regardless of whether the extension of the mortgage is prescribed in the particular Mortgage Agreement or not.*

Government’s comment: *The said proposal will be considered when making changes to the Law on Property Legal Relations.*

4.2 IMPLEMENTATION AND ENFORCING THE LAW (R48)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R48	It is necessary to improve the transparency of the procedures and application of ethical principles by the authorities	✓			

Without a predictable business environment and legal certainty, no sustainable development is possible. We noted in the previous years that a lack of predictability, stability and legal certainty have unfortunately countered the positive steps that were undoubtedly made.

This is an example we repeat from the WB 2012 which has still not been changed:

PUBLIC PROCUREMENT-RELATED CHALLENGES

Bidders very often face the following challenges in the process of public procurement. Rigidity of the process in terms of eligibility criteria; copying the same documents for each tender position for the same tenderer;



submission of documents already in the possession of that or other public bodies; in case of appeal, payment of fees amounting to 1% of the estimated public procurement value; imprecise requirements or the lack of document specifications with regard to the subject of procurement; an inferior status of bidders with the state commission which does not involve representatives of the real estate sector. In addition: multiple institutions in charge; submission of massive documentation; payment of different taxes and fees; waiting for the administration's "reply", etc. make public procedures complicated and ultimately very expensive creating additional issues.

(R35) It is therefore necessary to improve the transparency of the procedures and application of ethical principles by the authorities.

Government's comment: *The proposal will be taken into consideration in the process of changes to the Law on Legal Property Relations.*

5. FOCUS AREAS

INTRODUCTION

Generally speaking, during the past year we saw limited progress, and the momentum from the previous years and the post-independence boom has gradually faded. The deficiencies and an inefficient administration coupled with an unstable regulatory environment still dominate the business and investment environment.

The Government needs to continue delivering reforms that will maintain the competitiveness of Montenegro's economy. In this chapter the MFIC offers its view of the specific issues that need further improvement and presents suggestions to help that cause.

The following is a review of five broad categories which encompass numerous individual issues and topics of significance for a well-functioning business environment and an investment-friendly economy, as seen by our members. Now we will discuss the following areas:

- 5.1. Labour Market and Employment
- 5.2. Property Development
- 5.3. Taxation
- 5.4. Corporate Governance
- 5.5. Rule of Law



However, sometimes we like to emphasize issues that are of extreme importance and are very illustrative of the type of changes of a deeply rooted mentality in the administration, which is not up-to-date with global business practices and requires far more than just writing regulations. The following, although from last edition of WB, is a perfect example of that and is still valid:

Lack of coordination between the state institutions too often causes a situation in which, after submitting a request to one state body, the applicant must obtain certificates/evidence to support the request from another state body although the law stipulates that they should cooperate and exchange information among themselves. The most interesting situation in this regard was when the Central Registry of Companies, which is an office of the Tax Administration, required an applicant to submit evidence of regular tax payment issued by the same body that requested it.



5.1.LABOUR MARKET AND EMPLOYMENT (R49 – R57, R101 – R102, 128-129)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R49	The violations should not only be included in the Labour Law, but should necessarily enable the employer to release workers with unsatisfactory performance, under the conditions clearly defined by the law.	✓			
R101	In order to reinforce the commitment to resolve the issue of abuse of sick leave discussed above in the section on Laws, we propose to introduce abuse of sick leave as grounds for termination	✓			
R50	Simplifying the procedure in a matter that would not force business to conduct a courtroom-like trial would speed up the process and bring benefits to both employers and employees	✓			
R51	Our members support the view from the Joint Position Paper on the Labour Law that it would be “necessary to provide additional tools that can reduce the occurrences of violations of workplace order, such as warnings and notices. Notices of warning could be issued in the event of a petty violation of workplace order or in cases where it is not the intention of the employer to fine the employee and whereby it is evident that a certain omission in performing daily tasks has occurred.”	✓			
R52	We propose that Article 123 of the Labour Law be changed to read as follows: ‘Monetary claims arising from and relating to the employment period shall be statutorily limited to three years from the date of the occurrence of the obligation.	✓			
R53	The Labour Law is not clear enough, and sometimes cannot be applied or is completely contradictory. Complicated procedures and administration are a true burden for any company.	✓			
R54	An employer cannot conclude one or more Work Agreements with the same employee, as referred	✓			



	to in paragraph 1 of this Article, if their total continuous duration is longer than 36 months.				
R55	The first step would be to increase the tax base through better enforcement of the existing rules which would eliminate the fear of fiscal concerns that may be caused by decreasing the taxes and contributions.	✓			
R56	Only after this effort, which demands strong action and will, would it be prudent to decrease taxes and contributions in the first stage to 40% of the net salary. This would still be a relatively high rate, however, it would most certainly broaden the tax base and thus enable a second round of decreasing taxes and contributions to a level acceptable to both employees and employers on one side, and the government and the society it represents on the other.		✓		
R57	As stated in the Position Document: "...the General Collective Agreement is completely redundant. The document is outdated and as such is not recognized in any contemporary legal system."	✓			
R102	If properly regulated, introducing the institute of volunteer work could be a useful tool in creating a more dynamic labour market. This could be used for training purposes, or as a trial period – under particular conditions that would be defined by law.		✓		
R128	Segmented use of the annual leave should be more flexible in order to give enough room to both employer and the employee to agree upon the duration and how the annual leave is used.	NA			
R129	Definition of salary requires a more precise wording. Additionally, the minimum salary should be defined per industry or type of jobs, in order to protect employees, but with possibility to decrease salary for non-performers in a safe manner.	NA			

As noted earlier, it is our core belief that the regulatory framework of any modern economy

"As stated in the Government's comments, all of the proposals laid out by the MFIC in this section will be taken into consideration in the process of drafting of the new Labour Law the passing of which is planned by the Action Plan for Chapter 19 Social Policy and Employment for quarter IV of 2017."



should be designed to stimulate market development, create skilled jobs, productivity and attract investment. As part of this, an effective Labour Law should provide basic fairness and protection for employees, while also promoting healthy competition for skilled, long-term jobs by facilitating flexibility and labour mobility.

This is still not the case in Montenegro, the MFIC appreciates the fact that the Government is willing to consider all the proposals laid out in this chapter. As stated in the Government's comments, all of the proposals laid out by the MFIC in this section will be taken into consideration in the process of drafting of the new Labour Law the passing of which is planned by the Action Plan for Chapter 19 Social Policy and Employment for quarter IV of 2017.

PRIMARY ISSUES:

In working with our members and partner organizations such the American Chamber of Commerce, the Montenegrin Chamber of Commerce, Employers' Federation and the Montenegrin Business Alliance, we have prepared joint conclusions in the area of the Labour Law, under the umbrella of AmCham in a document entitled Position Document.

PROCEDURE FOR DETERMINING WORK VIOLATIONS

This matter is necessary to be regulated not by the General Collective Agreement (see below for details), but solely by the provisions of the Labour Law.²⁰

(R36) These violations should not only be included in the Labour Law, but should necessarily enable the employer to release workers with unsatisfactory performance, under the conditions clearly defined by the law.

(R101) In order to reinforce the commitment to resolve the issue of abuse of sick leave discussed above in the section on Laws, we propose to introduce abuse of sick leave as grounds for termination.

- ESTABLISHING VIOLATION OF WORKPLACE ORDER

Another related issue is an overly complicated and rigid regulation, again from the CBA, on establishing violation of workplace order.

(R37) Simplifying the procedure in a matter that would not force business to conduct a courtroom-like trial would speed up the process and bring benefits to both employers and employees:

²⁰ For a detailed proposal of how the Labour Law should be amended to accommodate this request please see the Position Document from December 2013.



- ADDITIONAL TOOLS TO BE USED IN THE EVENT OF AN EMPLOYEE VIOLATING WORKPLACE ORDER

(R38) Our members support the view from the Joint Position Paper on the Labour Law that it would be “necessary to provide additional tools that can reduce the occurrences of violations of workplace order, such as warnings and notices. Notices of warning could be issued in the event of a petty violation of workplace order or in cases where it is not the intention of the employer to fine the employee and whereby it is evident that a certain omission in performing daily tasks has occurred.”

BACK MONEY CLAIMS

(R39) Frequently abused, in practice demonstrated that the original idea was not formulated well enough. Here we quote the position paper:

“...we propose that Article 123 of the Labour Law be changed to read as follows:

‘Monetary claims arising from and relating to the employment period shall be statutorily limited to three years from the date of the occurrence of the obligation.’”

This would make these claims equal to any other claims which in most cases have a statute of limitation clause for good reason.

Our members further note that when it comes to Article 123, we find it essential in terms of the legal security of employers in Montenegro. As was stated many times before, employers operating their businesses in line with the legal regulations should not suffer due to irresponsible individuals. The proposed deadline of three years is grounded in the practice from the region, but employers will welcome any kind of limitation when it comes to the deadline within which the monetary claim may be lodged.

NOTICE PERIOD

(R40) The Labour Law is not clear enough, and sometimes cannot be applied or is completely contradictory. Complicated procedures and administration are a true burden for any company.



WORK AGREEMENT DURATION

One of the most criticized provisions of the Law is most certainly the one related to the duration of the work agreement defined by Article 25. The issue with here lies primarily with the extremely rigid and complicated procedure for termination of the work agreement, which succeeds in protecting employees with inadequate performance, thus contributing significantly to a higher unemployment rate.

(R41) Again, we quote the wording of the proposed paragraph 25 from the joint Position Paper fully supported by the MFIC:

“An employer cannot conclude one or more Work Agreements with the same employee, as referred to in paragraph 1 of this Article, if their total continuous duration is longer than 36 months.”

However, it must again be emphasized that in order to achieve a true compromise in this issue that works for the benefit of both the employees and the employer it is necessary to, simultaneously, introduce more up-to-date and flexible regulation on termination of the work agreement.

Commenting on our recommendation, the Government notes that Article 25 is in line with Directive 1999/70/EZ as of 28 June 1999 which we do not question. The point of our recommendation is to remove inconsistencies provided in this Article. Namely, paragraph 2 defines that an employer cannot conclude one or more work contracts with the same employee, as provisioned in paragraph 1 of this Article, if their overall duration is, continuously or with interruptions, longer than 24 months. Paragraph 3 (an interruption shorter than 60 days is not considered to be an interruption as defined in paragraph 2) is totally useless as the previous paragraph clearly states that fact as being irrelevant. This norm leads to the conclusion that regardless of the interruptions, the employer cannot conclude one or more work contracts with the same person if the total duration of those contracts is longer than 24 months.

TOTAL COST OF EMPLOYMENT

With the latest increase of tax from 9 to 15 percent, and a small reduction in 2015 to 13%, for salaries above average, the total cost of employment, previously also very high, has been brought up to unsustainable levels. In order to hire an employee on an average Montenegrin salary of €477, an employer has to pay a total of €723.²¹

In practice this creates a two-fold issue:

- Most of the tax burden falls on the largest companies and those who work legally, thus essentially punishing law-abiding companies.
- Other companies usually fall back to the grey zone, either paying only a partial amount of the taxes and contributions or failing to register the employees completely – distorting the competition and rewarding unlawful behaviour.

²¹ According to Monstat data: <http://www.monstat.org/cg/page.php?id=1317&pageid=24>



The approach to alleviating the challenges brought about by an unrealistically and unsustainably high cost of employment, a two-stage approach is in order²²:

- **(R42)** *The first step would be to increase the tax base through better enforcement of the existing rules which would eliminate the fear of fiscal concerns that may be caused by decreasing the taxes and contributions.*
- **(R43)** *Only after this effort, which demands strong action and will, would it be prudent to decrease taxes and contributions in the first stage to 40% of the net salary. This would still be a relatively high rate, however, it would most certainly broaden the tax base and thus enable a second round of decreasing taxes and contributions to a level acceptable to both employees and employers on one side, and the government and the society it represents on the other.*

Stimulating measures combined with stronger enforcement will contribute to an overall increase of employment and fiscal revenues. Decisive and immediate action is a must if we are to accomplish this goal.

The Government this year stated they accept the recommendation to expand the tax base, however the results are yet to be seen. Unfortunately, the Government does not accept our proposal on incremental reduction in the total taxes and contributions levied on salaries:

Government's comment: *Contributions for social insurance are paid in Montenegro in a way that the employee is provided with pension insurance, health care and unemployment insurance, that is to say that the rights of the employee on such grounds are provided directly. Therefore, it is impossible to reduce contributions to 40% of net salary.*

We understand the Government's position which reflects a lack of other sources of funding for the overburdened pension and other social security schemes. However, we point out that the existing amount of taxes and contributions is simply unsustainable and will have to be reduced if we want the economy to develop and unemployment to fall.

²² Out of somewhat over 170,000 employed persons (according to Monstat, <http://www.monstat.org/cg/page.php?id=1164&pageid=23>), approximately 50,000 are employed by the Government. It is more than clear that this is an unsustainable burden for such a small economy as Montenegro's, and that reforms in this sector are long overdue.



GENERAL COLLECTIVE AGREEMENT (GCA)

The issue of the General Collective Agreement (GCA) has caused numerous issues for businesses especially concerning the matter of disciplinary rules of procedure and violation of working duties. However, regardless of the fact that the lack of an in-force GCA has caused these regulatory gaps, it is the very existence of the document that is questionable.

“...the General Collective Agreement is completely redundant. The document is outdated and as such is not recognized in any contemporary legal system.”

Position Document

(R44) *As stated in the Position Document: “...the General Collective Agreement is completely redundant. The document is outdated and as such is not recognized in any contemporary legal system.”*

VOLUNTEER WORK

(R102) *If properly regulated, introducing the institute of volunteer work could be a useful tool in creating a more dynamic labour market. This could be used for training purposes, or as a trial period – under particular conditions that would be defined by law.*

Government’s comment: *Volunteering is voluntary and free investment of time, knowledge and skills for performing of services or activities in favor of another person or for the general welfare of society (Article 2 of the Law on Volunteering). Contract on volunteering may also be concluded with a person who wants to obtain special education and skills to work in their profession. Volunteering performed pursuant to paragraph 1 of this Article is recognized as work experience and as a condition for taking the qualification exam (Article 12a of the Act on Volunteering). Having in mind the above, we think that the institute of volunteering has already been regulated by provisions of the Act on Volunteering.*

ANNUAL LEAVE

(R128) Segmented use of the annual leave should be more flexible in order to give enough room to both employer and the employee to agree upon the duration and how the annual leave is used. Protective measure of 10 days should remain in force, while the other part of the annual leave should be stipulated in a way that would provide more flexibility. Additionally, the deadline within which the employee should be informed about the approved annual leave should be decreased from 30 to 15 days.



SALARY

(R129) Definition of the salary requires a more precise wording. Additionally, the minimum salary should be defined per industry or type of jobs, in order to protect employees, but with possibility to decrease salary for non-performers in a safe manner. As our members report currently the law offers this possibility in theory but in practice court cases related to this always have negative outcome for employers. One possible solution to the variation of the salary depending on performance could be: “Depending on the level of performance lower or higher than standard, Employer can decrease or increase salary for up to 20%”.



5.2.PROPERTY DEVELOPMENT (R58 – R65, R103)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R58	Just as with any other product, real estate development projects need to find “buyers”, and unless a particular project corresponds to a particular demand in the market, it will likely remain just another opportunity wasted. This relationship has to be established in the highest-ranking planning documents	✓			
R59	To get that extra edge, it would be recommendable to hire international consulting companies that specialize in this field. Such an investment would pay itself off multiple times over through direct revenue generated by projects and an indirect, trickledown effect that would be felt across the whole of Montenegro.	✓			
R60	The sooner the investors are given opportunities to start real estate development projects, the higher the chances will be to attract them. This means less work relating to overcoming of administrative obstacles, which would allow investors to focus immediately on the most important segment – the investment.				✓
R62	Introduction of internationally recognizable standards would enable a better foundation for further growth and development in the real estate market.	✓			
R63	It would be recommendable for the Real Estate Directorate to hire private, licensed geodetic companies, to make changes in the cadastral records on behalf of the Directorate. This would contribute to increasing the limited capacities of the Real Estate Directorate.		✓		
R64	It is necessary to set low and fixed fees for various services offered by the cadastre.	✓			
R65	The Real Estate Administration’s database should be updated on a daily basis instead of once a month or even more rarely. In addition, the possibility of downloading the title deed and	✓			



	paying for all the fees electronically would be a welcome change that would significantly reduce part of the procedure.				
R103	Public Notary offices should have direct access to the Cadastre/Real Estate database to ensure real-time registration of property title deeds.	✓			

According to Doing Business 2016, Montenegro made progress in one of the most criticized areas: construction permits, rising to 91st place from 106th the year before.

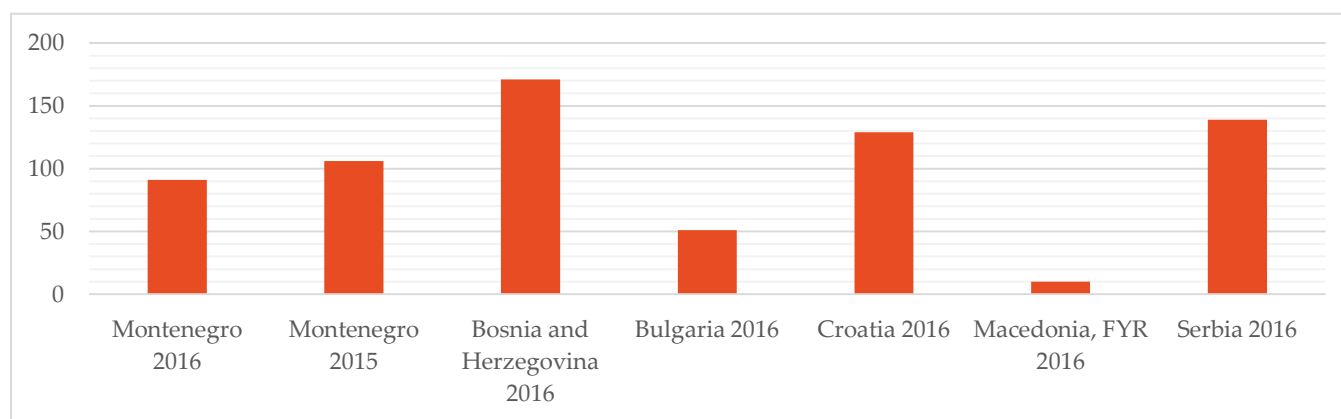


Figure 7: Doing Business 2016; Regional Comparison in rankings for Dealing with Construction Permits.

This is a reflection of positive developments in this area over the past years, welcomed by the MFIC members. We hope this is the beginning of a positive trend in this important aspect of property development.

However, it is very important to note that construction permits are only the final step in a process that requires more attention by the Government of Montenegro. Here we would like to offer our perspective on how to further improve the business environment in this sense, and better utilize the potential this area holds for boosting Montenegro's economy:



ESTABLISH A GENUINE RELATIONSHIP BETWEEN PLANNING DOCUMENTS AND MARKET OPPORTUNITY

(R45) Just as with any other product, real estate development projects need to find “buyers”, and unless a particular project corresponds to a particular demand in the market, it will likely remain just another opportunity wasted. This relationship has to be established in the highest-ranking planning documents.²³

Government’s comment: *For the purpose of improved quality of planning and better understanding and more detailed elaboration of the Rulebook of closer contents and form of planning documents/criteria of the purpose of areas/elements of urban regulation and uniform graphic symbols, the Directorate for Spatial Planning of the Ministry of Sustainable Development and Tourism has prepared, in cooperation with the World Bank Project – LAMP (Land Administration and Management Project), the “Rulebook for economic and demographic analysis and economic and market projection in spatial and urban plans in Montenegro”. The Manual for economic and demographic analysis and economic and market projection in spatial and urban plans in Montenegro is aimed at providing, in way, selectively and systematically, guidelines for preparation of economic and demographic analysis and economic and market projection for spatial and urban plans. This Manual is just one of a number of steps towards achieving the objective of improvement of methodology for spatial management and increasing the quality of drafting of spatial planning documents, and raising awareness of the need to preserve space, and the open form of this Manual offers opportunities to check practically the systematic aspect and usefulness of collected and presented material in order to make corrections thereto and, if needed, to amend and improve them. The intention is for this Manual to become Rulebook over time.*

In order to accomplish this in a most effective way, and take advantage of the increasing pool of investment capital increasingly available after the recovery from the 2008/2009 financial crisis, Montenegro needs to stay ahead of fierce competition.

²³ The established zoning system in Montenegro is such that even when an investor finances development of a planning document, those urban spatial parameters that would meet the investor’s requirements in accomplishing project feasibility often cannot be introduced due to the limitations of a planning document of a higher rank, limiting urban parameters. This is why it is necessary precisely and in great detail to standardize and regulate economic and market analysis, which would be designed during the stages before adopting a planning document of a higher and lower rank. Such an analysis is mentioned in the Law on Spatial Planning and Construction and the accompanying rulebook, but it has not been standardized. In this way economic and market analysis would become a standard for the market valuation of the planner’s solution, making planning documents and the projects therein more competitive and attractive for investors. In addition, it is even more important to create a realistic basis for a quick start-up of projects planned in such a way. The basic condition for this is to provide for implementation of this approach in practice through higher-ranking plans.



(R46) *To get that extra edge, it would be recommendable to hire international consulting companies that specialize in this field. Such an investment would pay itself off multiple times over through direct revenue generated by projects and an indirect, trickledown effect that would be felt across the whole of Montenegro.*

Government's comment: *This recommendation will be taken into consideration in the process of drafting of the Rulebook (mentioned in the comment above).*

DEVELOP DETAILED PROJECTS INCORPORATING THE MARKET COMPONENT

(R47) *The faster an investor can begin a development project, the better the chances are to attract them. This means less work sifting through administrative hurdles, which would enable an investor to have his or her focus immediately on the important part – the investment.*

REAL ESTATE APPRAISAL

There are currently no standards implemented in practice, due to a lack of regulation in this important field.

(R48) *Introduction of internationally recognizable standards would enable a better foundation for further growth and development in the real estate market.*

Government's comment: *The proposal of the Law on Accounting, which has been prepared in accordance with Directives of the European Union and sent to the European Commission for approval, has a separate section devoted to appraisal. In this manner, this field will be established and regulated by legislation for the first time in the Montenegrin regulatory system, with a legal obligation to observe international standards in this field.*

CADASTRAL PRACTICES

(R49) *It would be recommendable for the Real Estate Directorate to hire private, licensed geodetic companies, to make changes in the cadastral records on behalf of the Directorate. This would contribute to increasing the limited capacities of the Real Estate Directorate.*

Government's comment: *Not accepted.*

LOW FIXED FEES FOR PROPERTY TRANSFERS

When transfer fees and taxes are too high, even registered property might quickly become informal if subsequent transactions are not registered. This not only weakens the protection of property rights, it also reduces potential revenue from property taxes.



(R50) *Therefore it is necessary to set low and fixed fees for various services offered by the cadastre.*

Government's comment: *This recommendation has been implemented through the Decree on amount of fee for using data of state surveying and cadastre of immovable property (Official Gazette of Montenegro 26/12).*

REAL ESTATE ADMINISTRATION'S DATABASE UPDATES

(R51) *The Real Estate Administration's database should be updated on a daily basis instead of once a month or even more rarely. In addition, the possibility of downloading the title deed and paying for all the fees electronically would be a welcome change that would significantly reduce part of the procedure.*

Government's comment: *Changes and amendments to the Act on State Surveying and Cadastre of Property, which is published in the Official Gazette of Montenegro 43/15 of 31 July 2015 added the principle of promptness: administration authority keeps updated records on registered titles on immovable property and applications filed for changing of such data; the certificate of title can also be obtained via Internet.*

RANKING OF MORTGAGE RIGHTS / PENDING INDEX

(R103) *Public Notary offices should have direct access to the Cadastre/Real Estate database to ensure real-time registration of property title deeds.*

Government's comment: *Changes and amendments to the Act on State Surveying and Cadastre of Immovable Property which was published in Official Gazette of Montenegro 43/15 of 31 July 2015, Article 155a provide that the institution in charge shall provide the national authority, local self-government authorities, legal entities performing functions of public interest and notaries the access to geodetic - cadastral information system and downloading data from that system for the purpose of performing functions under their competence.*

5.3.INFRASTRUCTURE (R67)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R67	The MFIC encourages the Government to invest additional efforts into commencing the construction of projects primarily in the area of traffic infrastructure and energy as soon as possible.	✓			



This hugely important area remains underdeveloped, and is one of the major limiting factors in the development of the whole country. For the past two years, primarily due to a lack of funding, no major projects were initiated that could improve the situation in this regard.

(R52) *The MFIC encourages the Government to invest additional efforts into commencing the construction of projects primarily in the area of traffic infrastructure and energy as soon as possible.*

Government's comment: *The following activities have been planned:*

- 1. Construction of a new terminal building at the airport Tivat with supporting infrastructure (period of implementation 2018);*
- 2. Extending and reconstruction of maneuvering areas and landing platform at the airport Tivat (period of implementation 2018);*
- 3. Reconstruction of existing control tower at the airport Tivat (period of implementation 2016).*

In the upcoming period, in parallel with implementation of the priority section of the highway Bar-Boljare, activities will also be implemented towards completing project documents for the remaining sections of the highway, primarily for the section Mateševo-Andrijevića, which is planned by the Detailed Spatial Plan of the highway to be implemented as the second section. According to strategic plans and orientation of Montenegro to invest in the development of railway transportation, intensive efforts have been invested in the past six years into implementation of railway overhauling projects

Recognizing continued Government's efforts to improve the infrastructure, we welcome all the new initiatives in this sense.²⁴

5.4. TAXATION

Montenegro is generally recognized as a low-tax area. This is a very good image to have in the business community; however, this is just part of the story, as the 9% corporate tax rate is not the only consideration to take into account when talking about the tax environment. As the Doing Business report notes:

²⁴ According to official Government data, during the period since regaining of independence of Montenegro until 2014, more than 300 mill EUR has been invested in maintenance, reconstruction and construction of roads.



“On average, firms make 17.00 tax payments a year, spend 314.00 hours a year filing, preparing and paying taxes and pay total taxes amounting to 21.60% of profit.”

Doing Business 2016 report

Here we would like to discuss a topic that entered into the focus during the previous years and is related to a significant step back in the area of taxation.

PREDICTABILITY

Our members report that in total, various taxes and duties including both those on the national and municipal level have in the past few years seen an increase of close to 50%. This is mainly owing to municipal taxes and increases in the prices of their services, and the Government needs to continue looking even more closely at this side of the issue of taxation. During 2013, businesses were “surprised” twice with increases in the two most significant tax rates: VAT was increased from 17 to 19 percent, and income tax from 9 to 15 percent for above-average salaries (€480). Even though it was called a temporary “crisis tax”, it was not changed until 2015, reducing it to 11% in two increments.

5.5. CORPORATE GOVERNANCE (R68 – R72, R104)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R68	The MFIC considers it crucial for the relevant authorities to improve not only control, but also education in this area (financial reporting).	✓			
R70	A change to the Bankruptcy Law is needed in such a way that the bankruptcy manager needs to share the opposing evidence with the creditor whenever the bankruptcy manager declares a claim to be disputed. Furthermore, the deadlines should be defined by the law, on the basis of which the bankruptcy judge must act in litigations for determination of the challenged claim, bearing in mind the urgency of bankruptcy proceedings.	✓			
R71	A change to the Bankruptcy Law is needed in		✓		



	such a way that the bankruptcy manager needs to share the opposing evidence with the creditor whenever the bankruptcy manager declares a claim to be disputed. Furthermore, the deadlines should be defined by the law, on the basis of which the bankruptcy judge must act in litigations for determination of the challenged claim, bearing in mind the urgency of bankruptcy proceedings.				
R72	A change to the Bankruptcy Law is needed in such a way that will include a provision that prescribes the obligation for the bankruptcy judge, before voting on the reorganization plan, based on the request of one or more creditors with a minimum 30% proportion of the reported claims, to appoint an independent external financial advisor or financial expert, whose costs are to be borne by the debtor who has submitted the reorganization plan, to review the feasibility of the proposed plan, the reality of the applied assumptions and the sustainability of the proposed measures for the settlement of the creditor's claims.	✓			
R104	The number of bankruptcy judges should be increased and specialized training should be given more attention	✓			

In this section we outline several components of corporate governance that still require improvement, while listing concrete solutions to issues that impede the development of this area and therefore the economy as a whole. The below quote from the EC Montenegro 2015 Report is very similar to the general feeling our members have regarding this area:

"Montenegro is moderately prepared on company law. Some progress was made on legislative alignment."²⁵

5.5.1. FINANCIAL REPORTING

The quality of financial reporting remains an area with huge potential for improvement. Even though there are several exceptions, the overall quality is still not at an acceptable level. Some of our members are working with their clients on producing financial reports that would enable them to access a wider pool of financing options available outside Montenegro.

²⁵ Montenegro 2015 Progress Report, European Commission



(R53) *However, this creates only a limited impact on the system as a whole, and the MFIC considers it crucial for the relevant authorities to improve not only control, but also education in this area.*

Government's comment: *New legal solutions have been prepared in this field. Proposal of the Law on Accounting is sent to the European Commission for approval with regard to compliance with Directives.*

5.5.2. BANKRUPTCY REGULATION

Our introductory assessment from three years ago is still valid: *“The current Law on Bankruptcy regulates in detail all aspects of the bankruptcy procedure. However, the problem of the bankruptcy procedures is not in the legal framework, but in their implementation. Montenegrin courts and judges have not yet built a clear position and legal practice regarding the application of the Law on Bankruptcy and the introduction of modern concepts of bankruptcy law to Montenegro.”*²⁶

In addition, our members note that no progress has been noted related to the official control over the implementation of the reorganization plans. When a reorganization plan is adopted under a bankruptcy proceeding there is no official body which controls either (i) the feasibility of the submitted plan or (ii) the proper implementation of the plan. The regularity of the latter checks is also not regulated. Since the payment schedule serves as the formal repayment schedule between the lender and the borrower, a stricter control must be established by the law and executed by the ruling courts.

UNGROUNDING CHALLENGING OF THE REPORTED CLAIMS IN BANKRUPTCY PROCEEDINGS

A reported monetary claim is determined and deemed to be approved if it is not challenged by the bankruptcy manager or by any other creditor. Unfortunately, in practice, this right is often subject to abuse, where groundless challenges to the reported claims are made by other creditors so that they have a privileged position or by the bankruptcy manager who usually acts in favour of the debtor, whereas the law stipulates that it should act independently. What is even more serious is that the bankruptcy manager does not have an obligation to explain the reasons why certain claims are defined as disputed ones, even though the submission by the creditor contains clear evidence (signed loan agreements, utilization requests signed by the debtors, signed transfer orders, analytical cards, etc). Compared to such objective evidence the other party has no obligation to prove its statements with underlying documents. After the claim is challenged in the bankruptcy proceeding, the creditor is referred to start the litigation process to prove its right, which takes a long time.

Proposal:

²⁶ For example, financial transactions such as loans to financial derivatives, which is the ability to charge in bankruptcy using the newly introduced provisions such as those of setoff, the right to choose, and the like.



(R54) *A change to the Bankruptcy Law is needed in such a way that the bankruptcy manager needs to share the opposing evidence with the creditor whenever the bankruptcy manager declares a claim to be disputed. Furthermore, the deadlines should be defined by the law, on the basis of which the bankruptcy judge must act in litigations for determination of the challenged claim, bearing in mind the urgency of bankruptcy proceedings.*

Government's comment: *The proposal of the Law on Changes and Amendments to the Bankruptcy Law regulates more closely also the manner of submitting an objection which can be filed by a creditor or any other person having legal interest to the court against any action performed by the trustee in bankruptcy, and obligations of the trustee in bankruptcy are clearer.*

VOTING RIGHTS IN CASE OF THE REORGANIZATION

The process of voting on the reorganization plan does not take into account the amount of the creditors' claims but the overall decisions are made solely on the separate decisions on the class of creditors. This usually leads to the adaptation of the reorganization plans by negatively discriminating against the banks as the largest overall creditors in most of the cases.

Proposal:

(R55) *A change to the Bankruptcy Law would be desirable in such a way that it includes provisions stipulating the right of veto of a creditor whose claim exceeds 50% of the total reported claims so that it can vote against the reorganization plan if it is against its interests.*

Government's comment: *Article 4, which defines the principle of equal treatment and equality, states that in bankruptcy proceeding creditors shall have the same treatment in accordance with their status regulated by this Law and that creditors shall be equal within the same payment line. Accepting this proposal would undermine this principle because a creditor with more than 50% of claims would condition other creditors with his interests and would use the right to veto to prevent reorganization plan.*

REVIEW OF THE SUBMITTED REORGANIZATION PLAN

The Bankruptcy Law stipulates that the reorganization of the company can be approved only if it provides a more favourable settlement and recovery for the creditors compared to the liquidation through the sale of the assets. It means that the main assumption behind the approval of a reorganization plan should be the evidence that there are economically justifiable and realistically achievable reasons for the continuance of the debtor's business



activity. As opposed to this principle, in practice the reorganization plans are usually proposed by the debtors, and the court does not check the quality and the realistic background of the plans, but accepts it as it is submitted, without questioning or analysing it further. This action puts the debtor in an extremely favourable position since it may submit completely unrealistic reorganization plans for approval. In several cases these reorganization plans entirely lack any grounds and business rationality or reality.

Proposal:

(R56) A change to the Bankruptcy Law is needed in such a way that will include a provision that prescribes the obligation for the bankruptcy judge, before voting on the reorganization plan, based on the request of one or more creditors with a minimum 30% proportion of the reported claims, to appoint an independent external financial advisor or financial expert, whose costs are to be borne by the debtor who has submitted the reorganization plan, to review the feasibility of the proposed plan, the reality of the applied assumptions and the sustainability of the proposed measures for the settlement of the creditor's claims.

Government's comment: *Article 164 paragraph 1 states that a bankruptcy judge may, ex officio or following proposal of an interested person, order the trustee in bankruptcy, or other professionals engaged by him, to establish accuracy of data contained in the proposed reorganization plan and for the costs incurred on such grounds to be borne by the party who submitted the proposal of reorganization plan. Therefore, this paragraph establishes the right of creditors to check reorganization plans, and we think it is not necessary to have it as an obligation, since it is in the interest of all creditors to have a quality reorganization plan and to ensure more favorable satisfaction of creditors as opposed to bankruptcy.*

However, the mentioned provision of the Article 164 can be, but is not necessarily, a right to verification and additional evaluation of sustainability of the reorganization plan. Bearing this in mind, current formulation of the Article 164, according to the experience of our members does not provide security to creditors in implementation of the idea, which is why we believe the change is still required.

BANKRUPTCY JUDGES

(R104) In addition, the number of bankruptcy judges should be increased and specialized training should be given more attention.

Government's comment: *Number of judges increased.*



5.6. RULE OF LAW (R73-75)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R73	The supervision and the internal audit of the actions of the Land registries is inevitably needed for securing the prevention of the ungrounded breach of the deadlines prescribed by the Law.	✓			
R74	The one-stop-shop system should be extended across the range of services in this area, including issuing both working and residence permits to foreigners that are employed in Montenegro.	✓			
R75	Changes are inevitable, but how these changes are managed and implemented in the regulatory environment is what makes the difference between a stable, predictable environment that enables companies to plan ahead and invest and an environment in which investors take conservative investment decisions not being able to tell how much, or if they will profit at all.	✓			

Corruption is a serious problem in Montenegro. Graft and misconduct are widespread in such key areas as health care and public procurement. Organized criminal groups have significant influence in both the public sector and the private sector, and Russian money laundering is significant. Politicization of the judiciary is a long-standing problem.

Heritage Foundation, Index of Economic Freedom 2016

Generally, our members consider that, even though Montenegro is making progress on its EU reform agenda, there are still issues that are a cause of concern in this area, primarily the fight against corruption and reinforcing the rule of law.

As the Heritage Foundation noted in its Index of Economic Freedom 2016:

5.6.1. JUDICIARY

Our members report limited or no progress at all when it comes to the issue of lengthy commercial disputes and court cases. Observations from the previous three issues of this document are still relevant: *“Lengthy court proceedings can render the intent of the petitioner completely pointless, thus jeopardizing the very foundations of the rule of law.”*

LONG-LASTING “OUT OF COURT SALE” PROCEDURES

In the process of “out of court” or extra-judicial foreclosure, the mortgage creditor faces a quite long-lasting process of registration of the notices in the Deed of Title, despite the fact that in the Law on State Survey and Cadastre it is stipulated that the deadline for the registration is 15 days from the moment of submission. This deadline is hardly ever met by the Land Registry Offices. In addition, the execution process is often delayed by the debtors who manage to avoid the delivery of default notices by fictitious leases in case of residential properties. Given the current practice, from the moment of the initiation of the out-of-court sale until the first public auction, almost half a year or even more often passes. This is an extremely serious problem that the banks are facing when it comes to the extra-judicial foreclosure of encumbered immovable assets mainly in terms of unenforceability.

PROPOSAL

(R57) The supervision and the internal audit of the actions of the Land registries is inevitably needed for securing the prevention of the ungrounded breach of the deadlines prescribed by the Law.

Government’s comment: *This recommendation or control of work of the Real Estate Agency is implemented in the Law on Changes and Amendments to the Law on National Surveying and Cadastre of Property.*

Compared to the period of some 5-6 years ago, our members note significant improvements in the general operation of the Real Estate Agency. However, legally defined time frames are still not respected in many cases, especially in smaller municipalities.

5.6.2. PERMITS AND LICENCES

Noting some progress in this area, our members are unanimous that the administrative procedures required for issuance of various permits and licences remain expensive and time-consuming. One of the most criticized areas of administrative procedures required for business operations is the area of issuing permits and licences. Even though progress is notable, it is necessary to further simplify complicated and expensive administrative procedures and eliminate emerging forms of bureaucratic autocracy – especially at local levels.

(R74) *The one-stop-shop system should be extended across the range of services in this area, including issuing both working and residence permits to foreigners that are employed in Montenegro.*

Government's comment: *One-stop-shop principle for issuing residence and work permits to foreigners has been introduced by entry into force of the Law on Foreigners the enforcement of which started in April 2015.*

Unfortunately, our members did not have a positive experience with the new system, or perhaps it was implemented with varying success in different municipalities.

5.7. PREDICTABLE BUSINESS ENVIRONMENT (R75)

In the White Book 2013 we discussed the issue of the predictable business environment, concluding that one of the defining characteristics of the previous year was the unpredictable business environment, caused by the frequent regulatory changes and increases in the tax rates and other fees payable to the government.

One of our members in 2009 paid a total of €3.2 million in various taxes, fees and charges for infrastructure services in total to both local and national governments. With approximately the same revenue, as growth was impeded by the global and local negative economic circumstances, in 2013 this figure reached a stunning €4.5 million – an increase of almost 50% in total taxes, fees, contributions and all other payments due to the government on various accounts, including services related to infrastructure. Regardless of how we choose to name these fees, this is an unsustainable trend of increase.

We quoted this example to illustrate the point:

In 2014 we faced even more increases – the price of water in the coastal region, the ecological tax, etc. In addition to 2013, there were increases of VAT from 17 to 19 percent, and a partial increase in the income tax rate from 9 to 15 percent (lowered to 13% in 2015). In 2015, this trend has been reversed, but our recommendation is still valid:



(R58) Changes are inevitable, but how these changes are managed and implemented in the regulatory environment is what makes the difference between a stable, predictable environment that enables companies to plan ahead and invest and an environment in which investors take conservative investment decisions not being able to tell how much, or if they will profit at all.

Government's comment: *Ministry of Finance and the Council for improvement of business environment, regulatory and structural reforms are investing continuous efforts into improvement of regulatory framework and business environment in general.*



6. INDUSTRY OVERVIEW

6.1. TOURISM (R76 – R82, R105 – R110, R130)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R76	Montenegro needs to position itself first in terms of the level of tourism it wishes to attract, which the Strategy has defined to a certain extent. It cannot only be high-end tourism, and a mix, strategically designed, would be the best way forward. In that sense, the regions, well defined in the Strategy, need to have their position and level in the general picture of Montenegro as one destination. However, these ideas are yet to be implemented.		✓		
R105	In order to fully utilize the power of marketing for promoting Montenegro as a tourist destination, we propose to include the stakeholders more. Our members in the tourist industry would be willing to contribute to a more coordinated, clear strategy that integrates the key players in this industry in Montenegro.	✓			
R106	Montenegro should consider introducing a more liberal regime for tourist visas to enable tourists and property buyers from those countries from which some of the largest foreign investors in Montenegro come, to be able to easily access Montenegro. A good example is the Schengen visa which enables a visitor to stay in the EU for three months, but only seven days in Montenegro. Or, for example, to get a Montenegrin visa, the procedure for an Azerbaijani lasts three months and they have to go to Teheran, Iran which is nearly one thousand kilometres away.	✓			
R107	Introduction of the so-called “Economic Passport” would greatly benefit Montenegro. Our members are confident that the country would attract significantly more foreign investment should this option be available to a prospective investor.	✓			



R77	In addition to the formal aspects of making Montenegro more accessible that are mentioned in the two recommendations above, more accessible, easy, cost-effective access from major European capitals needs to be encouraged. To this end, the airport infrastructure also needs an upgrade, especially when it comes to Tivat Airport.	✓			
R78	Paragraph 2 of the Article 27 of the Law on Yachts: Previously this (the possibility of filling out the “crew list” fully or by adding information) has been allowed, and now it is only necessary to apply the existing Law.	✓			
R79	We believe it would be enough to have a proxy that is not necessarily notarized, but is signed by the captain as a guarantee of authenticity with accompanying penalty provisions to be applied to a person who verifies the authenticity of a copy for which they know or must know they are not identical to the original.	✓			
R80	It is necessary to harmonize the Law on Yachts and the Law on Border Controls or issue a mandatory interpretation defining which one of the two laws takes precedence over the other when regulating the same matters, such as leaving the country and deadlines.	✓			
R81	It would be recommendable to revoke the requirement to return the “Shore Pass” to the police, since the police issues this document and can at any time check it against the records.	✓			
R82	It is necessary to allow a request for a berth to be signed by a Ship Master and not only by the Agent. There are no regulations that would make it mandatory for a yacht to hire an agent, and this practice therefore does not make sense.	✓			
R106	In addition, in order bring the work of inspections and more importantly, their results, to a higher level we propose the introduction of independent inspectors to be considered, who would control businesses that have already been visited by the inspection, similar to the audit of the inspectors that is already in the Law.	✓			
R108	The process of inspections of foreign-owned businesses needs to be more transparent for the business owners.	✓			



R109	A lower VAT rate of 7 percent should also be applied to food and beverages for hospitality businesses, which is especially important in the challenging period that is ahead for Montenegrin tourism.		✓		
R110	Tourist registration process needs to be made automatic at the airports, and all other Border Control Points.	✓			
R130	In order to compete with the countries in the region, and those beyond the region that are the main Montenegrin competitors, Montenegro obviously needs to increase the amount of investment in advertising the country, especially having in mind that the revenue from tourism comprises 20% of the GDP.	NA			



INTRODUCTION

Montenegro is becoming a worldwide tourist destination with high potential for further development. Tourism holds special significance for Montenegro's economy and is considered to be of strategic importance for the country's development.

According to World Travel and Tourism Council (WTTC)²⁷, the following is the key data representing Montenegrin tourism:

GDP: DIRECT CONTRIBUTION

The direct contribution of Travel & Tourism to GDP was EUR405.8mn (11.3% of total GDP) in 2015, and is forecast to rise by 6.9% in 2016, and to rise by 5.6% pa, from 2016-2026, to EUR746.3mn (14.6% of total GDP) in 2026.

GDP: TOTAL CONTRIBUTION

The total contribution of Travel & Tourism to GDP was EUR794.8mn (22.1% of GDP) in 2015, and is forecast to rise by 6.6% in 2016, and to rise by 6.0% pa to EUR1,521.9mn (29.9% of GDP) in 2026.

EMPLOYMENT: DIRECT CONTRIBUTION

²⁷ <http://www.wttc.org/-/media/files/reports/economic%20impact%20research/countries%202016/montenegro2016.pdf>



In 2015 Travel & Tourism directly supported 18,500 jobs (10.3% of total employment). This is expected to rise by 6.5% in 2016 and rise by 2.8% pa to 26,000 jobs (13.4% of total employment) in 2026.

EMPLOYMENT: TOTAL CONTRIBUTION

In 2015, the total contribution of Travel & Tourism to employment, including jobs indirectly supported by the industry, was 20.5% of total employment (37,000 jobs). This is expected to rise by 6.2% in 2016 to 39,000 jobs and rise by 3.3% pa to 54,000 jobs in 2026 (27.7% of total).

VISITOR EXPORTS

Visitor exports generated EUR844.7mn (48.7% of total exports) in 2015. This is forecast to grow by 6.7% in 2016, and grow by 5.0% pa, from 2016-2026, to EUR1,463.7mn in 2026 (47.9% of total).

INVESTMENT

Travel & Tourism investment in 2015 was EUR224.5mn, or 32.6% of total investment. It should rise by 7.9% in 2016, and rise by 7.2% pa over the next ten years to EUR487.5mn in 2026 (50.1% of total).

WORLD RANKING (OUT OF 184 COUNTRIES) ACCORDING TO THE RELATIVE IMPORTANCE OF TRAVEL & TOURISM'S TOTAL CONTRIBUTION TO GDP:



Our members noted that Montenegro is being better positioned as a tourist destination each year with concrete steps being taken to further improve its image.



RECOMMENDATIONS

Montenegro's potential has been given concrete guidelines in the Montenegro Tourism Development Strategy to 2020 which aims to position the country as "a destination with all-year-round tourism, with picturesque landscapes and protected biodiversity".²⁸

- **Regions and marketing**

(R59) To achieve the goal quoted above, Montenegro needs to position itself first in terms of the level of tourism it wishes to attract, which the Strategy has defined to a certain extent. It cannot only be high-end tourism, and a mix, strategically designed, would be the best way forward. In that sense, the regions, well defined in the Strategy, need to have their position and level in the general picture of Montenegro as one destination. However, these ideas are yet to be implemented.

Government's comment: *The Tourism Development Strategy of Montenegro until 2020 defines, inter alia, that Montenegro should be a high-end year-round tourist destination, which offers at the same time a diverse tourist product and the high quality thereof with the aim to satisfy the needs of each guest... Montenegro, as per the Strategy, has been divided into eight clusters and diverse groups of tourists have been defined individually in each cluster.*

(R105) In order to fully utilize the power of marketing for promoting Montenegro as a tourist destination, we propose to include the stakeholders more. Our members in the tourist industry would be willing to contribute to a more coordinated, clear strategy that integrates the key players in this industry in Montenegro.

Government's comment: *...Draft program will be presented in the future to MFIC for opinion before it will be sent to competent authorities for consideration and approval. Deadline: quarter IV of this year. Also, development of Marketing Strategy is planned for next year. Representatives of tourism sector of Montenegro will be consulted in its drafting.*

²⁸

<http://www.mrt.gov.me/ResourceManager/FileDownload.aspx?rid=89273&rType=2&file=01+Montenegro+Tourism+Development+Strategy+To+2020.pdf>



- **Visas**

(R106) Montenegro should consider introducing a more liberal regime for tourist visas to enable tourists and property buyers from those countries from which some of the largest foreign investors in Montenegro come, to be able to easily access Montenegro. A good example is the Schengen visa which enables a visitor to stay in the EU for three months, but only seven days in Montenegro. Or, for example, to get a Montenegrin visa, the procedure for an Azerbaijani lasts three months and they have to go to Teheran, Iran which is nearly one thousand kilometres away.

Government's comment: *The remarks are based on old information, because residence has been extended to holders of Schengen, USA visas from seven to 30... Residents of Azerbaijan do not need a visa to enter or stay in Montenegro up to 90 days.*

Welcoming these changes, we note this is still just a step in the right direction, with further liberalization required.

- **Economic passport**

(R107) Apart from further liberalizing the visa regime, introduction of the so-called "Economic Passport" would greatly benefit Montenegro. Our members are confident that the country would attract significantly more foreign investment should this option be available to a prospective investor.

Government's comment: *Experiences of countries around the world are currently being considered and analyzed, as well as options and potential benefits of creating a similar program for Montenegro.*

- **Infrastructure**

(R60) In addition to the formal aspects of making Montenegro more accessible that are mentioned in the two recommendations above, more accessible, easy, cost-effective access from major European capitals needs to be encouraged. To this end, the airport infrastructure also needs an upgrade, especially when it comes to Tivat Airport.

Government's comment: 1. Construction of new terminal building at the airport Tivat with supporting infrastructure (period of implementation 2018), 2. Extension and reconstruction of manoeuvring areas and landing platform at the airport Tivat (period of implementation 2018), 3. Reconstruction of existing control tower at the airport Tivat (period of implementation 2016).



- **Yachting**

Paragraph 2 of the Article 27 of the Law on Yachts alternatively stipulates the possibility of filling out the “crew list” fully or by adding information, but the Port Authority does not allow the addition of information, which makes both Port Authority’s and yacht’s job significantly easier.

(R61) Previously this has been allowed, and now it is only necessary to apply the existing Law.

According to the Regulation on Conditions to be Met by Ports Categorized According to the Type of Maritime Traffic and Purpose, ports are required to have berth (Article 2, paragraph 1, point 1). One of our members has several times sent a request for mapping a space which could be used for such a purpose. However no response has been received to date. What this means in practice is that skippers anchor their boat in a space they themselves determine while waiting for fuel and that the Port Authority issues a fine for doing so.

Government’s comment: *By entry into force of the Law on Changes and Amendments to the Law on Yachts a software solution has been created for electronic completing and monitoring of crew list, which is a solution to the problem of adding crew members to the crew list.*

The definition of a proxy/authorization given by the owner of a yacht to the skipper/captain should be harmonized by a legislative or less formal act. The Port Authority insists on a proxy that has been certified by a notary (or another similar institution) even when the owner of a yacht is present.

(R62) We believe it would be enough to have a proxy that is not necessarily notarized, but is signed by the captain as a guarantee of authenticity with accompanying penalty provisions to be applied to a person who verifies the authenticity of a copy for which they know or must know they are not identical to the original.

Government’s comment: *By entry into force of the Law on Changes and Amendments to the Law on Yachts and by giving instructions to Harbour Master’s Office or Branch Offices*

*(R63) It is necessary to harmonize the **Law on Yachts and the Law on Border Controls** or issue a mandatory interpretation defining which one of the two laws takes precedence over the other when regulating the same matters, such as leaving the country and deadlines.*

Government’s comment: *MoI stands by the 2014 position of the Government because it is clear that the Law on Border Control has supremacy over the Law on Yachts, that is to say the recommendation is accepted.*



(R64) *It would be recommendable to revoke the requirement to return the “Shore Pass” to the police, since the police issues this document and can at any time check it against the records.*

Government’s comment: *Accepted - MoI stand by the position expressed in 2014.*

(R65) *It is necessary to allow a request for a berth to be signed by a Ship Master and not only by the Agent. There are no regulations that would make it mandatory for a yacht to hire an agent, and this practice therefore does not make sense.*

Government’s comment: *By entry into force of the Law on Changes and Amendments to the Law on Yachts.*

- **“Grey” economy/inspections**

An issue that has seen significant improvement over the past few years is the work of inspections. However, businesses that operate in the so-called “grey area”, i.e. those that are not registered, remain unsupervised, and this continues to be an issue for those that operate a legitimate business.

(R106) *In addition, in order bring the work of inspections and more importantly, their results, to a higher level we propose the introduction of independent inspectors to be considered, who would control businesses that have already been visited by the inspection, similar to the audit of the inspectors that is already in the Law.*

Government’s comment: *The work of tax inspection is subject to review both during the procedure by the supervisor, and additionally by the quality controller.*

(R108) *The process of inspections of foreign-owned businesses needs to be more transparent for the business owners.*

Government’s comment: *According to the Law on Administrative Procedure and the Law on Tax Administration owners and management of companies are fully entitled to participate in tax procedure and to give remarks, file complaints and use all legal remedies in the procedure of inspection supervision.*

- **Lower VAT rate for food and beverages for hospitality businesses**

(R109) *A lower VAT rate of 7 percent should also be applied to food and beverages for hospitality businesses, which is especially important in the challenging period that is ahead for Montenegrin tourism.*



Government's comment: ...Accommodation services are dominant in the price of hotel services, and the share of food and beverage is a lot lower in the total price, and introducing of lower rate would not reduce substantially the price of tourist services. Introducing a lower rate in restaurants and other hospitality facilities is not justified at the moment and, according to assessments, it would not lead to reducing of prices and improvement of competitiveness.

- **Tourist registration**

(R110) Tourist registration process needs to be made automatic at the airports, and all other Border Control Points.

Government's comment: Electronic registration and deregistration of tourists through MoI's system started operating on 1 April 2015.

MFIC welcomes this as a step in the right direction, however this does not address the issue at hand. The challenge is the mandatory visit to police station or tourist bureau, while the registration could be completed at the point of entry in the country.

- **Promoting Montenegro as a tourist destination**

According to MFIC data, this is how much the countries that are competing with Montenegro invest in promotion of their countries in 2014 in Euros:

- Cyprus: 60.8 euros per capita, or a total of 52 million
- Malta: 102 per capita, or a total of 43 million
- Croatia: 10.12 per capita, or a total of 43 million
- Slovenia: 4.55 per capita, or a total of 9 million
- Montenegro: 1.98 per capita, or a total of 1.2 million

(R130) In order to compete with the countries in the region, and those beyond the region that are the main Montenegrin competitors, Montenegro obviously needs to increase the amount of investment in advertising the country, especially having in mind that the revenue from tourism comprises 20% of the GDP.



6.2.PRODUCTION/ENERGY (R83)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R83	This situation (state aid) needs to be resolved as quickly as possible as the EU rules on the protection of competition do not allow for such arrangements.		✓		

INTRODUCTION

In a service-based economy, such as Montenegro's, the export potential of the production industry has special significance.

According to Central Bank data²⁹, in 2015, for the second year, total industrial output declined by 12.3% year-on-year. An output decline was recorded in the mining and quarrying industry (15.7%)

and electricity, gas and steam supply (3.5%), while processing industry recorded a production growth of 3.1%.

The highest increase was recorded in the production of paper and paper products (120.1%), while the highest decline was in the production of tobacco (58.6%).



REMAINING ISSUES AND RECOMMENDATIONS

Our members this year noted limited positive developments, pointing out the inflexibility in the Labour Law and other regulations in this field. These seriously hamper Montenegro's potential in the real sector, and impede the initiated restructuring process.

In addition, the issue of state aid is affecting competition in this industry. Companies should not be receiving subsidies from the Government; this has widely been recognized as an inappropriate use of taxpayer's money.

(R66) This situation needs to be resolved as quickly as possible as the EU rules on the protection of competition do not allow for such arrangements.

²⁹ http://www.cb-mn.org/slike_i_fajlovi/fajlovi/publikacije/biltencbcg/2016/bilten-022016.pdf



Government's comment: *Enterprises in the field of energy are not subsidized by the Government of Montenegro. Proposal of the Energy Law (which will be discussed on the Parliament in the next period) is harmonized with regulations in the fields of consumer protection and state aid.*



6.3. TELECOMMUNICATIONS AND ICT (R84 – R88, R111-R115, R131)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R111	Thus we recommend eliminating the regulatory asymmetry between telecommunications and OTTs by immediately reducing the regulatory pressure on operators. In the medium term, the same rules should apply for same services.		✓		
R112	We encourage the Government to consider a redesign of the regulatory framework and establish a more flexible regime that will allow development of technologies and services, thus contributing to the society through the further investments in the industry.		✓		
R84	The observation that infrastructure development via public/private partnerships needs to be continued, remains valid. However, this is still jeopardized by far too low prices for infrastructure leases as determined by the Agency for Telecommunications.		✓		
R85	The issue of unbalanced criteria and an unbalanced position among municipalities regarding procedures for obtaining building permits is still a challenge to our members.	✓			
R113	Considering that the most of our base stations are temporary facilities, we suggest transferring jurisdiction for issuing building permits in the Municipality of Podgorica to the Secretariat for Utilities and Transportation.		✓		
R86	Therefore, the use of alternative sources of energy to build energy systems for independent power base stations could be the optimal solution for this type of problem.		✓		
R87	The operator should define clear and unambiguous general terms for the provision of services which particularly need to incorporate: a procedure for conclusion of agreements by means of remote communication and agreements concluded outside the business premises of the operator, which must contain provisions which		✓		



	are in accordance with the law regulating electronic signatures and protection of consumers (Article 148).				
R88	We believe that it is absolutely possible to conduct complete supervision over parts of the electronic communication networks, including the ICT systems installed outside of Montenegro, by means of remote access.		✓		
R114	We propose adding a new paragraph 2 to Article 39: "If a part of the electronic communications infrastructure and associated equipment used for the provision of electronic communications services is located outside the territory of Montenegro, the owner of the electronic communications network that uses that infrastructure and associated equipment shall ensure the consent of the owner and the holders of electronic communications infrastructure and associated facilities in order to meet the obligations under paragraph 1 of this Article, and shall reimburse all the costs of the inspections and controls carried out outside the territory of Montenegro to the competent regulatory bodies and/or government bodies that perform supervision"		✓		
R115	We are proposing the deletion of this controversial article of the Law on Cinematography. With this new expense in the current situation in which on the one hand the telecommunications market in Montenegro is facing negative trends in terms of the revenues and the need for serious investments in new technologies, on the other, the proposed regulation regarding the Film Fund finance additionally undermines operators' ability in this sense.		✓		
(R131)	We believe that electronic communication operators should have equal opportunities provided to their competitors – OTT providers enjoying full possibilities of cloud services and unhindered use of the data for commercial purposes. Thus, operators should be entitled to use other Montenegrin operators' electronic communication infrastructure, devices and equipment, for the needs of their networks,	NA			



	based on commercial contracts and respecting the provisions of the applicable regulations.	
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INTRODUCTION

The ICT sector is a driving force in both economic development and wider social change. It encourages productivity and competitiveness across the economy.

We believe that a strong ICT sector is crucial for Montenegro. We are fully committed to supporting the growth of the sector and creating a world with many opportunities in the era of globalization.





To deal with fast-paced technological changes and the way information is being consumed, produced and transferred, the ICT sector needs to look into new ways of finding revenue streams, new business models, and new markets. The telecommunications industry must continue to explore new ways to monetize the existing infrastructure and access investment to upgrade and expand that infrastructure, which is a particular challenge in Montenegro. All these goals can only be achieved by ensuring that outdated legislative and standardization frameworks are revised to fit the realities of the borderless broadband world.

MFIC ICT Committee

During 2014, our members from the ICT Industry formed a Committee within the MFIC to speak with one voice with the relevant stakeholders with the purpose of improving the business environment for the ICT industry in Montenegro. The ICT Committee will be striving to encourage innovation, economic growth and improvements in daily life for both the citizens and businesses.

As stated in the ICT Committee's Statute: "The aim is to maximize the ICT sector's potential of contributing to Montenegro's development from several angles. The Committee's mission is to encourage innovation, economic growth and improvements in daily life for both citizens and businesses by enabling a transparent, predictable and sustainable business environment."

The ICT Committee published a Position Paper, this year dealing with the following topics

1. *Market erosion*
 - *Regional Roaming Agreement*
 - *Annual Regulatory Fees*
 - *Retail prices regulation*
 - *National MTR*
 - *USO*
 - *Spectrum Management*
 - *Tax framework*
 2. *Challenging environment - OTT players and free Wi-Fi*
 3. *EC Law changes and Involvement in public consultations*
 4. *Law on Spatial Planning and Construction changes*
 5. *Law on roads changes*
 6. *Strengthening further relations with the EC Agency/Government*
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REMAINING ISSUES AND RECOMMENDATIONS

Several general issues that have been an impediment to the further development of this sector in Montenegro have already been mentioned in this document, whereas in this section we would like to list a few industry-specific recommendations:

- The emergence of OTT video and media services is changing the telecommunications industry. While OTT services are evolving fast, consumer behaviour is shifting even faster, so operators will have to create business models that are both agile and adaptive. In order to do this, we need government support. Regulation of this market would be very important for both the operators and the Government. By regulating this market, the state can gain significant economic value, while operators can devote resources to creating strategies for sustainable growth.

(R111) Thus we recommend eliminating the regulatory asymmetry between telecommunications and OTTs by immediately reducing the regulatory pressure on operators. In the medium term, the same rules should apply for same services.

Government's comment: *Markets of telecommunications in the world and in the EU are facing the so-called OTT players as well, and there are still no ready-to-apply solutions for OTT providers. The Government of Montenegro and the Ministry for Information Society and Telecommunications are monitoring closely the situation and will take all necessary steps which will be taken by the EU. This is also our obligation in accession negotiations with the European Commission.*

- Traditional telecommunications services and revenues are subject to heavy regulation, driven by consumer protection and internal market concerns restricting the ability of mobile network operators to maximize value in these markets. The rigid regulatory framework has been a useful tool in the learning process for the national regulator. However, considering significant market erosion, in the last few years, the current period requires a more predictable, pragmatic and flexible framework.

(R112) We encourage the Government to consider a redesign of the regulatory framework and establish a more flexible regime that will allow development of technologies and services, thus contributing to the society through the further investments in the industry.

Government's comment: *We would like to note that the recommendation is not clear. New Law on Electronic Communications has been passed and it is harmonized to the highest extent possible with EU Directives and EU standards.*



(R67) *The observation that **infrastructure development via public/private partnerships** needs to be continued, remains valid. However, this is still jeopardized by far too low prices for infrastructure leases as determined by the Agency for Telecommunications.*

Government's comment: ... prices of services of renting telecommunications cable ducts in Montenegro are at the level of prices applied in countries in the region which have regulated such prices... Prices of leasing of telecommunication cable network as established by the Agency for Electronic Communications and Postal Services have not prevented, but on the contrary, have led to development of competition on the market of electronic communications, particularly with regard to broadband internet access.³⁰

- When it comes to the infrastructure for mobile network base stations, positive improvement has been noticed with some local authorities such as in Podgorica, Cetinje and Berane, where the municipal authorities have been efficient in dealing with requests for obtaining building permits. On the other hand, our members have faced significant negative trends in some coastal municipalities, going as far as a total lack of cooperation which caused delays of one year for plans for temporary buildings.

(R68) *Thus the issue of **unbalanced criteria and an unbalanced position among municipalities regarding procedures for obtaining building permits** is still a challenge to our members.*

Government's comment: ... These structures are not subject to the procedure of issuing construction permits under the Law on Spatial Development and Construction of Structures because they are temporary structures. In order to "uniform" also the procedures which are the sole responsibility of local self-governments, the Ministry of Sustainable Development and Tourism, together with the Union of Municipalities of Montenegro and with support from OSCE, prepared in November 2013 a model of a set of decisions, including the Decision on construction of local structures of general interest. Pursuant to Article 7 paragraph 2 of the Law on Spatial Development and Construction of Structures, telecommunications structures fall under the structures of general interest and they are exempt from payment of fees for utilities infrastructure for construction land pursuant to Article 66 paragraph 1 indent 1 of the same Law. The Decision also defines the procedure for obtaining permits for such structures.

The respective decision has been made by 19 local self-governments, i.e. it has not been made by the following self-governments: Danilovgrad, Herceg Novi, Plužine and Gusinje.

³⁰ The Government here offers an exhaustive explanation why they consider the prices not to be too low, which we cannot quote in full.



- The issuance of building permits for telecommunication facilities is under the jurisdiction of local governments; in some municipalities this creates serious issues, and in a number of instances makes it completely impossible.

(R113) Considering that the most of our base stations are temporary facilities, we suggest transferring jurisdiction for issuing building permits in the Municipality of Podgorica to the Secretariat for Utilities and Transportation.

Government's comment: *Every local self-government manages their own territory.*

- Because of potentially unfavorable situation in Montenegro's energy sector, telecommunications companies also face the **challenge of electricity supply for the base stations**.

(R69) Therefore, the use of alternative sources of energy to build energy systems for independent power base stations could be the optimal solution for this type of problem.

Government's comment: *We think that it is acceptable to use alternative sources of energy only as reserve supply but not as a source of safe supply.*

- Previously we noted that in order to fully take advantage of electronic commerce, provisions of the **Law on Electronic Commerce relating to distance selling need to be aligned with the Consumer Protection Law**. The Law on Electronic Communications foresees the possibility that the subscriber agreement may be concluded by means of remote communication as well as outside the business premises of the operator, in accordance with the laws regulating electronic signatures and protection of consumers (Article 153).

(R70) In that sense the operator should define clear and unambiguous general terms for the provision of services which particularly need to incorporate: a procedure for conclusion of agreements by means of remote communication and agreements concluded outside the business premises of the operator, which must contain provisions which are in accordance with the law regulating electronic signatures and protection of consumers (Article 148).

Government's comment: *These are the standard applicable in the EU as well, and we have received a particularly positive evaluation from the European Commission for the section of the Law relating to consumer protection.*

- Montenegro is unique when it comes to **calculation of electronic communications concerning the units of measurement** (tariff interval) which is not subject to the laws on electronic communications in EU member states. In Montenegro, operators are required to include at least one tariff rate using 1 second as the unit of measure and 1 kilobyte (1KB) which also has to be applied in roaming, which for Montenegrin



operators means that in most of the countries, roaming services are being offered below their actual cost, as according to standard agreements on roaming, the tariff intervals are 60 seconds and 10 to 100 KB.

- Sometimes the issue lies in **interpretations of legal provisions**. To illustrate, Article 39 of the Law on Electronic Communications is a good example, as, according to our opinion, its interpretation is beyond the framework of the Law itself: the operators are not allowed to, on the basis of commercial agreements, for the needs of their networks provide the use of electronic communication infrastructure located outside of Montenegro. The explanation is that equipment located outside of Montenegro cannot be controlled. We consider that such an interpretation is a barrier for operators and that in the end it is the users that are missing out, since many of the services cannot be offered to them.

(R71) We believe that it is absolutely possible to conduct complete supervision over parts of the electronic communication networks, including the ICT systems installed outside of Montenegro, by means of remote access.

Government's comment: *Supervision must be performed in Montenegro in accordance with provisions of the Law.*

*(R114) In addition to the above, we propose adding a new paragraph 2 to Article 39: "If a part of the electronic communications infrastructure and associated equipment used for the provision of electronic communications services is located outside the territory of Montenegro, the owner of the electronic communications network that uses that infrastructure and associated equipment shall ensure the **consent** of the owner and the holders of electronic communications infrastructure and associated facilities in order to meet the obligations under paragraph 1 of this Article, and shall reimburse all the costs of the inspections and controls carried out outside the territory of Montenegro to the competent regulatory bodies and/or government bodies that perform supervision".*

- Service providers that operate in an international environment, as part of corporate groups, such as it's the case with Montenegrin operators, should be allowed to apply technically and organizationally integrated solutions at the level of international groups in order to ensure innovation and improve their services and optimize their resources. In that regard, we suggested last year³¹ to add one additional paragraph after paragraph 1 of the Article 39, which would allow the operators to keep a part of the infrastructure outside of Montenegro, while allowing access to relevant authorities for monitoring and control at the cost of the operators.

Increase of competition, need for transformation and revenue decrease in telecommunication industry constantly impose need for intensive cost management. Numerous services implemented at an individual

³¹ R114



national level are no longer competitive or profitable comparing to global OTT providers' services. Electronic communication operators can no longer cope with these challenges from the narrow national level. Faced with such global increase of competition, digital sovereignty can be only achieved through joint efforts at the European level.

Centralized and virtualized production are a defining trend in telecommunications industry. Electronic communications operators in Montenegro have to look for possibilities to utilize benefits resulting from doing business within international corporations in order to achieve the following:

- Shortening the time needed for product launch on the market
- Simultaneously offering best products to numerous national markets
- Quality and simplicity as key customer experience
- Quick and easy orders, quick service provision, fast repair, self – administration etc.

(R131) We believe that electronic communication operators should have equal opportunities provided to their competitors – OTT providers enjoying full possibilities of cloud services and unhindered use of the data for commercial purposes. Thus, operators should be entitled to use other Montenegrin operators' electronic communication infrastructure, devices and equipment, for the needs of their networks, based on commercial contracts and respecting the provisions of the applicable regulations.

- In December 2014, the Government of Montenegro adopted a draft Law on Cinematography, obliging the operators of public electronic services, including internet providers to pay for the so-called "Film Fund" amounting to 1% of the annual revenue generated from the internet.

***(R115)** We are proposing the deletion of this controversial article of the Law on Cinematography. With this new expense in the current situation in which on the one hand the telecommunications market in Montenegro is facing negative trends in terms of the revenues and the need for serious investments in new technologies, on the other, the proposed regulation regarding the Film Fund finance additionally undermines operators' ability in this sense.*

Government's comment: *The Cinematography Law entered into force end of July 2015. (Parliament of Montenegro passed it on 16 July 2015, and it was published in the Official Gazette of Montenegro 42/15). Article 36 of the Law provides, inter alia, obligation of operators of public communications networks, including internet access operators, to allocate 0.9% of annual revenues generated through internet services, broadcasting of TV programmes and renting of cinematographic works - for the film fund for financing of cinematography. analysis of regulations, comparative analysis of countries in the region and European practice, where such and similar models of financing of cinematography are functioning, have shown that such allocations do not undermine economic potential of payers, but constitute a fair compensation for the revenues they generate by offering within packages of their services different audio-visual*



contents, including cinematographic works, to a wide group of users, without any compensation. This is the model of financing of cinematography which is applied in many EU member states. The Law has received a positive opinion of the European Commission.



6.4.BANKING (R116)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R116	We encourage the Government to view the issue of the level of interest rates as a broader category, as the interest rate in an economy is a reflection of the risks in the economy – they are a consequence and not a cause.				✓

INTRODUCTION



At end-January 2016, total assets and liabilities of banks amounted to 3,452.8 million euros recording a y-o-y increase of 10.1%. In the structure of banks' assets in January 2016, total loans accounted for the main share of 68.9% followed by cash and deposits with central banks with the share of 17.8%, while other banks' assets items accounted for the remaining 13.3%. In the structure of liabilities, the main share of 75.5% was recorded by deposits, followed by capital with 13.6%, borrowings with 7.2%, while other items accounted for 3.7% of total liabilities.

Total banks' loans amounted to 2,380.6 million euros at end-January 2016, which represents a an annual increase of 1.1%. Loans to deposits ratio was 0.91 at end-January 2016, and it was lower than in January 2015 when it amounted to 1.02. At end-January 2016, loans disbursed to the corporate and household sectors accounted for the main share (77.8%) in banks' receivables.

In January 2016, banks' deposits amounted to 2,607.5 million euros recording a y-o-y increase of 12.8%.³²

³² Data according to Central Bank of Montenegro



Directors noted that the financial system is largely stable, and that bank capitalization and liquidity appear adequate in general. However, the still high level of non-performing loans, low provisioning and bank profitability, and weak asset quality are sources of vulnerability. Directors recommended that policy recommendations from the Financial Sector Assessment Program be implemented to address these vulnerabilities. In particular, Directors noted the need for an independent asset quality review of banks and measures to enhance emergency liquidity assistance. They also recommended that steps be taken to enhance the regulatory, supervisory and resolution frameworks, and to develop the macro-prudential framework.

As the IMF noted in the Concluding Statement of the 2015 Article IV Consultation Mission³³:

REMAINING ISSUES AND RECOMMENDATIONS

Since all of our recommendations provided in this section in previous editions of the White Book have been dismissed by the Government, we will not be repeating them even though our members still believe there are very good reasons why they should be taken into consideration.

Here we will repeat only the recommendation we gave last year:

The entire economy would greatly benefit from lower interest rates and easier and simpler access to financing. (R116) But this requires a more stable business environment, and in that sense we encourage the Government to view this issue as a broader category, as the interest rate in an economy is a reflection of the risks in the economy – they are a consequence and not a cause.

Additionally, these issues should be noted in the process of drafting the amendments to the Law on Banks:

- Define what data on retail accounts need to be registered for enforced collection.
- Which retail accounts should be excluded from enforced collection in banks practice
- Define process of treatment of retail accounts balance which consist of different type of incomes, i.e. account balance consists of amount for regular incomes – salary is excluded from enforced collection and not regular incomes which are not excluded from enforced collection).
- Define process of treatment of stock of already blocked accounts for court orders (how to further process enforced collection)
- Establish priority in collection: court orders versus banks permanent orders
- Treatment of overdraft: is it a part of enforced collection process or not.

³³ <http://www.imf.org/external/np/sec/pr/2016/pr1695.htm>



6.5. TRADE/RETAIL (R92)

No	Recommendation	Will be considered /accepted	Dismissed	Work in Progress	Not commented
R92	The MFIC encourages the Government to ensure the equal treatment of businesses and equal application of the rules for all, including in the areas of social, pension and health insurance and contributions. These expenses comprise some 40% of employee-related costs and can dramatically impact the competitiveness of retail operations.				✓

INTRODUCTION

In this industry our members report notable improvements, assessing that some challenges still do exist. In general, weak enforcement by the institutions remains to be an issue but the legislation and procedures have been very much improved.

REMAINING ISSUES AND RECOMMENDATIONS

(R72) The MFIC encourages the Government to ensure the equal treatment of businesses and equal application of the rules for all, including in the areas of social, pension and health insurance and contributions. These expenses comprise some 40% of employee-related costs and can dramatically impact the competitiveness of retail operations.



7. MFIC COOPERATION WITH THE GOVERNMENT



In 2015, the good cooperation that the MFIC has had since its establishment with the Government during the past four years, continued. We received comments on a large part of our recommendations, while the Government expressed its commitment to considering some of them. Most certainly we hope that the Government will show even more dedication to improving the business environment and that more of our recommendations will in the future be accepted.

The MFIC hosted several events attended by the highest-ranking officials during 2015. MFIC is honoured by the support expressed by the highest Government officials including the Prime Minister Milo Đukanović, Deputy Prime Minister and Minister of Foreign Affairs and European Integration, Igor Lukšić, and the President of the Executive Board of Union of Municipalities of Montenegro and Mayor of the Old Royal Capital Cetinje, Aleksandar Bogdanović, who took part in sessions of the Montenegrin Foreign Investors Council during 2015.

These meetings present an important opportunity for the Council members to directly communicate with Government



These meetings present an important opportunity for the Council members to directly communicate with Government representatives, present their views and suggestions towards improvement of the business environment in terms of transparency, stability, efficiency and predictability. The feedback we received from our distinguished guests assured us that the work being done by the MFIC is heading in the right direction.

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Additionally, representatives of the MFIC took part in the sessions of the Government's Council for Improving the Business Environment and Structural Reforms. MFIC also signed the Memorandum on cooperation with the Montenegrin Investment Promotion Agency (MIPA).



We are looking forward to continuing and intensifying cooperation not only with the Montenegrin Government, but with the diplomatic community in Montenegro, universities, civil society and other business organizations.

8. BUSINESS AND EDUCATION



The MFIC launched its first University Outreach Programme in 2013. The launch event was held at the University of Donja Gorica (UDG), where MFIC representatives met students and held a presentation with the inspiring title “Fear of Profit versus Perfect Investors’ Landscape”.

In 2015 we continued this practice. MFIC took part in panel discussion organized by Montenegro Business School, Mediterranean University. The panelists were Mr. Ruediger Schulz, MFIC President and CEO of Crnogorski Telekom and Mr. Savo Đurović, MFIC BoD member and Legal Director of Porto Montenegro.

Subject of the discussion was the Montenegrin Foreign Investors Council itself and the activities carried out by this organization in order to improve business environment its members operate in. The meeting was also an opportunity for the MFIC to present its members' achievements in some of the capital investment projects of the country, but also to highlight administrative difficulties foreign investors are facing both when starting a business in Montenegro (construction permits, registering property, protecting investment, enforcing contracts etc.) and in their regular business activities (tax policy, inefficiency and slowness in enforcement of legislation, underdeveloped infrastructure, labor legislation, waste management etc.).

In addition, MFIC representatives took part in an educational event at the University of Montenegro.

This is only the first step in what the MFIC is planning to do to give its contribution to what is the future of Montenegro and its economy – education. Education is, and in the future will be even more so, a leading source of innovation and thus of development. It can help shape the country’s success in attracting FDI and thus create a solid base for future development and an increase in the standard of living.



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Since the first edition of the MFIC's White Book was issued in 2009, our members report that they are increasingly starting to feel positive developments in the area of education. However, incremental improvements are not enough for Montenegro's workforce to remain competitive in an increasingly global labour market. These challenges can be converted into opportunities in an ever-more connected world, in which physical distances, although still important, are being diminished through the development of technology and this is where the MFIC has started turning its focus more and more.



9. CLEAN MONTENEGRO INITIATIVE



The initiative we launched last year, “Clean Montenegro”, will this year be even more current as 2016 will be the year in which Montenegro will be opening the Chapter 27 – Environment and Climate Change in the EU accession negotiations.

Montenegro is recognized as a country with beautiful, unspoiled nature. We see it as one of the strongest potentials that this country has.

The unique landscape of Montenegro, unfortunately, often becomes spoiled by something that does not belong there – waste.

Our members have recognized waste management as one of the areas with significant room for improvement. The key is raising awareness among the citizens of Montenegro about the importance of waste management, and establishing the right structure for citizens to be able to dispose of waste in the most convenient way. We are aware of the fact that this needs time, and we will keep following the progress that Montenegro makes over the years. We will keep encouraging and helping the governmental institutions in charge of waste management in their efforts to resolve some of the primary issues in this field. There is no doubt that Montenegro can resolve at least some of the challenges, like, for instance, illegal dumps – their number is, unfortunately, disturbingly high.

According to MONSTAT, in 2013, 286 378 tons of communal waste was collected in Montenegro, or 1.26 kg per capita per day. Unfortunately, not all waste producers are covered by the service of collecting and transportation of garbage. According to the data collected from the municipalities, it is mostly urban centres that are covered by this service, while rural areas, especially villages, are mainly not covered. At the moment, there are two regional sanitary landfills, one in Podgorica (for Podgorica, Danilovgrad and Cetinje), and the other in Bar (for the municipalities of Bar and Ulcinj, and Budva, Kotor and Tivat).³⁴



According to the data from the Ministry of Sustainable Development and Tourism (from 2011), there are 273 unregulated waste dumps. This has a multitude of negative effects, among other things, tourists quite often notice

³⁴ Source: Report on the State of the Environment in Montenegro for 2013 – data for 2014 will be provided in Q3 2015.



illegal dumps in some of the most remarkable viewpoints in Montenegro. Certainly, this spoils their impressions about this beautiful country and gives some of our investors a hard task to explain why the situation is like that.

APPENDIX 1: OVERVIEW OF THE ACQUIS COMMUNAUTAIRE CHAPTERS

During the process of the enlargement of the European Union, the acquis was divided into 31 chapters for the purpose of negotiations between the EU and the candidate member states for the fifth enlargement (the ten that joined in 2004, plus Romania and Bulgaria, which joined in 2007). For the negotiations with Croatia (which joined in 2013), Iceland, Turkey, Montenegro and in the future, with Macedonia and Serbia (candidate countries), the acquis was/will be split up into 35 chapters instead, with the purpose of better balancing between the chapters: dividing the most difficult ones into separate chapters for easier negotiation, uniting some easier chapters, moving some policies between chapters, as well as renaming a few of them in the process:

1. Free movement of goods
2. Freedom of movement for workers
3. Right of establishment and freedom to provide services
4. Free movement of capital – *opened*
5. Public procurement – *opened*
6. Company law – *opened*
7. Intellectual property law – *opened*
8. Competition policy
9. Financial services – *opened*
10. Information society and media – *opened*
11. Agriculture and rural development – *opened*
12. Food safety, veterinary and phytosanitary policy – *opened*
13. Fisheries – *opened*
14. Transport policy – *opened*
15. Energy – *opened*
16. Taxation – *opened*
17. Economic and monetary policy
18. Statistics – *opened*
19. Social policy and employment
20. Enterprise and industrial policy – *opened*
21. Trans-European networks – *opened*
22. Regional policy and coordination of structural instruments
23. Judiciary and fundamental rights – *opened*
24. Justice, freedom and security – *opened*
25. Science and research – *closed*



26. Education and culture – *closed*
27. Environment
28. Consumer and health protection – *opened*
29. Customs union – *opened*
30. External relations – *opened*
31. Foreign, security and defence policy – *opened*
32. Financial control – *opened*
33. Financial and budgetary provisions – *opened*
34. Institutions
35. Other issues



APPENDIX 2: FULL MEMBERS OF THE COUNCIL:

1. Crnogorski Telekom A.D., Podgorica
2. NLB Montenegro Banka A.D., Podgorica
3. Montenegro Stars d.o.o., Kotor
4. Crnogorska komercijalna banka A.D., Podgorica
5. Société Générale banka Montenegro AD
6. Coca Cola Hellenic Bottling Company Crna Gora d.o.o., Podgorica
7. PricewaterhouseCoopers d.o.o., Podgorica
8. Adriatic Marinas d.o.o., Tivat
9. Deloitte d.o.o., Podgorica
10. Lustica Development A.D., Tivat
11. MTEL d.o.o., Podgorica
12. Telenor d.o.o, Podgorica
13. Uniqa osiguranje, Podgorica
14. Erste Bank A.D., Podgorica
15. Siemens d.o.o., Podgorica
16. Hypo Alpe Adria Bank A.D., Podgorica
17. European Bank for Reconstruction and Development
18. Jugopetrol A.D., Kotor
19. Pivara Trebjesa d.o.o., Nikšić
20. Terna Crna Gora d.o.o., Podgorica
21. Azmont Investments d.o.o., Herceg Novi
22. Sava Montenegro A.D., Podgorica
23. Lovćen osiguranje A.D., Podgorica
24. Stratex Montenegro Sales and Marketing d.o.o. (Dukley Gardens), Budva
25. Integrated EE Holdings d.o.o. (Abu Dhabi Financial Group), Podgorica
26. Domen doo
27. Ericsson AB Stockholm, Branch Office Podgorica
28. Elektroprivreda Crne Gore AD `
29. DHL Express
30. China Road and Bridge Corporation, Montenegro Office
31. Hipotekarna banka AD Podgorica
32. Ziraat banka Montenegro AD
33. Generali osiguranje Montenegro
34. Crnogorski elektroprenosni sistem AD
35. Karanović i Nikolić d.o.o



FOR THE MONTENEGRIN COUNCIL OF FOREIGN INVESTORS:

Miroslav Hiršl, MFIC President

Jasmina Čeranić, MFIC Secretary

Kosta Radonjić, Consultant

MFIC BOARD OF DIRECTORS

Miroslav Hiršl, CEO of Societe Generale banka Montenegro AD

Giulio Moreno, Head of the EBRD Office in Montenegro

Nela Belević, CEO of Uniqa

Savo Đurović, Director of Legal Operations, Porto Montenegro

Rashad Rasullu, Advisor to the Chairman, Azmont Investments

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