

# Montenegro 2017



**Total: 59.43**

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## Political Freedom

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### **Free and Fair Elections : 6.79**

Like many other Western Balkans countries, deep political division across society and political turbulences didn't bypass Montenegro as well. In order to ensure free and fair elections, a caretaker Government was elected in May 2016, giving several ministerial seats to opposition parties. Parliamentary elections were held in October and numerous mechanisms to increase transparency of the process and ensure better gender representation were implemented. Although OSCE ODIHR described the elections as competitive and respectful of fundamental freedoms, some irregularities were reported. Government was blocking social media applications for hours during the elections day. Also, a group of people was arrested while voting was still in process, on the ground that they planned to organize a coup. Ruling Democratic Party of Socialist (DPS) won plurality of 36, out of 81 seats in the Parliament, and managed to build Government with some minor partners. Long standing DPS party leader, former Prime Minister and former President of Montenegro Milo Djukanovi didn't take part in the new government, allowing Duško Markovi to be elected as the PM. Immediately after elections, all opposition parties started boycotting parliament sessions, accusing the government of taking advantage of allegedly "fake coup" on the election day, which according to them spread a fear among voters. By July 2017 those protests were still ongoing.

### **Absence of Unconstitutional Veto Players : 5.83**

Government in Montenegro has effective power to unrestrictedly and without interference rule the country. Threat for democracy and rule of law is coming from the fact that already weak system of check and balances, where executive dominates legislature and allegedly influence judiciary, was further weakened by opposition boycott of the parliament sessions. During the period under review all laws were adopted without serious opposition voices, thus control function of the Parliament lost in its importance. Although Milo Djukanovi withdrew from the state functions, it was expected that he would retain his influence on the key decisions made by the Government. Some players, such as wealthy businessmen, or the church, could try to influence politics, but it has rather been politicians' decision than their urgencies that mattered most.

### **Freedom of Press : 5.6**

Print, broadcast and online media outlets are partly free to practice their job in Montenegro. Media landscape is pluralistic and diverse, although highly politically polarized, following social divisions

along political lines in the recent years. Media outlets are subject to political and editorial pressure and influence, as reflected by partisan reporting. Government influence on the private media is mostly imposed through state-sponsored advertising, a process which remained blurred throughout the year, and in return led to more positive coverage of governmental activities. Montenegro has also got a problem of high concentration of ownership, located in the hands of a few companies, and with the lack of ownership transparency in the printed media sector. Problem of media self-regulation is expected to be resolved in the upcoming years, since the adopted Code of Ethics for journalists aims to increase professionalism among them. There were cases of both physical and verbal violence against journalists.

## Rule of Law

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### **Independence of the Judiciary : 4.58**

Montenegro's judiciary showed a modest improvement as compared to the previous two years. Freedom House noted its better efficiency and transparency while the whole system is just "moderately prepared for EU accession" (for which Montenegro, btw, is regarded as least far away among all Western Balkans countries). Better quality of rulings plus smaller backlog of cases older than three years are grounding this optimistic assessment. Training of judges has improved, where after the trust in courts by the citizens is in the rise. However, portal GAN warns at still high corruption risks for companies, interference by politicians or by organized crime and problems in the implementation of court decisions.

### **Corruption : 4.5**

In the Transparency International's Corruption Perceptions Index 2016, Montenegro is sharing the place 64 with Oman, South Africa and Senegal. It received the best score ever – 45/100. It is the least corrupt of the six CEFTA members. Citizens are still very worried about corruption and perceive it as the biggest challenge to democratic development. Portal GAN identifies public procurement, police, judicial system and land administration as areas of the highest corruption risk for companies. CSOs mostly worry about corruption in education, or in political party financing. Recently founded Agency for Prevention of Corruption received both praise (by the Freedom House, for successful handling of the case of former federal Serbia-Montenegro President Svetozar Marovi) and criticism (by the corruption monitor MANS, for prioritizing investigations towards CSO activists instead of against ruling politicians).

### **Protection of Human Rights : 6.4**

In spite of the mortal danger that October 2016 failed coup had posed for the country's further democratic development and for its highest officials, Montenegro did not resort to unlawful methods of defense against the "hybrid war", but more or less preserved the already reached modest level of rule of law and respect for human rights. The main trial against perpetrators was broadcast live by several TV stations. Plea bargain was offered to, and accepted by some of the defendants. Otherwise, there is a divergent record on human rights. Some freedoms are highly valued, such as academic, or religious (aside of the row between two Orthodox churches), or of

ethnic minorities (although more has to be done for Roma, especially those among them that lived in Montenegro as refugees since they had fled Kosovo in 1999), or of movement. Judicial finale to serious human rights violations of the past (e.g. abductions during the wars of the early 1990s, or assassination of a renowned journalist in 2004) is but missing. In the latter case also revelation of the political background is missing. LGBT groups still face obstacles in organizing their rallies, while various laws that would lessen their inequality are missing.

## Economic Freedom

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### Security of Property Rights : 5.14

Private property in Montenegro is mostly secure. As in many transition countries, legal framework is mostly well established but its actual implementation is often dubious. There is a strong connection between the political elite and the judiciary, undermining the independence of the latter. Corruptive practices among the judiciary pose another significant difficulty to judicial processes, making the overall integrity of the legal system uncertain. Judicial processes are slow, lasting 1.5 years on average. There are many backlogged cases. There is a lack of capacity or knowledge among judges involved in specialized cases. Enforcing contracts is a lengthy process, partially due to the high number of backlog cases. Court decisions are not always clearly and consistently reasoned or enforced. Low level of court process automation remains as a weak point of the system. The process of property restitution is slow, due to administrative constraints and lack of political will - many cases are yet to be resolved. Bulks of appeals that are filed against the Government of Montenegro in front of the European Court of Human Rights concern long legal procedures which diminish the right to a trial within a reasonable time frame. Registering private property is also a slow process, due to inefficient work of the Real Estate Agency and local tax authorities that determine the level of taxes due. Municipalities also often lack detail urban plans, which makes procedures for obtaining construction permits more complex and lengthy. As in other countries in the region, actual implementation and enforcement of existing legislation is not consistent. There are no limits to foreign ownership in industries, and foreign nationals can also own land a, but this•J3••

### Size of Government: Expenditures, Taxes, and Enterprises : 5.81

Government expenditures in Montenegro are high, more in line with highly advanced European countries than with its transition peers. Total public spending reached 50% of GDP in 2016, a significant proportion of it for capital investments for the Bar - Boljare motorway, whose first section Podgorica - Kolašin is under construction. This infrastructure project alone accounts for the public deficit, itself reaching 6% of GDP in 2016, since project costs are estimated at 25% of GDP. Public debt in 2016 stood at 70% of GDP. Public expenditures for the public wage bill and pensions are unreasonably high. Pension fund is unsustainable, creating fiscal drain. To make public debt more sustainable, the government started implementation of a fiscal consolidation plan, by lowering expenditures, including the freshly adopted benefits for mothers of three or more children ("Mother Law") and keeping the 11% "solidarity tax" on high earners. Majority of SOEs were privatized in previous rounds of privatization, but SOEs still have a significant role in the

economy, since they are not restricted only to utilities, but are found in industries considered as strategic such as energy, transportation, ports, railway, air carrier, tourism or even agriculture. They rely not on direct state aid (subsidies) but on indirect aid (tax or other arrears) due to their inefficient operation. Further privatization plans were mostly put away with the cancellation of privatization of the Port of Bar. The tax system consists of flat corporate tax set at 9% rate, while VAT levels are 0% (only for medicine), 7% and 19%. Corporate tax and personal income tax rates are flat, with 9% tax rate (but also with 11% surcharge rate on earners above the average wage). However, high social contributions, reaching approximately one third of the gross wage, lead to high overall labour tax wedge, thus encouraging shadow employment. Favourable tax policies established at the national level are often overlooked at the municipality level with their local taxes and surcharges.

## **Regulation of Credit, Labour, and Business : 6.31**

Regulation in Montenegro is mostly business friendly. By-laws are often inconsistent, ambiguous or outright in collision with each other, which decreases certainty and creates confusion. This makes inconsistent implementation due to partiality of government officials easier. Starting a business is relatively easy, with low associated costs, with a symbolic paid-in minimum capital of just 1 euro. However, obtaining a construction permit or getting electricity is much more complicated, with long procedures and very high costs, due to inefficiencies in municipalities and to high fees. Tax procedures are overly complicated, although with a relatively low number of annual payments. VAT compliance rules are expected to be eased with the introduction of the electronic system for filing and paying VAT, similar to the system used for labour taxes. Inefficient government bureaucracy, as well as corruption and low quality of infrastructure, are among the most problematic areas for conducting business activities. Rigidities in the labour code further exacerbate this situation: although fixed-term contracts are not prohibited for permanent tasks, their maximum length is set to just 24 months, while severance pay is increasing with years in tenure, favouring more seasoned workers. However, working hours are mostly flexible. Centralized collective bargaining, although prevalent in some industries, is mostly restricted to public sector. New labour law has been under discussion for quite some time, which would increase flexibility in the labour market, but these changes are yet to be put to paper and materialized.

## **Freedom to Trade Internationally : 8.47**

Freedom of trade in Montenegro is mostly upheld, since international cooperation and specialization is very important for such a small economy. Montenegro has been a member of the World Trade Organization (WTO) since 2012. It ratified its Trade Facilitation Agreement in May 2016. That is expected to further liberalize trade flows after the implementation commences. However, bureaucracy procedures inefficient, imposing unnecessary time and costs. Low quality of transportation infrastructure - including roads, ports and especially railroads - hinders free trade, increasing costs of both imports and exports. Finalization of the motorway investment project would significantly alleviate this situation, while possible privatization of the port of Bar would bring much needed investments. Main trade partners are countries from the EU and Western Balkans, especially Serbia. Trade with these countries is made under the Association Agreement (since 2010) and the CEFTA (in effect since 2007). Tariffs are low, with the mean applied most favoured nation (MFN) rate of 3.9%. Montenegro, although it is neither an EU member state nor a Euro-zone member, unilaterally adopted the euro, which enhanced international trade by eliminating exchange rate risks and other currency exchange costs. The restrictive Law on Employment of Non-Residents, enacted in 2015, which mostly closed Montenegrin labour market for foreigners, was amended in March 2016, to exclude the obligation of businesses to obtain certificates from

the labour office that there were no unemployed Montenegrin nationals of the desired profile prior to hiring foreigners. But the quotas were not increased (15 000 ordinary worker permits and 3000 for capital projects).