

# Montenegro 2018



**Total: 59.09**

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## Political Freedom

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### **Free and Fair Elections : 6.43**

While the Constitution of Montenegro provides a legal framework for free and fair elections, many limitations to freedom and fairness of this process still exist in practice. Political parties are free to organize, operate and compete at elections. However, political arena has for decades been dominated by the ruling Democratic Party of Socialists (DPS). Although all recent elections were deemed by OSCE ODIHR as “with respect to fundamental freedoms”, flaws such as blurred separation between state and political roles, unfair representation in media, pressure on public employees and persistent vote-buying allegations are continuously repeating. They are advancing DPS’s position. In April 2018, presidential elections were held. Although he had previously announced that he would not run for President, former prime minister, former president and long-standing leader of the DPS Milo Djukanovi was nominated as the DPS frontrunner. He secured a clear victory, winning around 54% of votes in the first round. Besides elections, parliamentary crisis shaped political life in the country throughout the period under review, with majority of the opposition boycotting parliament sessions. However, in the mid of 2018, several opposition parties and their leaders announced their return to Parliament.

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

Outside the political arena there are no unconstitutional veto players in Montenegro who are able to undermine democratic procedures and decision-making processes. However, weak separation of powers in practice created space for influential role of certain politicians, serving their private business and political interests. Most notably, Prime Minister Milo Djukanovi, a DPS leader, demonstrated his dominant role in the country even during a period when he was without any state function. Even then he apparently controlled the decision-making process. This practice hindered democratic spirit in the country, same as the deep political division between governing and opposition political parties which lasts for years. Opposition boycott of parliament additionally contributed to the weakness of the existing system of checks and balances.

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

Freedom and independence of the press in Montenegro is only to a certain degree respected in practice. There are number of print, broadcast and online media outlets operating in Montenegro, however media scene is lacking diversity of views and - to even more significant degree - objectivity. Two main reasons are behind such a situation: the concentration of media ownership in

the hands of a few companies and deep political divisions within society which are reflected also in media sphere. While often supporting either the government or the opposition side, media outlets are showing clear bias on most significant political topics in the country. Ruling DPS does not hesitate to influence editorial policy of the RTCG – Montenegrin public radio and television service, e.g. through parliamentary appointments into broadcaster bodies, while the most common tool for influencing private media outlets is state advertising. Journalists` everyday working environment is marked by poor job conditions, physical and verbal threats, political pressure and large defamation fines. All these contribute to large degree of self-censorship among journalists and lack of their objective reporting.

\* Press freedom score will be updated after data from primary source have been published. For more information see Methodology section.

## Rule of Law

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### **Independence of the Judiciary : 4.25**

Judiciary in Montenegro is more independent than in any of its neighbors – Albania, Kosovo, Serbia, BiH, or even EU-member Croatia. In the politically most sensitive cases, such as the process against alleged October 2016 coup-d`etat conspirators (some of which being key opposition figures), the due procedure has been so far respected and the trial has remained fair. However, some analysts, including Freedom House commentators, also noticed that the trial put in question the professional competence of some of the judges and prosecutors. Besides already achieved, more is to be done in the training of judges. In war crimes` trials, Montenegro has been comparatively more agile than neighbors. As for the level of autonomy of prosecutors from the executive branch in their daily work, it is lower than courts`, while the one of the police is even lower. In July 2017, Constitutional Court found out that Prosecutor`s Office had not properly investigate complaints against alleged torture and ill-treatment by the police, put by two participants in the November 2015 violent anti-government demonstrations.

### **Corruption : 4.6**

Throughout this decade, Montenegro has consistently, albeit very slowly, improved its anti-graft record. In the Transparency International`s CPI 2017 ranking, it received 46/100 points and shared places 64-65/180, surpassing countries such as Hungary, Bulgaria or Brazil, not to mention other six CEFTA members. Public procurement, land administration, police and judiciary are still the most corruption-vulnerable in the eyes of companies which operate in the country. Citizens worry more about bribery in education, and a bit less also in health care. CSOs find the financing of political parties as key unresolved issue and the fertile ground for all other corruption. Lack of depoliticized administration and public-sector corporate management, in a small, politically polarized country, where personal information on anyone is easily available, often leads to indirect vote buying through favors or blackmails facilitated by state or local government actors.

## Protection of Human Rights : 6.17

Montenegro's human rights record is divergent. Freedoms of movement, residence, choice of education, employment, or similar, are well respected. Academic freedom, including freedom to conduct scientific research or to express through art, is generally upheld, even though the October 2017 ousting of the rector of the University of Montenegro was a bad precedent. Freedom of expression is curtailed by the limitations to media freedom. Freedom of religion is upheld, in a multi-religious environment. The Government is neutral in the row between Serbian and Montenegrin Orthodox Churches, while also trying to stop them - especially the former - from interfering into politics, or behaving as one above the law. There is no special treatment of ethnic minorities except for their education and culture, taken that the country is constitutionally proclaimed as the one "of all its citizens". Yet, the problem of Roma refugees as of 1999 is still not resolved. Women are legally equal, but in reality facing various problems, from under-representation in politics and business management, through gender pay gap and occasional discrimination at work, to domestic violence that is still insufficiently fought against. Human trafficking (for sex slavery, or illegal migrations, or other purposes) is also a huge problem. LGBTs face a homophobic societal climate and occasional attacks against their activists, yet a support by Government through police protection of the Pride parades, ending of the subtle discrimination in the public sector including in the armed forces (through the Law adopted in June 2017, to be fully effective by 2019) and preparation of a law that would expectedly legalize same-sex unions (but not child adoption thereby).

## Economic Freedom

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### Security of Property Rights : 5.23

Private property in Montenegro is mostly secure. As in many other countries in transition, legal framework is mostly well established but its actual implementation is often inconsistent. The biggest problems are found in the high level of influence that the political elite has had over the judiciary, which creates an environment for favouritism in legal proceedings. Apart from this problem of judicial independence, corruptive practices within the courts further undermine the strength of judiciary. Furthermore, judicial processes are very slow, lasting 1.5 years on average, and there are many backlogged cases. In fact, the bulk of appeals are filed against the Government of Montenegro in front of the European Court of Human Rights as regards the long legal procedures which diminish the right to a trial within a reasonable time frame. Court decisions are not always clearly and consistently reasoned or enforced. There is a clear lack of expertise by a number of judges in more specific legal areas, which is further aggravated by frequent changes in legislation. There is only one commercial court for the whole country, based in the capital. Contract enforcement is also a lengthy process, and it incurs very high costs through different fees. Low level of court process automation also remains one of the weak points of the judicial system. Registering private property is also a slow process, due to inefficient work of the Real Estate Agency, or local tax authorities that determine the amount of property tax. Bankruptcy proceedings are also slow, in line with the rest of judiciary cases. It leads to a moderate recovery rate of 50% of the claim. The process of property restitution has not yet been finished, due to administrative constraints and lack of political will. Many cases still remain to be resolved. There

are no limits to foreign ownership in industries, and foreign nationals can also own land and real estate, but not those that are closer than one kilometer to the state border, nor agricultural land.

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

### **6.05**

Government expenditures in Montenegro are high, more in line with the developed European countries than with the peers among transitional countries. Total public expenditures reached 48% of GDP in 2017, with a considerable proportion of it for capital investments for the first phase of the envisaged Bar – Boljare motorway. This large infrastructure project alone is estimated to stand at between 20% and 25% of Montenegro's GDP. Public deficit is widened to 7% of GDP in 2017 due to high costs of this project. But, fiscal austerity program introduced during the previous year gave results in curtailing current spending: motherhood benefits were curtailed, public wage bill was reduced, progressive income tax was upheld, and a rise in excise duties on tobacco and soft drinks was introduced. However, the level of public gross debt continued to grow, reaching the all-time high of 75% of GDP. Although demographic situation is better than in other SEE countries, projections show future rise in government expenditures, coming from rising costs of pension and healthcare system. Pension fund is already unsustainable, and at least the parametric change - which would restrict early retirement - is necessary. Public wage bill is still high, and public service is neither efficient nor professional. Majority of SOEs were privatized in previous rounds of privatization, but SOEs still have a significant role in the economy. There are SOEs that are active in the fields of transport – railways, airline and airports, ports, energy distribution and generation, tourism and agriculture. For example, the biggest exporter in the country is a state owned wine plantation. These companies are not efficiently managed, since political party interests are considered in appointment of the management, so some of these companies rely on direct or indirect grants and subsidies to stay afloat. Further significant privatization plans were mostly put on hold for the time being. The tax system consists of flat corporate tax set at 9% rate, while VAT levels are 19% (standard rate) and 7% (preferential rate). Personal income tax is slightly progressive, with 9% on the income up to the average wage and 11% on the income above it. However, social security contributions are high, leading to an overall high labour tax wedge of 39%, which is above the OECD average, which encourages undeclared employment, especially in northern, less developed areas of the country. This - mostly favourable - tax policies established at the national level are often overlooked at the municipality level, since local governments established a plethora of different local taxes and surcharges.

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

### **6.46**

Regulation in Montenegro is mostly business friendly. However, the quality of business regulation is not the main issue, but the lack of its full and impartial implementation, itself remaining weak and inconsistent. Also, many regulations are ambiguous or in mutual conflict, especially by-laws and directives. Favouritism and corruption within civil service remain a problem, but there is also a clear lack of resources in some important areas, such as inspectorates. Inefficient government bureaucracy, corruption and lack of key infrastructure are cited as the most problematic factors for doing business in the country. Starting a business is relatively easy and quick, with low associated costs, and with a symbolic paid-in minimum capital of just 1 euro. On the other hand, obtaining a construction permit or getting electricity is much more complicated, with long procedures and very high costs, due to inefficiencies in municipalities and high fees associated with those procedures. Furthermore, many municipalities lack adequate urban plans, which makes obtaining a

construction permit more complex. The reliability of electricity supply has recently improved through implementation of an automatic energy management system, recording data regarding interruptions. Although taxes are mostly paid online and social security contributions are paid jointly with the payroll tax, tax procedures are considered as overly complicated. VAT compliance rules were somewhat eased through the introduction of an electronic system for filing and paying VAT, similar to the system used for labour taxes. 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. On the other hand, working hours are mostly flexible and notice periods are short. Centralized collective bargaining, although prevalent in some industries, is mostly restricted to public sector. The new labour law, which has been under discussion for quite some time, was expected to be introduced in 2018 but the process is progressing very slowly, although the draft law has already been adopted. The main idea behind this reform is to harmonize existing regulation with the EU standards, but these changes are yet to be materialized.

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

Freedom of trade in Montenegro is mostly respected. Montenegro has been a member of the World Trade Organization (WTO) since 2012. It ratified the WTO's Trade Facilitation Agreement in May 2016, which is expected to further liberalize trade flows. Tariffs are mostly low, with the simple average MFN applied rate of just 3.8%. They were slightly decreased during the process of tariff alignment with the EU during the 2017. A recently conducted Trade Policy Review of the WTO did not find significant problems that would characterize Montenegrin trade policy as protectionist. However, bureaucracy procedures at the customs could be inefficient, imposing unnecessary time loss and costs. As a member of CEFTA since 2007, Montenegro mostly eliminated obstacles to regional trade in goods, but services are thereby not fully covered. In May 2017 the Additional Protocol 5 was adopted, in order to harmonize and simplify export and import procedures at the border. Negotiations on the Protocol 6, which would liberalize trade in services, are on. Low quality of transportation infrastructure – road, but most 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 in this segment. Montenegro's main trade partners are countries from the EU and Western Balkans, especially Serbia. Although it is neither an EU member state nor a euro-zone member, the country unilaterally adopted the euro, which enhanced international trade by eliminating exchange rate risks and associated costs. Legislation regarding employment of foreigners is very restrictive, effectively closing the local labour market for foreign workers. This Law on Employment of Nonresidents was somewhat liberalized in 2016, waiving the obligation of companies to provide official records of their inability to employ a local resident prior to hiring a foreigner. The government has not increased its annual quota of 18 000 work permits.