

# WHITE BOOK

Investment climate in Montenegro **2022**



MFIC | Montenegrin Foreign  
Investors Council

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# FOREWORD



**TAMAS KAMARASI**  
President of the MFIC

Dear reader,

You are reading the 12th edition of White Book: Investment climate in Montenegro for 2022, which represents the views of our members regarding the business environment.

From the very beginnings, the White Book aims at improving the business environment and ensuring all the required preconditions to attract foreign investors and to enable their operations of high quality. One of priority goals is to use the White Book to give the most important guidelines that will help decision-makers create practice and mechanisms that will facilitate the operations, strengthen the economy and encourage the creation of sustainable business models. So, the value of the White Book is such that it provides the overview of the most relevant experience of the foreign investors and recommendations from international reports including desirable practice.

This edition of the White Book presents the experience of the Council members in the last year with relevant comparisons to be able to track the trends and changes easily in the business community.

The MFIC Index of ease of doing business for 2022 was calculated at 6.7 and compared to 2021 result, there is a decrease of 0.3. The decrease of ease of doing business index is a result of the barriers identified by the foreign investors, primarily instability and unpredictability of the business environment. The pandemic year has showed even more all the weaknesses of the economy and the necessity of systemic reforms we pointed out to continuously. The changes in line with international standards and sincere dedication to their implementation by the decision-makers must be an absolute priority for any further action.

We expect that the stabilization of political situation will bring a closer and more intense communication and cooperation with the Government and public administration to create preconditions for successful addressing and solving these issues. We believe that this kind of cooperation would reinforce and accelerate the reform processes in Montenegro towards its road to the EU membership.

In the future period, we will continue to contribute actively to the development of the most important economic and strategic documents and proposed legal solutions in order to fulfil the mission of the Council – creating better conditions for business and economic development.

To conclude, I would like to express my sincere conviction that this edition of the White Book will serve as a basis to implement specific reforms of general importance not only for foreign investors but also for the Montenegrin economy and the society as a whole.

A handwritten signature in blue ink, appearing to read 'Tamas Kamarasi', located at the bottom right of the page.



# EXECUTIVE SUMMARY

**F**or the twelfth consecutive year we publish the annual edition of the **White Book: Investment climate in Montenegro 2022**. As in previous years, this document summarizes the results of perception-based questionnaire about the ease of doing business in Montenegro but it also recognizes and selects the most important regulations, procedures and business development challenges. The answers to the questionnaire were filled by the foreign investors, members of the MFIC, based on their personal experience and perception. Bearing in mind „covid“ period behind us but also intense changes in the political sky, the analyses of 2022 shows us, from the perspective of the foreign investors, how Montenegrin economy copes with these challenges.

By analyzing the members' responses to the questionnaire, we calculated the **MFIC Index for 2022 at 6.7 and compared to 2021 result, there is a decrease of 0.3 (on the scale from 1 to 10, whereas 1 is the worst rating and 10 is the best)**. The result of the Index for 2022 explains that the optimism and high or the highest rating for 2021 is not justified in 2022 and by giving lower ratings, the foreign investors pointed out to the issues, instability and unpredictability of the business environment. After a record annual growth between 2020 and 2021, we have almost record decrease of Index (a bigger drop was recorded in 2019-2020 during Covid-19 year).

Between 2015 and 2019 the Index showed that total business environment was stable, gradually progressing, reaching the year 2019 with the foreign investors believing that some specific improvement was made compared to previous years. Yet, the year 2020 has brought out all the weaknesses of the Montenegrin economy and indicated the necessity of system reforms, what was mirrored in the MFIC Index for the previous year (6.4). On the other hand, Index increase in 2021 indicates that in

small economies, recovery perception may be fast detected and this had significant impact on Index increase. Still, the 2022 Index warns to the sensitivity of the economic situation in Montenegro and points out, for unlimited number of times, that without long-term strategic reforms which are in line with the international standards, the stability of business environment and thus MFIC Index cannot be achieved. The MFIC fully understands that important reforms cannot be implemented successfully „over night“ but it indicates to the slow implementation of strategic goals which are often too long in the „status quo“, without taking into account the input of different actors that their pace is inadequate and has negative impact on business.

The MFIC members evaluated the individual industries as they do every year:

- ▼ Despite the drop of 0.5, the **telecommunications and ICT sector** still has the greatest individual index compared to other sectors from this category and it amounts to 7.2.
- ▼ the members representing **telecommunications and ICT** industry within the MFIC rated their industry with 6.8, what represents a decrease of 0.6 and it is the same as it was back in 2017 and earlier.
- ▼ **Banking and finance industry** was rated 6.3 what is at the level of 2013 and it is the lowest in the last 7 years.
- ▼ Members representing **banking industry (banks)** gave the score 6.2 to their industry in 2022 what is a decrease of 0.8.
- ▼ if we add the ratings of the **insurance companies** to the banking industry, which belong to finance industry, we get the score of 6.9 which is at the level of 2020 and represents a decrease of 0.8 compared to previous year
- ▼ The rating for **tourism industry** increased for 0.2 and it amounts to 7.1 what is at the level of 2017 and it is the highest in the last 7 years.

▼ The members representing **tourism industry** with the MFIC rated their industry 7.3 what is an increase by 0.5 and it is a very high rating.

▼ The increase in 2021 for **production and energy** industry and the rating of 5.9 continued in 2022 so the rating for 2022 is 6.2 (increase of 0.3, what is the highest individual increase of Index for 2022).

▼ The 2022 rating in **trade/retail** industry records a decrease by 0.4 and it amounts to 7. Still, this score is above all the scores recorded from 2016 to 2020.

▼ The 2022 score for **transportation/logistics** industry shows a decrease by 0.3 and it amounts to 6.6, what is at the level of 2019 rating.

Within the second set of questions, the MFIC members analyzed to what extent the given categories impact their business, whether positively or negatively:

▼ This year's results raise concern in the area of the rule of law – the score is only 5.0 despite minimum increase of 0.1.

▼ **Taxation** records a decrease for 0.4 for 2022 and rating of 5.6. This is the lowest rating ever.

▼ **Labor market and employment** records a decrease for 0.2 and the rating is 5.7 (like in 2019).

▼ **Property development** continues with the decrease since 2019 and the rating is 5.8, what is by 0.3 lower than last year.

▼ **Corporate governance** rating is 6.2, what is an increase by 0.3 compared to the previous year.

To analyze in more details the business environment, a third set of questions was introduced in 2016 for the following six categories:

**1. Digitalization of public sector** has the lowest rating of all the categories in this research and after a decrease of 0.3 compared to the last year, its score is 4.8.

**2.** Besides the rule of law and digitalization score, **black market and inspections** score raises concerns as well – despite the increase of 0.2 it has the score of 5.1 and it is one of the three low-rated years since the research is made.

**3.** Regulations on **public and private partnership** records a smaller decrease and the rating is 5.6.

**4. Public procurement**, after a record score in 2021, records a drop by 0.2 and has the score of 5.7.

**5. Human capital** is a bright point with the increase of 0.6 and rating of 6.3.

**6.** Regulations on **personal data protection** are stable

in the last three years and have the rating 6.0.

It can be concluded that the analyzed categories have constant low ratings ranging up to 6.3 and in the best case scenario, we have stagnation of low ratings without keeping a better rating if it is given at all. In the next period, the MFIC will support the development and reforms in these areas with concrete proposals. The MFIC members are willing to get involved and contribute to decision makers in order to have better results for better competitiveness of business climate of the country.

To better present the overall business environment in Montenegro, we dedicated the White Book's section "**Montenegro Overview**" to present important conclusions from international reports. Generally observed, in international frameworks Montenegro recorded a drop in 3 most important international reports. Until the publication of this White Book edition, the Global Competitiveness Index of the World Economic Forum for 2021-2022 has not been published yet. Decision-makers should be guided by the international reports reviews to implement the reforms more efficiently and to implement more intensely the innovative solutions. This is especially important in the regional ranking since all the countries equally incline to the investment attraction and creation of better requirements for business. Thus, Montenegro should invest more efforts not only to preserve the existing positions but also to progress faster than others.

In that sense, the following recommendations are important:

▼ more efficient reform implementation and further steps to improve tax procedures (paying surtax to the income tax is a special procedure which is implemented 12 times per year);

▼ significant modernization of the work of cadastral and notary services, especially when it comes to the respect of deadlines in the procedures, costs reduction and introduction of modern, electronic systems that would shorten the registration procedure;

▼ creation of foundation for further infrastructure investments, both traffic and communal infrastructure, but also implementation of intensive measures for future investments in key sectors of tourism and agricultural production;

▼ keeping up with the measures of labor market flexibility and freedom growth, improvement of education and healthcare policy with the creation of investment opportunities;

▼ continue with the policy of improving the work of the administration and raising efficiency at all levels, especially in the part of a greater consistency in the implementation of policies at local and state level;



- ▼ further development of Montenegrin economy and society through digitalisation as development and transformation policy;
- ▼ create grounds for improved public finance policy with special focus on new investments that may contribute to stabilization of public finance with the reduction of deficit and maintenance of public debt.

“**Evaluation of regulatory environment in Montenegro**” is a very important part of the MFIC activities, and the conclusions are transferred from year to year in the White Book. The view of the investors still remains that despite efficient legislation that is in line with modern practice and adopted with involvement of the main stakeholders, “regulatory environment” considers implementation, execution and judicial practice as important elements and preconditions for attractive and stimulating environment in Montenegro.

The section “**Regulatory framework and MFIC Committees**” presents the work of the active MFIC Committees: ICT Committee established in 2014, Finance Committee established in 2022 and it replaced Banking Committee established in 2017, and Insurance Committee and Regulatory Policy Committee established in November 2019. The representatives of these sectors have found their interest in uniting within the MFIC and in creating a joint platform for mutual communication and for communication with the decision-makers. Key

regulations of importance for business environment were analysed: the Law on electronic communications, the Cinematography Law, the Law on copyright and related rights, the Law on spatial planning and construction, the Law on Roads, the Law on certification of signature, hand writing and transcript, the Law on archives, the Labor Law, the Law on strike, the Law on Consumer Protection – users of financial services, the Law on ID Card, and the Law on Internal Trade.

The important part of the MFIC work and the preparation of the White Book is follow-up of the recommendations recognized as the recommendations of priority. The part “**Implementation status of the accepted recommendations from the White Book 2021**” presents the answers of the line institutions to the recommendations of the MFIC members regarding the amendments to the specific regulations quoted in the White Book 2021.



## MFIC MEMBERS:



# INTRODUCTION

## MONTENEGRIN FOREIGN INVESTORS COUNCIL

The Montenegrin Foreign Investors' Council was established in 2009, as a non-governmental and non-profit organization aimed at the following:

- ▼ improving the investment climate and supporting business development in Montenegro;
- ▼ representing and expressing the opinion of its members, for the purpose of promoting common interests and stimulating direct foreign investments;
- ▼ promoting communication, cooperation and current dialogue between the Council and the official authorities in Montenegro;
- ▼ cooperating with the official authorities in Montenegro, for the purpose of overcoming possible challenges and obstacles that foreign investors may face, as well as taking part in economic relations with other countries;
- ▼ promoting the international business community interests in Montenegro and informing its Members and other stakeholders about possibilities regarding the investment climate in Montenegro;
- ▼ connecting with the other foreign organizations of investors within the SEE Region, for the purpose of:
  - sharing the benefits and experiences from worldwide best practice;
  - analyzing concrete tools, in order to facilitate regional business activities.

Starting with five founder members (Crnogorski Telekom A.D., NLB Montenegro Banka A.D., Montenegro Stars Hotel Group d.o.o., KAP A.D. and Daido Metal A.D.), the MFIC membership base has been constantly expanding and today it comprises 47 members that represent around 30% of national GDP. The Council gathers together representatives of numerous and varied industries – banking and financial services, tele-

communications, metallurgy and mining, energy, tourism and hospitality, the consumer goods sector, manufacturing, information and communication technologies, transportation and auditing.

## COUNCIL BODIES

The main bodies of the Council are the Assembly, the Board of Directors and the President. Since December 2016 in order to be more proactive and productive and to improve the organizational structure, the Council has the Executive Director as a full-time employee. The Council's General Assembly meetings are usually held once or twice a year, while consultations at the BoD level are held on a constant basis throughout a year.

The President and members of the Board of Directors have one-year term of office and they are elected by all present members at General Assembly:

### DECEMBER 2021 – DECEMBER 2022:

g. Christoph Schoen (Addiko banka) predsjednik,  
g. Tamas Kamarasi (Crnogorska komercijalna banka),  
gđa Nela Vitić (Ocean Montenegro),  
g. Martin Leberle (NLB banka) and  
g. Branko Mitrović (Telenor Montenegro).

### DECEMBER 2022 – DECEMBER 2023:

Mr. Tamas Kamarasi (Crnogorska komercijalna banka) President,  
Mr. Martin Leberle (NLB banka),  
Mr. Branko Mitrović (One Crna Gora),  
Mr. David Margason (Porto Montenegro) and  
Mr. Vassilis Panagopoulos (Jugopetrol).

In line with the Statute, the MFIC Board of Directors

established specialized MFIC Committees within the Council:

- ▼ **ICT COMMITTEE** (established in 2014)
- ▼ **FINANCE COMMITTEE** (established in 2022)
- ▼ **REGULATORY POLICY COMMITTEE** (established in 2019)

This mechanism is recognized as a proper one to identify the business barriers that the investors are facing and to find possible solutions thereto as well as to communicate them to relevant addresses. The ICT Committee Chairman is Mr. Ivan Bojanović, from Saga SG, and the Finance Committee Chairman is Mr. Martin Leberle, from the NLB bank. The Insurance Committee Chairman is Ms. Nela Belević, from Uniqa insurance while the Chairman of the Regulatory Policy Committee is Ms. Ljudmila Popović-Kavaja from Telenor.

The possibility to establish new industry-based committees is open and depends on the interest of the members.

## COMMUNICATION WITH THE GOVERNMENT AND PUBLIC ADMINISTRATION

Since the Council was established, communication with the Government and public administration remains the important task of the Council. Therefore, finding proper mechanisms and getting involved at different levels is essential and beneficial for both sides. One of the MFIC main missions is to be a constructive and reliable partner to public administration, trying to understand the complexity and duration of some processes that the Government is engaged in.

The Competitiveness Council, former Council for elimination of business barriers and the Council for improvement of business environment, regulatory and structural reforms, is one of the most important communication channels chaired by the Prime Minister since its establishment in 2009. The MFIC is a member of the Competitiveness Council since its establishment.

The Competitiveness Council was established on 1st June 2017 based on the Decision on its establishment. In February 2021, the Government of Montenegro confirmed the existence of this Council by adopting new decision on establishing the Competitiveness Council prescribing as Chairman the Minister of the Economic Development.

### Implementation of the Competitiveness Council Work Plan for 2022

The Work plan of the Council is a framework agreement that primarily identifies the key topics for analysis per quarter while the members of the Council are invited before each session to submit additional materials, they consider relevant for the agenda of the Council. The Work Plan for 2022 was adopted at the session of the Council held in January 2022.

The implementation ratio of the Work Plan for 2022 is 85%. The Council held four topic-specific sessions as it was planned. The list of the planned activities is given below with their implementation status. Three topics were not implemented (15%) and these are postponed and transferred into the Work Plan for 2023. The main reason for this was a cyber-attack to the Government infrastructure that slowed down the planned processes.

The Montenegrin Foreign Investors' Council submitted several documents for analysis at the sessions of the Competitiveness Council in 2022:

- ▼ **Presentation of the results presented in the White Book: Investment climate in Montenegro in 2021;**
- ▼ **Answers of the line institutions to the recommendations contained in the White Book: Investment climate in Montenegro in 2021;**
- ▼ **Quarterly reports on the work progress of the Working group to eliminate the barriers to develop e-services in private sector.**

Out of eight working groups established under the platform of the Competitiveness Council, the MFIC participates in three working groups:

- ▼ **working group to eliminate the barriers to develop e-services in private sector (the MFIC being the coordinator),**
- ▼ **working group to monitor the reforms of the process of business entities registration and**
- ▼ **working group for tourism.**

## BOARD OF DIRECTORS 2022-2023



**TAMAS KAMARASI**

President and President of the Board of Directors, CEO of Crnogorska Komercijalna Banka AD Podgorica, member OTP Group



**MARTIN LEBERLE**

CEO of NLB banka, President of the Executive Board and member of the Board of Directors



**BRANKO MITROVIĆ**

CEO of One Crna Gora



**DAVID MARGASON**

CEO of Porto Montenegro – Adriatic Marinas d.o.o.



**VASSILIS PANAGOPOULOS**

CEO of Jugopetrol AD



**IVAN BOJANOVIĆ**

CEO of SAGA SG, Chairman of the ICT Committee



**NELA BELEVIĆ**

CEO of UNIQA osiguranje, chairwoman of the Insurance Committee



**LJUDMILA POPOVIĆ KAVAĐA**

(One Crna Gora), chairwoman of the Regulatory Policy Committee



**IVAN RADULOVIĆ**

Executive Director to the MFIC

# WORK PLAN 2023

At the 18th session of the Council held on 23rd November 2022, the Competitiveness Council adopted the Work Plan for 2023. During the year, it is planned to have four sessions and the main topics per quarters follow:

1. Improvement of competitiveness
  - ▼ Planned amendments to the regulations impacting business environment
  - ▼ Proposals of the business associations
2. Informal economy
  - ▼ Action plan to prevent informal economy and activities of the working group
3. Economic empowerment of women
  - ▼ Implementation status of the Action plan on the Strategy for development of women entrepreneurship
  - ▼ Activities on the implementation of gender-responsive budgeting
  - ▼ Initiative to calculate gender gap in pay
4. Key business barriers and proposals for their elimination

Presentation of the results of the research in the White Book: Investment climate in Montenegro 2022 will be reviewed at the Competitiveness Council as regular annual activity.

## Presentation of the results of the research presented in the White Book: Investment Climate in Montenegro 2021

In the eleventh edition of the White Book, the MFIC points out that the year 2021 showed all the weaknesses of the economy, what is reflected in the drop of the overall Index of ease of doing business.

The overall Index for 2021 amounts to 7 on the scale from 1 to 10 (1 being the worst rating). 2021 result shows a significant growth compared to 2020 when it was 6.4. It is interesting that the 2021 Index is higher for 0.1% than 2019 Index which was considered the best year regarding many segments. The Index increase by 0.6 is the largest annual increase so far and it represents an optimistic perception of the foreign investors coming after 2020 – the year marked by COVID19 pandemics with large negative impact to the country's economy. Such Index increase indicates that in small

economies, recovery perception may be fast detected and in case of Montenegro, industries such as tourism, telecommunications-ICT and trade reported progress and thus had significant impact on Index increase.

Contrary to previous years, in 2021 there was the increase of all individual industrial indices: telecommunication and ICT, banking/finance, tourism, manufacture/energy, trade/retail and transport/logistics, what is understandable bearing in mind the large total increase of the MFIC Index. Compared to 2020, in individual categories of importance, the decrease is observed in four categories: property development, taxation, corporate governance and rule of law, while the result for the labor market and employment remained at the same level.

Together with the rule of law score, black market score raises concerns the most – it decreased by 0.2 to 4.8 score. Such low score has not been recorded before and it demonstrates that the activities regarding the fight against black market were missing including the obligations on the fight against informal economy which are visible at the political level and require additional efforts and strengthening of the capacities in the relevant institutions.

The MFIC members analysed to what extent each of these categories impacts positively or negatively their business: labor market and employment, property development, taxation/contributions, corporate governance, rule of law.

Like every year, the MFIC point out to the rule of law as the area of key importance for the assessment and further improvement of the business environment. By analysing the results for all these 11 years, it can be concluded that the rule of law is at the same level as it was before 2011 (4.8) when it was at the lowest level since this kind of evaluation was introduced. The rule of law shall remain within the top priorities of the MFIC in the following period.

By taking into account the priorities of the members, six categories have been introduced since 2016: human resources, black market and inspections, regulations on public-private partnership, public procurement, digitalization of public services, regulations on personal data protection.

Out of six analysed areas, four categories record a decrease: the rule of law score, black market score raises concerns as well – it decreased to 4.8 score; such low score has not been recorded before. The decrease is recorded in human capital records, digitalization of

public sector, regulations on personal data protection. Only public procurement recorded increase by 0.7. It can be concluded that these categories have constant low score up to 5.9, with the exception of public procurement, and they have not recorded any increase since 2016. Decision makers should transform these messages into priorities and harmonize them with international standards and practices.

The White Book: Investment climate in Montenegro in 2021, published in March 2022 represents the most important document of the MFIC and describes the most important processes and regulations for the business development and points out to the challenges faced by the decision makers regarding further economic development. According to the regular practice of the Competitiveness Council, the Secretariat to the Council collects the answers of the line institutions to the recommendations given in the White Book. There were 19 recommendations given in the White Book in relation to the state administration institutions.

### **Working group to eliminate barriers for development of electronic services in private sector**

COORDINATOR: Ivan Radulović, Executive Director to the Montenegrin Foreign Investors' Council

MFIC REPRESENTATIVES: Ivan Vučinić, Srđan Krežević, Dražen Stanković, Tanja Bokan, Zarija Milić

THE REPRESENTATIVES OF THE FOLLOWING INSTITUTIONS PARTICIPATE AS WELL: Secretariat to the Competitiveness Council, Central Bank of Montenegro, Ministry of Finance, Ministry of Public Administration, Ministry of Economic Development and Tourism, Revenues and Customs Administration, Ministry of Interior, Police Administration, Montenegro Business Alliance, Chamber of Commerce of Montenegro, Employers' Association of Montenegro, American Chamber of Commerce.

Objective: to identify the barriers for development of electronic services in private sector via dialogue between public and private sector and to define the manners for their elimination and measure implementation.

In 2022, the working group had several meetings among the representatives of the banking sector and the Revenues and Customs Administration in order to

connect the IT systems. Two working groups were created for FATCA reporting: one to prepare the text of the draft Rulebook and the other to prepare technical solution. Several meetings were held with the representatives of the EBRD, CBMNE, MFIC (CKB) and SCC to define the requirements to initiate money market in Montenegro. In Q2 2022 there were no activities due to HR changes in the Revenues and Customs Administration what reflected on all the items of the Action Plan.

In September 2022, the decision was made to close the working group and to monitor the activities under the Action plan through "Business barriers faced by business community and proposals for their solution", a document prepared and updated by the Secretariat to the Competitiveness Council.

### **Working group for monitoring the reform process of company registration**

COORDINATOR: Marija Šuković, Head of the Secretariat to the Competitiveness Council

MFIC REPRESENTATIVE: Milena Rončević Pejović

THE REPRESENTATIVES OF THE FOLLOWING INSTITUTIONS PARTICIPATE AS WELL: Secretariat to the Competitiveness Council, Revenues and Customs Administration, Ministry of Economic Development, Ministry of Finance and Social Welfare, Ministry of Public Administration, Digital Society, American Chamber of Commerce, Lawyers' Association, Montenegro Business Alliance, Chamber of Commerce of Montenegro, Employers' Association of Montenegro.

Objective: to continue working on implementation of activities previously identified as priority ones but also to include new members (representatives from the business associations being members of the Competitiveness Council). All activities aim at providing complete electronic registration of all forms of business organisations what would simplify the procedures for private sector, accelerate the processes in the Revenues and Customs Administration and have a positive impact on transparency.

At the 16th session of the Council, the Working group stops its work and most of the activities of this working group will be continued through the work of the newly established Working group for the drafting of regulations on the registration of business and other entities.

## Proposals for amendments to the Law on business organisations

One of the tasks of the Working group for drafting the regulations on registration of business and other entities was to submit the proposals and suggestions for amendments to the Law on business organisations. General and specific comments/proposals/suggestions for the amendment to the Law on business organisations submitted by the MFIC are given below.

General comments of the MFIC:

- ▼ Analogue application of the provisions on joint stock company to the limited liability company is not a good solution. Limited liability company is a dominant legal form of companies in Montenegro so it should be in the focus.
- ▼ Compliance of the Law with the needs of the digital transformation. The Law needs to accelerate and enable the process of online registration with its solutions, with the application of all the standards of the proper identification of the founders and persons in the company. A general initiative we would like to suggest in order to eliminate the business barriers and to develop digital channels of doing business would be to specify in more details the use of electronic signature and stamp in the companies' business. The new Law on ID

card follows the possibility of doing business electronically prescribed under the Law on electronic document, electronic identification and signature. To apply fully these tools, it is necessary to initiate the amendment to other laws that regulate, directly or indirectly, the operations of business entities (Law on payment system, Law on bill of exchange, Law on fighting against terrorism financing and money laundering and alike). It is also needed to define the infrastructure standards that should support this.

- ▼ Lack of provisions on digital archive/registers.
- ▼ Unclear requirements for dividend disbursement.
- ▼ Unclear requirements for capital decrease. The following is unclear: are depositors - creditors, deadline of 2 months even when there are no creditors and complicated procedure of decision making by the general meeting of the shareholders.
- ▼ Challenge and review the provisions related to the obligation to report personal interests and operations with related parties and discuss possibility to norm a group of companies.
- ▼ Prescribed penalties are too strict in the existing conditions of Montenegrin economy. This particularly includes micro, small and medium businesses which make 95% of business in terms of organisation. The penalties should be significantly reduced.

### SPECIFIC COMMENTS OF THE MFIC

#### COMMENT/PROPOSAL/SUGGESTION

##### Article 15 –Use of stamp

This provision is not applicable at the moment and it collides with other applicable regulations which prescribe as a single valid document a document having the stamp of the legal person and regulations which do not recognise electronic stamp.

##### Article 36, paragraph 1 – The manner of reporting personal interest

With reference to Article 31, paragraph 3, when it comes to business organisations, it is not efficient that the Board of Directors is informed about any commercial activity a company has with major owner and/or related persons.

##### Article 56 –Prohibition to return the contribution

In practice there is the opinion that when it comes to capital decrease made in line with the law for which the creditors' rights are protected, disbursements to the members of the company cannot be made as it would

#### PROPOSAL OF A SOLUTION

It is necessary to introduce the models such as „operations out of usual business operations of the company“ or to prescribe that there is the obligation when the commercial activity in question exceeds specific amount or when market requirements were not applied – when the specificity of technical solutions is a requirement to select a supplier and alike.

Due to ambiguities in practice this Article should be: deleted (as the general rule is clear that the contributions cannot be returned to the members and this matter was never questionable in practice), amended in a way to determine unambiguously that disbursements



represent the breach of prohibition to return the contributions.

to the members of the company made in line with the provisions of capital decrease shall not be considered return of contributions or amend it to clearly state disbursements to the shareholders and members of company based on procedure of capital decrease.

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Article 133, paragraph 1 item 6 – Responsibilities of the Assembly - It is suggested that the Remuneration policy should not be reviewed and adopted at every regular meeting but only when the members of the Board of Directors are appointed or the members of Supervisory Board and Management Board given that the general meeting specifies the remuneration at the moment of appointment.

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Article 155, paragraph 4 –Members and composition of the Board of Directors

In accordance with the current solution, minority shareholders cannot have their representative in the Board of Director because if minor shareholders representative would be appointed, with the obligation that 2/5 of the members are independent, majority shareholder would lose the possibility to decide or they would lose a control package

Instead of 2/5 of independent members, to stipulate one member in line with good business practice.

Otherwise, add paragraph 4a) to set out the exception of mandatory appointment of independent member of the Board of Directors in a single-member company (but not in public joint stock company), by taking the model of exception from Article 172 paragraph 3 referring to the possibility to appoint the CEO as member of the BoD in case of a single-member company.

Such amendment is suggested as there is no need to protect minority shareholders / members with smaller share when appointing members of the Board of Directors of a single-member company. This obligation to appoint an independent member in a single-member company founded by foreign legal person represents additional barrier in terms of finding adequate and competent member who is introduced with company's business and who knows the market.

Proposal of the provisions: 4a) The Board of Directors of a single-member company shall not have independent members except in case of public joint stock company.

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Article 161, paragraph 1, item 2 –Responsibilities of the Board of Directors

It is necessary to amend the solution that the Board of Directors adopts the decision on internal organisation of the company and job description act.

Audit Committees.

It is suggested that the Job description act is not adopted by the Board of Directors but by the CEO because the changes in the very act are sometimes minor/insignificant and this solution would have an important impact to the efficiency of the very process.

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Article 176 – Members of Supervisory Board and Article 186 – composition of the management board

Requirement to have odd number of members in Supervisory and management boards which does not exist as such in the European practice. We take into account here the sources of EU rights to which the drafter refers in the Explanatory note to the Law as basis for specific solutions in which we could not find the standard for such definition.

#### Article 277 – Decrease of share capital

It is prescribed that the share capital of a limited liability company may be decreased based on the decision of the general meeting of the shareholders but not below the amount of minimum share capital prescribed by law. As there are no additional details related to the procedure of share capital decrease of LLC, the provisions related to the joint stock companies apply.

#### Proposal:

- official clarification by the competent bodies of interpretation and application of Article 56 in case of share capital decrease; or
- clarification by the legislator by amending the law.

#### Article 297, paragraph 4 – management bodies (with limited liability companies)

Limited liability companies which meet specific requirements, as those considered large legal entities in line with the law regulating the accounting, shall have management bodies as joint stock company (Article 297 paragraph 4). This is complicated especially if we take into account that the decision on legal entity classification is made annually. There is a possibility that one legal entity classified as large in one year fails to meet the classification criteria the following year and is classified as medium entity which means that it does not need to have the management bodies as JSC and this can affect different composition of management bodies from year to year in line with the decision on classification.

It is necessary to amend this regulation in a way to make it non-binding or to remove it from the text of the Law.

Another question is if the provision of Article 297 is justified – the provision stipulating that the general meeting is a mandatory body for all LLC except single-member LLC (ex. Is it justified that two-member LLC has the general meeting if the ownership structure is 51% : 49%).

#### Article 320 – Submitting registration form and related documentation

The Article prescribes that the registration with the CRCE may be made in hard copy or electronically in line with the regulations on electronic administration, electronic identification and electronic signature, electronic document and administrative procedure. Registration process is still done by submitting documentation in hard copy only.

It is necessary to extend the deadline for registering the changes with the CRCE especially because it is often impossible for companies whose founders/members have registered office out of Montenegro to get all the signatures and required original documentation in hard copy within 7 days.

Bearing in mind that it was concluded that more than half of the Law on business organisations needs to be amended, it was agreed to prepare the new text of the Law on business organisations.

## Working group for tourism

COORDINATOR: Ivana Đurović, State Secretary for tourism with the Ministry of Economic Development  
MFIC representative: Ivan Radulović

THE REPRESENTATIVES OF THE FOLLOWING INSTITUTIONS PARTICIPATE AS WELL: Secretar-

iat to the Competitiveness Council, National tourist organisations of Montenegro, Coastal zone management agency, National parks of Montenegro, Airports, To Montenegro, Ministry of Capital Investments, Chamber of Commerce, Ministry of Economic Development, Montenegro Business Alliance, Employers' Association, Association of women in business, Municipalities' Community of Montenegro.

Objective: to continue to a largest possible extent the implementation of ongoing and new projects for further development of better tourist offer of our country to develop new tourism product. Additionally, the objective is to better promote a stronger presence of Montenegro on outbound European and far tourist markets.

So far, the working group for tourism had important activities regarding the following:

- ▼ establishment of the Team for preparation and monitoring of the tourist seasons to create preconditions for more efficient preparations and smooth development (undertaking measures to overcome the issues) of tourist seasons;
- ▼ improvement of the health-epidemiologic environment in tourism, with the measurements of the COVID-19 impact on tourist trends;
- ▼ stipulating benefits in tourist industry, with the definition of incentives to develop specific products – improvement of legislative framework in order to enable the benefits in tourism from the aspect of obligations for taxes, contributions and other levies;
- ▼ attracting investments and related economic activities, with the establishment of specific body to monitor all the infrastructure projects, which aim at tourism development as well;
- ▼ diversification of tourist offer with the development of tourist products for specific target groups of tourists, creation and promotion of authentic tourist attractions, revitalisation of cultural and other facilities, rural tourism and alike;
- ▼ stimulation of circular economy (the implementation of the project “Clean and green step” is envisaged in order to reduce illegal dumpsites on attractive tourist locations), within the Program of economic reforms (PER) for 2022-2024 two measures were defined related to tourism: “Development of green types of accommodation” and “Diversification of tourist product”;
- ▼ improvement of marketing activities aimed at opening new outbound tourist markets (it is planned to organise trainings supported by international partners to improve the work of local tourist offices and these activities will be implemented by NTO CG); and
- ▼ strengthening of institutional and legislative framework (preparation of the Proposal of the Law on tourism and hospitality is in final stage, and the preparatory activities are ongoing to start amending the Law on tourist offices and Law on residence fee).

Based on the Action plan of the Tourism Development Strategy in Montenegro for 2022-2025, the National tourism council was established, as advisory body to the Government and the working group continues with its activities within the council.

## Business barriers identified by the private sector

Based on the inputs received from the business associations, the Secretariat to the Competitiveness Council created the list of legal and institutional barriers faced by the companies in practice and these are incorporated in the document „Business barriers faced by business community“. In the first phase, in April 2021, the SCC gathered the inputs related to the barriers for development of digital society and in September 2021 the associations were asked to deliver all other challenges they face in everyday business. Out of 9 business associations who were sent the request to submit the list of barriers, seven associations submitted their inputs (Chamber of Commerce of Montenegro, MFIC, Employers' Association of Montenegro, American Chamber of Commerce in Montenegro, Montenegro Business Alliance, Association of women in business and ICT Cortex for the part related to the digitalization).

Given the changes occurred in the structure of the Government of Montenegro and the activities of the line institutions, in July 2022 the Secretariat corrected the initial list of barriers and the new list was created with 98 barriers. The list created based on the inputs of the businesses in April and September 2021 with 119 barriers was amended to add the barriers identified in another three documents presented within the agenda of the 16th session of the Council:

1. proposals to improve business climate in Montenegro, Chamber of Commerce,
2. a set of laws impacting business environment, Chamber of Commerce,
3. quarterly report on the work of the working group to eliminate the barriers for development of electronic services in private sector, MFIC.

# EVENTS AND ACTIVITIES IN THE LAST YEAR

The overview of some important activities in 2022 is given below which are mainly included in the regular annual agenda.

## JANUARY 2022

### Fourteenth session of the Competitiveness Council

The 14th session of the Competitiveness Council was held, chaired by the President of the Council, Jakov Milatovic, Minister of Economic Development. Topics discussed referred to activities implemented by the Ministry of Economic Development aimed at improvement of business environment, proposals from business associations with regards to amendments to the Company Law, Platform for Economic Recovery 2022-2026 and Information on the implementation of the Law on Fiscalization in the trade of products and services.



Other topics referred to Economic Reform Program 2022-2024, Montenegro's Roadmap to Circular Economy as well as quarterly progress reports on the work of the permanent working groups of the Competitiveness Council. Council adopted the Report on the work of the Council for 2021 and the Work Plan for 2022.

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### Economic diplomacy for the purpose of economic recovery

One of the priorities of the Ministry of Foreign Affairs is economic diplomacy, as it is the best way for the economic recovery. Montenegro needs credible foreign investments, as well as the continuation of the policy of zero tolerance for corruption was concluded today at the meeting of Foreign Minister, Djordje Radulovic with the President of the Montenegrin Foreign Investors Council, Christoph Schön and BoD member and Telenor CEO, Branko Mitrovic.



During the meeting, it was jointly emphasized that attracting investments is crucial for the country's economic recovery and was stressed that Montenegro is attractive for investments, especially in the sectors of tourism, energy and information technology.

It was assessed that the north of the country represents a huge potential for investments, and that it is necessary to further intensify efforts to promote Montenegro as an investment destination. Along that line, Schoen praised the determination to fight organized crime and corruption, primarily because investors are looking for stable and secure countries to invest in.

Mitrovic said that it is very important for the Government to show care and understanding for the needs and challenges of foreign investors already operating in Montenegro, because in that way the reputation of a desirable destination for investment is built, while all foreign businessmen become active promoters of investment in Montenegro.

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### Meeting of the MFIC Board of Directors

MFIC Board of Directors held its regular meeting. BoD members discussed preparations for the MFIC participation at EXPO Dubai 2020, preparations for the publication of the next edition of the White Book: Business En-



environment in Montenegro for 2021 as well as activities for the future period.

Meeting was attended by MFIC President, Christoph Schön, BoD members, Nela Vitic, Tamas Kamarasi and Martin Leberle and MFIC Executive Director, Ivan Radulovic.

## FEBRUARY 2022

### MFIC delegation at EXPO Dubai

Member of the Board of Directors of Montenegrin Foreign Investors' Council, Mrs. Nela Vitic at Montenegro Business Forum on occasion of Montenegro National Day at Expo 2020 Dubai:

Since regaining its independence in 2006, Montenegro has been increasingly attractive to foreign investors. Its development is centered around attracting FDI through a competitive business environment, striving to become the business hub of South-East Europe. It offers many rewarding investment opportunities and impressive natural potential along with continuous improvements in the business climate intended to attract foreign investors.

Nevertheless, there is still work to be done and challenges to be overcome. As a candidate country on its path to joining the European Union, Montenegro is making steady progress. All 33 chapters have been opened and three chapters have been provisionally closed. Having become a member of the WTO as well as NATO, one can be optimistic about further improvements in the Montenegrin trade system and the general business climate in Montenegro. We are certain that it is developing into a reliable and investor-friendly business environment.

Future priorities of the Montenegrin Foreign Investors' Council - MFIC will be to promote Montenegro's investment potential and to promote the interests of the international business community in Montenegro. Montenegrin Foreign Investors' Council will continue to fully support the country's reform process and its accession to the European Union.

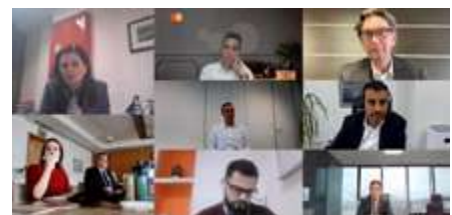


### Establishment of the Finance Committee

MFIC Finance Committee, chaired by Mr. Martin Leberle held its first meeting in hybrid form.

Newly established Finance Committee has merged existing Banking and Insurance Committees and was joined by member companies from accounting, auditing and brokerage services.

Finance Committee will act as an advisor to diplomatic circles, NGO's and other partners in order to defend the interest of foreign investors and to improve the business climate and environment in Montenegro. Committee members will also help to attract foreign investors in order to further strengthen the economy.



### Meeting of the MFIC Board of Directors

Montenegrin Foreign Investors' Council - MFIC Board of Directors held its regular meeting. BoD members discussed findings of the White Book: Investment Climate in Montenegro 2021, which will be published by the end of the March, as well as activities for the future period.

Meeting was attended by MFIC President, Christoph Schön, BoD members, Nela Vitic, Tamas Kamarasi and Branko Mitrovic and MFIC Executive Director, Ivan Radulovic.



### MFIC President at the conference “Environmental, social and governance (ESG) standards and gender equality - drivers of economic development”

Montenegrin Foreign Investors' Council - MFIC President, Christoph Schön participated in the second panel of the conference “Environmental, social and governance (ESG) standards and gender equality - drivers of economic development” in the organization of The AIRE Centre, Investiciono-razvojni fond Crne Gore, Sustineri Partners and British Embassy Podgorica.



Within the panel “Gender equality as key precondition for sustainable economic and social development”, Mr. Schon has highlighted the importance of a stable regulatory environment for implementation of foreign investments, proper social protection of women, equal gender pay and access to human resources. Environment providing equal chances for all market participants is of crucial importance.

### Eleventh edition of the White Book Business environment improves significantly

MFIC has published the 11th edition of the White Book, which is key document used by foreign investors to draw attention to the main challenges they are faced with while doing business in Montenegro. The index ranges from one to ten, one being the lowest and ten the highest score, and is calculated on a basis of a questionnaire covering 80 percent of MFIC members. Compared with the 2020 index, which was at 6.4, last year's index shows a considerable improvement

According to MFIC Executive Director Ivan Radulovic, the index increase in 2021 indicates that the recovery perception can be detected quickly in small economies. “In case of Montenegro, industries such as tourism, telecommunications, ICT and trade reported progress and thus had significant impact on the index increase,” Radulovic said, presenting the latest edition of the White Book at the press conference. MFIC President Christoph Schoen said that 2021 was a very successful year in terms of economic recovery. “Even though tourism was the main reason of historic recession of over 15 percent in 2020, tourism was the GDP recovery trigger of almost 11 percent in 2021,” said Schoen.

According to him, it is safe to say in that context that crisis management of the Government and the Central



Bank was highly professional, efficient and well balanced to support the recovery. Deputy Prime Minister Dritan Abazovic said that an improvement of business climate required joint efforts, adding that it would attract new investors to Montenegro. "There is no progress without serious businesspeople and investments, but in order to achieve significant results, it is necessary to establish a stable political system in which the rule of law will function," said Abazovic.

## APRIL 2022

### MFIC President with the representatives of the World Bank

President of the Montenegrin Foreign Investors' Council - MFIC, Christoph Schon met with the World Bank representatives during their consultation phase regarding development of World Bank's Montenegro Country Partnership Framework. The meeting was an opportunity to exchange views on regulatory and macroeconomic environment in Montenegro, most important barriers that foreign investors are facing, EU accession process, labor market conditions and further needs for the improvement of the efficiency of public administration.



## JUNE 2022

### AMM and MFIC signed the Memorandum on cooperation

In Podgorica, the President of AMM Budimir Raičković and the President of MFIC Christoph Schoen signed a Memorandum on Cooperation between the two business organizations.

On this occasion, Mr. Raičković emphasized that it is very important that foreign investors recognize a favorable business environment. AMM and MFIC will cooperate in particular in the field of digital transformation within the work of their committees. We will continue to cooperate on the project of the Best Manager and Entrepreneur of the Year, in which MFIC has been involved from the very beginning.

Mr. Schoen pointed out that he is looking forward to intensifying cooperation and noted that the Montenegrin Foreign Investors Council will be a partner in all activities aimed at creating a more stimulating business environment.



### MFIC representatives met the Minister Djurovic

Goran Đurović, Minister of economic development and tourism, and Marina Markovic, Head of Directorate for economic communications, postal services and radio spectrum of the MEDT, had the meeting with the MFIC representatives coming from the telecommunication sector (Crnogorski Telekom, One, Mtel).

The main topic of the meeting was introduction of 5G network in Montenegro, forthcoming auction for radio frequencies for 5G and definition of minimum amount of initial prices for frequencies.



Minister Đurović introduced the participants with the intent of the state to conduct the auction process in the second half of the year. Based on the previous experience, the Government expressed its readiness to take into account the readiness of the operators to invest in further development of the infrastructure when defining the minimum price for radio frequencies.

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## Sixteenth session of the Competitiveness Council

Sixteenth session of the Competitiveness Council was held in the new composition and it was chaired by Goran Đurović, Minister of economic development and tourism.

According to the Council Work Plan for Q2, the main topic of the session was informal economy:

implementation of the new fiscal policy, e-fiscalization, proposals of the economy in order to prevent informal economy. The Council analysed the status of drafting/amending the regulations: Law on registration of business and other entities, Law on business organisations, Law on audit, Regulation on business zones.

The members were introduced with the status of the AP of the Strategy for development of women entrepreneurship, answers of the line institutions to the recommendations from the White Book 2021, quarter reports on the work progress of 8 permanent working groups.

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## Representatives of the Finance Committee met Minister Damjanovic

Aleksandar Damjanović, MA, Minister of Finance, had a working meeting on 27th June with Christoph Schoen, the MFIC President, and Martin Leberle, Chairman of the Finance Committee, and other Committee members.

Minister Damjanović said that direct foreign investments are driver of the country's development since its independence, so the future policies in this domain will be transparent in order to easier overcome the business and administrative obstacles and to improve credibility and competitiveness of small and open Montenegrin economy.

The MFIC partners expressed their readiness to continue providing support within financial education so that the Montenegrin society could keep up with the European standards and be timely on the source of information in this dynamic area.

The meeting was the occasion to analyse the challenges faced by the investors globally such as change of goods supply chains due to global shocks caused by the war in Ukraine and COVID-19 pandemics and obstacles specific to Montenegro. It was assessed by both parties that lower fiscal rates cannot be enough for investment, if these are not accompanied by fast court procedures and efficient administration.

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## Meeting of the MFIC Board of Directors

MFIC Board of Directors held its regular meeting. BoD members discussed ongoing as well as activities for the future period.

Meeting was attended by MFIC President, Christoph Schoen,





BoD members, Nela Vitic, Martin Leberle and Branko Mitrovic and MFIC Executive Director, Ivan Radulovic. BoD member Tamas Kamarasi was represented by Maja Krstic.

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## MFIC representatives with the EU ambassadors

Montenegrin Foreign Investors' Council - MFIC President, Christoph Schoen, members of the BoD, Martin Leberle and Branko Mitrovic, Executive Director, Ivan Radulovic and Head of Regulatory Policy Committee, Ljudmila Popovic Kavaja met on June 30 with EU Ambassador to Montenegro, Oana Cristina Popa, Ambassador of Germany to Montenegro, Robert Weber, Ambassador of Slovenia to Montenegro, Gregor Presker, Ambassador of Hungary to Montenegro, Jozsef Negyesi and Deputy Ambassador of Austria, Ute Friessner.



The meeting was an opportunity to inform the guests about the future priorities of the Montenegrin Foreign Investors' Council, business barriers that foreign investors face in Montenegro and to exchange views about business environment conditions in the country.

It is jointly concluded that a predictable business environment is a basic precondition for further improvement of the business climate.

## AUGUST 2022

### MFIC representatives with the Minister Miljanić

Montenegrin Foreign Investors' Council - MFIC President, Christoph Schön and member of the Board of Directors, Tamas Kamarasi met with Minister Zoran Miljanić.

The meeting was an opportunity to discuss business environment conditions and future cooperation with foreign investors in Montenegro.



Minister Miljanić informed guests about the anticorruption initiatives implemented by the 43rd Government of Montenegro and said that corruption is recognized as one of the barriers that greatly affects the attraction of foreign investors.

Christoph Schön highlighted that from the very beginning of their business activities in Montenegro, the community of foreign investors has put their trust in the Government and the system, and it is important to strengthen the relevant institutions to adequately implement regulation and monitor the legal framework and to provide a predictable and reliable environment for foreign investments.

Tamas Kamarasi emphasized that the presence of foreign investors in Montenegro brings business that is in accordance with the highest standards and EU guidelines, which significantly improves the general business environment in the country.

It was jointly concluded that the consistent implementation of anticorruption initiatives will further contribute to the improvement of the investment climate and the conditions for transforming the Montenegrin economy into a modern, diverse and competitive destination for foreign investments.

## SEPTEMBER 2022

### Seventeenth session of the Competitiveness Council

The 17th session of the Competitiveness Council chaired by the Minister of Economic Development and Tourism Goran Đurović was held.

According to the Work Plan, the main topic was access to finance for micro, small and medium enterprises (MSMEs): status of the proposal of the Law on Credit-Guarantee Fund, activities of the Investment and Development Fund of Montenegro, improving financing for MSMEs through the Ministry of Science and Technological Development of Montenegro as well as through the Innovation Fund of Montenegro.



On behalf of Montenegrin Foreign Investors' Council - MFIC, Ljudmila Popovic Kavaja, President of the Regulatory Policy Committee attended the meeting.

## NOVEMBER 2022

### MFIC Annual Assembly

Montenegrin Foreign Investors' Council held its Annual Assembly 2022 on November 29. In addressing the media, MFIC President, Christoph Schoen has highlighted that in the previous period, after a strong recovery in 2021, the Montenegrin economy continued to grow at a stable pace in the first half of 2022. The post-pandemic recovery was accompanied by an increase in domestic and foreign demand and a strong recovery of the tourism sector. Nevertheless, external factors, above all Russia's war against Ukraine, disrupted supply chains and the sharply raising the inflation, has a significant negative impact on the post-pandemic recovery and will cause negative effects going forward. In addition to that and not less important for the future prosperity and business environment is the ongoing political and institutional crises which are delaying the implementation of important reforms and further slowing down the accession process to the European Union. We are looking with concern to Montenegro's reputation as an attractive destination for foreign investments and we are encouraging the political stake holders to overcome their differences through constructive dialogue.



In order to further stimulate economic growth, Montenegro must continue responsible fiscal management with a focus on the implementation of structural reforms. Future reforms must focus on improving market conditions, removing business barriers, retaining foreign investors and attracting new ones. In addition to that, strengthening rule of law and the capacities and efficiency of the public administration are key for future prosperity.

The Montenegrin Foreign Investors' Council remains a reliable partner to the Government and business associations in further work on improving the competitiveness of the economy and attracting foreign investors, concluded Schoen.

In her address, EU Ambassador to Montenegro, H.E. Oana Cristina Popa, has highlighted that while still recovering from the COVID19 crisis, the European continent was struck by Russia's war of aggression against Ukraine, which caused multiple economic consequences in Europe and in the rest of the world, generating strong inflation and distorting food and energy markets. The EU and the WB are entering into a year of slower growth and high inflation that will also weigh on Montenegro's growth prospects. The expected economic deceleration, with high inflation, increased political uncertainty, and tighter financing conditions will call for decisive action and resilience. In such challenging context, Montenegro needs to tackle major structural bottlenecks to unleash its economic potential while weathering the looming economic crisis. In parallel, there is an urgent need to prioritize the structural reform in order to ensure long-term economic stability.

The Montenegrin Foreign Investors Council can facilitate the EU accession process. The authorities should call for your involvement and support when designing, drafting, and implementing measures that affect businesses. Despite all the challenges, Montenegro is able to continue making progress in creating favourable conditions for attracting investments and opening new markets. In this context, the cooperation of the EU with the Foreign Investors Council is fruitful, and will continue. Our common goal is to help Montenegro achieve further convergence with the EU, concluded Popa.

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## Kamaraši appointed MFIC President

Tamaš Kamaraši, Chairman of the Management Board of Crnogorska komercijalna banka (CKB) was appointed President to the MFIC. At the annual Assembly of the Council, the members of the Board of Directors were appointed as well: CEO of the One Banko Mitrović, CEO of Jugopetrol Vasilis Panagopoulos, CEO of Porto Montenegro David Margason and CEO of NLB Martin Leberle.



Kamaraši said that bearing in mind that direct foreign investments are one of the drivers of the economic growth of Montenegro, the MFIC must take a more significant stand in the decision-making processes that impact the business and economy of the country.

„We are committed to do so by the complexity of the economic and political situation and current investment climate”, said Kamaraši, by expressing his gratitude to the given trust and support.

He said that the MFIC must be the initiator of more intense cooperation of all relevant actors in the society to have positive legal and systemic solutions. The MFIC presented its main activities and achievements in the last year, its financial sustainability, new members that joined the MFIC during the year and the most important activities planned for the next year.

# MFIC MONTENEGRO BUSINESS ENVIRONMENT RATING INDEX FOR 2022

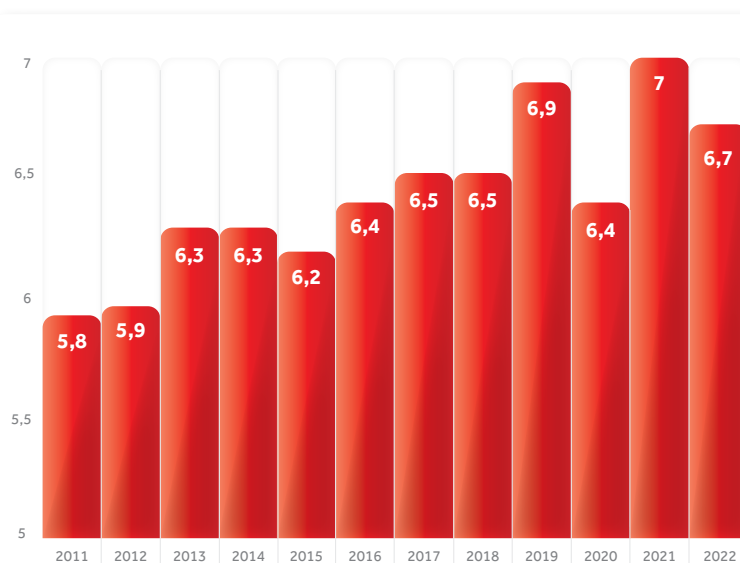
## 12<sup>TH</sup> ANNIVERSARY OF THE MFIC INDEX

The MFIC Index or evaluation of ease of doing business in Montenegro by the MFIC members was conducted for the 12th consecutive year. As usual, the Index is based on the perception of the MFIC members who evaluate Montenegrin business environment by answering a tailor-made questionnaire. The evaluating form for the most of the questionnaire has remained unchanged since 2011 and in that sense, increasing or decreasing trend is easy to follow. It is this trend that tells us most on the business environment in Montenegro. The Index aims at providing different stakeholders, starting from the present and potential new foreign investors and decision makers in Montenegro, with a quantitative overview of how investors, that already run a business in the country, perceive the business environment, what the priorities to be improved are and if the direction of reforms is right or wrong. The motivation to continue this kind of analysis is reflected in the fact that the decision-makers in the public sector analyze seriously all the ratings within the Index and keep the dialogue on open issues. The inputs are used to define the instructions for the economic policy of the country. On the other side, the results of these policies and reforms have not been at satisfactory level for years and it is needed to send a clear and continuous message through MFIC Index about the priorities and topics of particular interest in order to improve the business environment and eliminate business barriers.

By analyzing the members' responses to the questionnaire, we calculated the MFIC Index for 2022 at 6.7 and compared to 2021 result, there is a decrease of 0.3 (on the scale from 1 to 10, where-

as 1 is the worst rating and 10 is the best). The result of the Index for 2022 explains that the optimism and high or the highest rating for 2021 is not justified in 2022 and by giving lower ratings, the foreign investors pointed out to the issues, instability and unpredictability of the business environment. After a record annual growth between 2020 and 2021, we have almost record decrease of Index (a bigger drop was recorded in 2019-2020 during Covid-19 year).

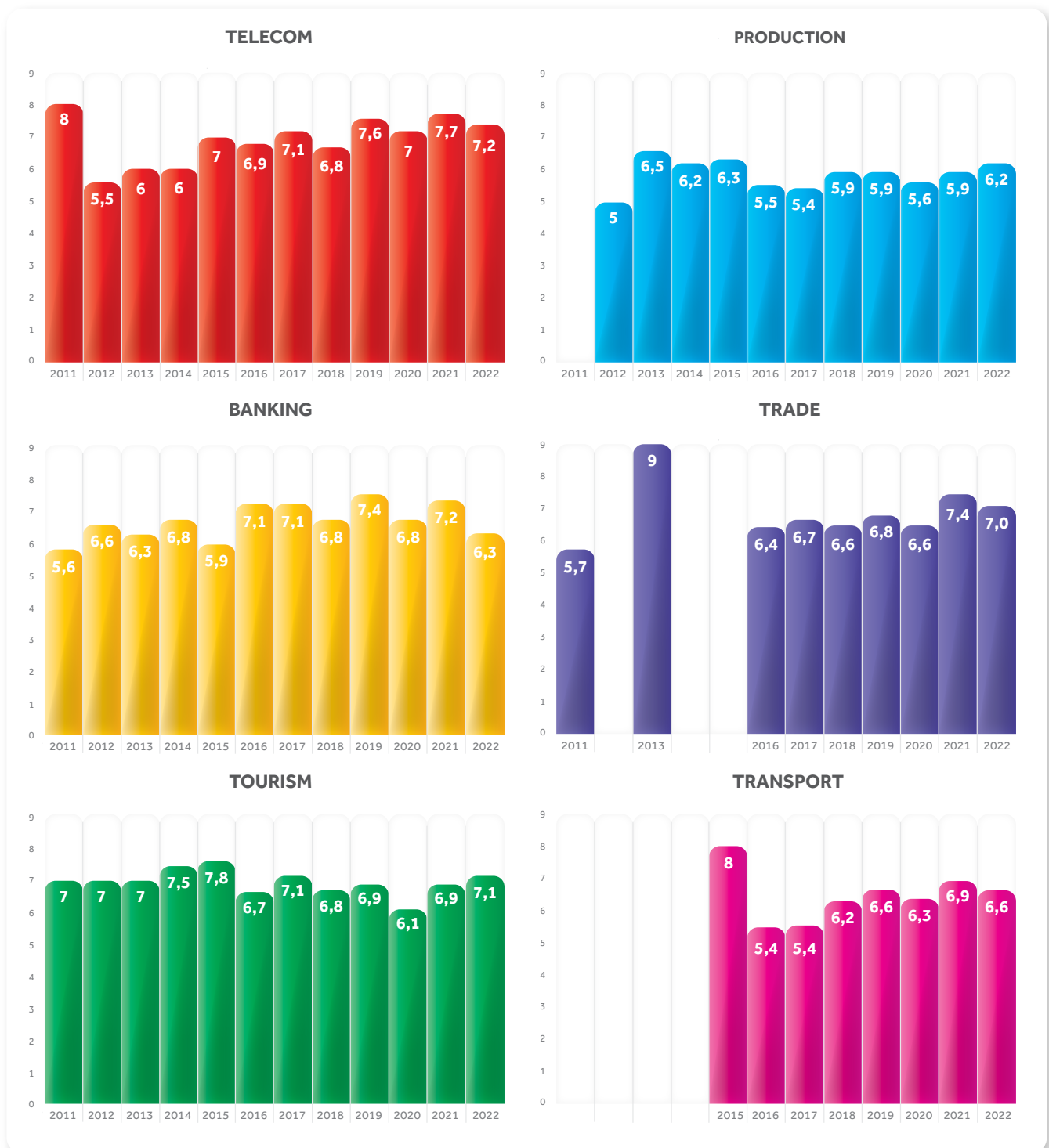
Between 2015 and 2019 the Index showed that total business environment was stable, gradually progressing, reaching the year 2019 with the foreign investors believing that some specific improvement was made compared to previous years. Yet, the year 2020 has brought out all the weaknesses of the Montenegrin economy and indicated the necessity of system reforms, what was mirrored in the MFIC Index for the previous year (6.4). On the other hand, Index increase in 2021 indicates that in small economies, recovery perception may be fast detected and in case of Montenegro, industries such as tourism, telecommunications-ICT and trade reports progress and thus had significant impact on Index increase. Still, this year's Index warns to the sensitivity of the economic situation in Montenegro and points out, for unlimited number of times, that without long-term strategic reforms which are in line with the internation-



*12th year of the MFIC Index*

al standards, the stability of business environment and thus MFIC Index cannot be achieved. The MFIC sees its role as partner to public sector in this process and is willing to use its resources to contribute to the implementation of activities in order to improve the business environment, attract foreign investments and overall increase of the country's competitiveness. The MFIC fully understands that important reforms cannot be implemented successfully "over night" but it indicates to

the slow implementation of strategic goals which are often too long in the "status quo", without taking into account the input of different actors that their pace is inadequate and has negative impact on business.



Ratings of the Council members per industries for 2022

# RATING THE INDUSTRIES

By analyzing how easy or difficult their daily operations are, the foreign investors also evaluated other factors such as administration, regulatory framework, business infrastructure categories like roads, education, etc. In other words, they evaluated conditions that are provided by the state institutions in Montenegro, and not the conditions regarding external and other factors impacting the economy and operations of specific company.

The MFIC members rated Telecommunications, Banking/Finance, Tourism, Production/Energy, Trade/Retail, and Transportation/Logistics. When we talk about 2022, compared to 2021, the decrease is recorded for 4 indices – a significant and the largest decrease for the banking and finance sector, followed by telecommunications and ICT, trade/retail and transport/logistics. The decrease in these four sectors impacted the decrease of the overall MFIC Index. On the other side, the Index increase is recorded in two sectors – production/energy and tourism.

Despite the drop of 0.5, the telecommunications and ICT sector still has the greatest individual index compared to other sectors from this category and it amounts to 7.2.

## 1. TELECOMMUNICATION AND ICT

The data show that Telecommunications and ICT have the scores higher than other industries for years already. Since 2012 the business environment in this segment has been improving with the culmination of 2021 rating when the rating was the best and amounted to 7.7. Still, 2022 rating has dropped for 0.5 and it is close to the 2020 rating when it amounted to 7. So, 2022 rating is 7.2 and it has an important role in the drop of the overall MFIC Index.

## 2. BANKING AND FINANCE

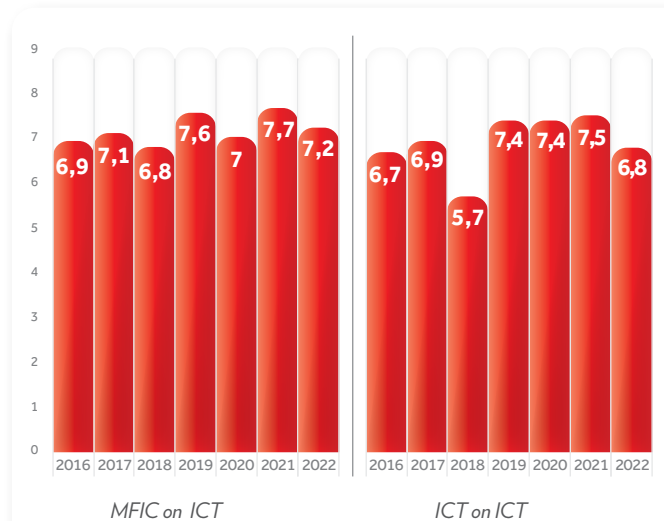
After record year 2019 and score of 7.4, and pretty high rating of 7.2 for 2021, banking/finance industry records an individually highest decrease of 0.9 compared to the last year. The rating of 6.3 is at the level of 2013 and it is the lowest in the last 7 years. It is clear that this rating in particular has contributed most to the overall drop of the MFIC rating.

## 3. TOURISM

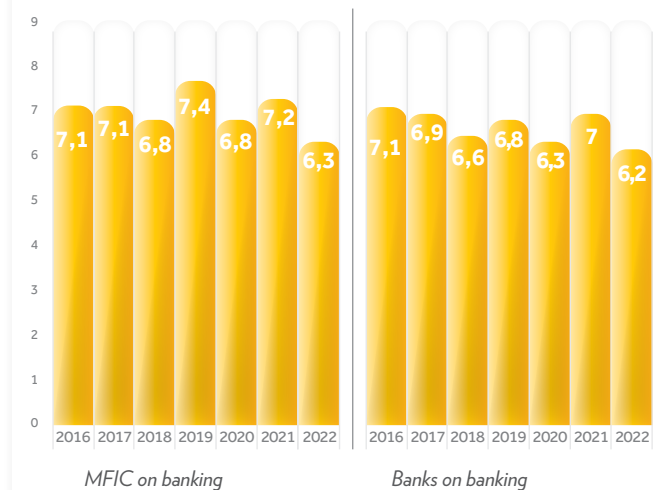
After especially challenging 2020 for tourism and the

The opinion of the MFIC members representing telecommunication and ICT sector, banking and finance industry and tourism on the situation in their respective industries from 2016 to 2022:

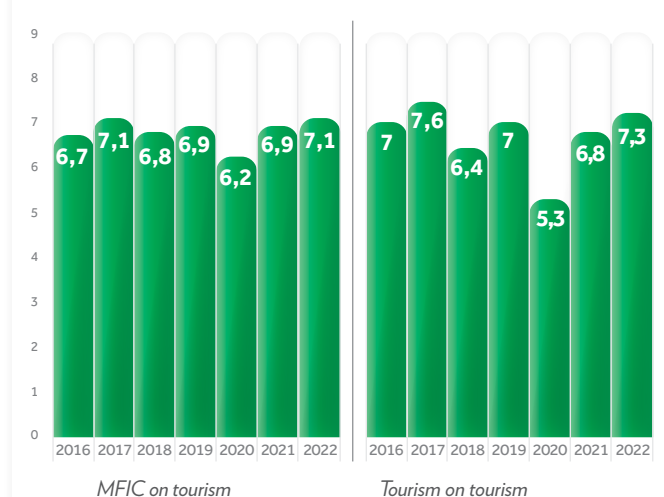
What ICT sector in MFIC thinks about development of local ICT environment?



What banking sector in MFIC thinks about development of local banking environment?



What tourism sector in MFIC thinks about development of local tourism environment?



lowest rating of 6.1, we record the increase for 2021 and 2022. This year, the rating increased for 0.2 and it amounts to 7.1 what is at the level of 2017. This rating is the greatest rating in the last seven years and it can be interpreted that tourism returns to pre-covid environment and stability period.

#### 4. PRODUCTION/ENERGY

Production/Energy industry records low ratings for these twelve years of evaluation, the lowest ratings compared to other industries. The increase in 2021 at 5.9 (increase by 0.3% compared to the year before) continued in 2022 so the rating for 2022 is 6.2 (increase of 0.3, what is the highest individual increase of Index for 2022). The rating of 6.2 is at the level of 2014 and it is the highest rating in the last 7 years.

#### 5. TRADE/RETAIL

From 2016-2020 the trade/retail industry had ratings ranging from 6.4 to 6.8. A big increase was recorded in 2021, by 0.8% and in that sense, it is an indicator that this industry suffered less damage in pandemic year (the decrease was only 0.2 at that time). The 2022 rating records a decrease by 0.4 and it amounts to 7. Still, this score is above all the scores recorded from 2016 to 2020.

#### 6. TRANSPORTATION/LOGISTICS

Transportation/logistics, similar to trade industry, records an increase by 0.6 in 2021 but 2022 score shows a decrease by 0.3 and it amounts to 6.6. The 2022 rating is at the level of 2019 rating and it is the second highest rating since the evaluation is introduced.

**To be able to continue a more detailed analysis of the individual industries, an important part of the inputs is how representatives of the industries perceive their own industry.** The evaluations of the representatives from ICT, banking and tourism on the environment in their respective industries from 2016 to 2022 are given below which we compare with total rating for specific industries based on the answers of all the members of the Council.

For three consecutive years, **the members representing telecommunications and ICT industry within the MFIC** gave identical average score of 7.4 for their industry which is the greatest score in this industry. The year 2022 was marked by a big drop. The decrease is 0.6 with the rating being 6.8 and it is the same as it was back in 2017 and earlier. The big rating for 2019 to 2021 meant that the industry managed to deal with the problems caused by the pandemics and the current decrease raises concerns. When we compare the rating given by all the members of the Council for 2022 with this ra-

ting, a similar decrease is observed (0.5 vs. 0.6) but the difference in the very rating (7.2 vs. 6.8) explains that the very industry perceives more issues and business obstacles than the all the members of the Council.

For years already, and with special focus in 2022 as well, the **ICT industry** is recognized as the industry of priority by the MFIC, and some specific actions were initiated in order to define and implement the measures for further development in this area. ICT Committee is actively involved and it helps that the messages of the MFIC members are better understood.

Members representing **banking sector** (banks) gave the score 6.2 to their industry in 2022 while all the MFIC members rated it 6.3. The drop compared to 2021 (0.8 vs. 0.9) is individually biggest one compared to all other industries. Both scores have been at the lowest since this comparison is done in 2016. These scores impacted the most the decrease of total MFIC Index.

Additionally, **if we add the ratings of the insurance companies to the banking industry, which belong to finance industry**, we get the score of 6.9 which is at the level of 2020 and represents a decrease of 0.8 compared to previous year (2021:7.7, 2020:6.9, 2019:7.2; 2018:6.7). Compared with the rating given by the banks only, a significant increase of 0.7 points is observed like last year which shows that the insurance companies are more satisfied with the business environment than the banks.

The members representing **tourism industry with the MFIC** rated their industry 7.3 what is an increase by 0.5 and it is the largest rating since 2016 i.e. the second largest. Due to the pandemics, this industry had the largest decrease of 1.7 and that is why we have the greatest room for improvement in the last two years. The rating is close to the rating of all the members of the Council which is 7.1 but this year the representatives of the industry gave a bigger score than all the members.

## INDIVIDUAL FOCUS AREAS

To rate the individual focus areas, our members considered to what extent each of the categories listed below impacts positively or negatively their business:

▼ The labor 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, land registry, implementation of mortgage contracts, real-estate appraisal, etc.

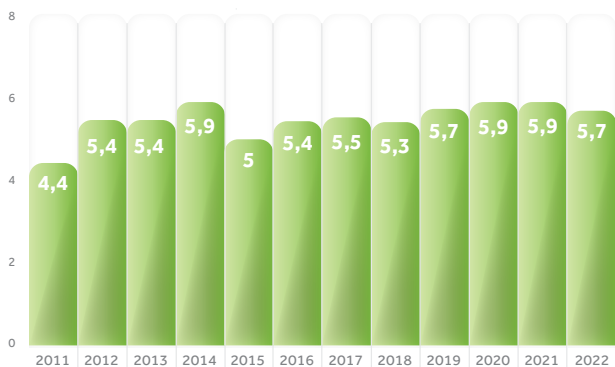
▼ Taxation/contributions refers to various fees, taxes, levies and the overall consistency and transparency in paying taxes/evasion of payments.

▼ Corporate governance includes financial reports, bankruptcy regulation, VAT harmonization with the EU and audit practices.

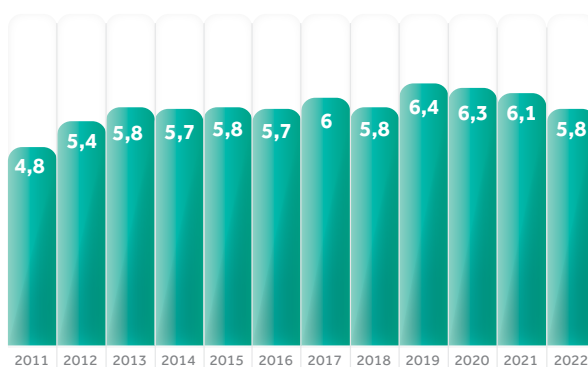
▼ Rule of Law and provisioning of public services includes the length of commercial disputes and court cases, permits and licenses, temporary residence and work permits, etc.

Within these categories we have three with the decrease and two that record an increase. Maximum difference in the ratings compared to last year is 0.4 (unfortunately this is a decrease) and this means that significant progress is not made in this category but more a stagnation or decrease. The largest score in this segment and in these categories in 2022 is 6.2 and it points out

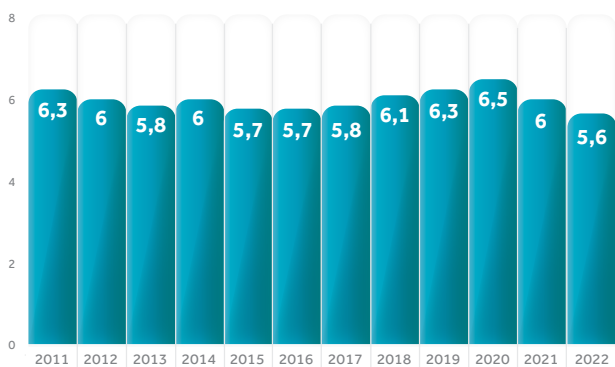
### LABOR MARKET



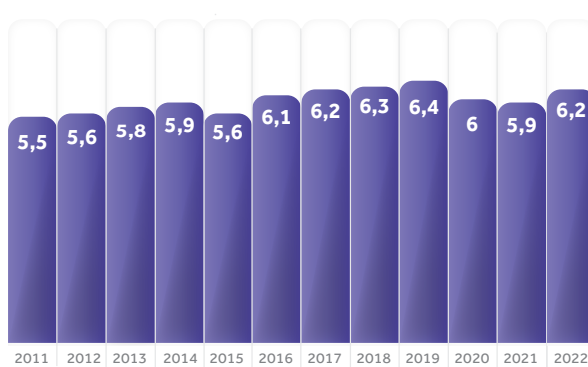
### PROPERTY DEVELOPMENT



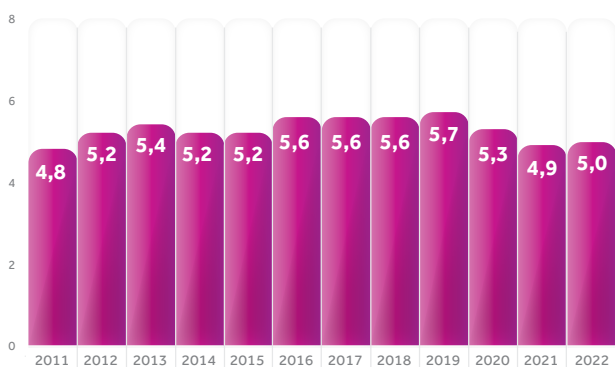
### TAXATION



### CORPORATE GOVERNANCE



### RULE OF LAW





that these areas have been recognized for years by private sector as priority ones to be improved but there is no significant progress. Unfortunately, this year's results raise concern in the area of the rule of law – the score is only 5.0 despite minimum increase. It is almost at the level of 2011 (4.8) and it was the lowest rating ever. In addition, taxation obtained the lowest score ever of 5.6 even though it had a stable rating for years.

Like in previous years, according to the MFIC members the **rule of law** should be stressed out as an area of key importance for further improvement of business environment. By analyzing prior ratings in the period 2016-2019 we observed a stable rating which was considered very low and ranged up to 5.7. Still, that rating looks very high bearing in mind that we had a decrease of 0.4 in 2020 and 2021, with minimum increase of 0.1 in 2022 and the final rating of 5.0. So, this was another year where specific steps for improvement were not made and where the trend of poor perception is not seriously analyzed by judicial and executive power. We still believe that the rule of law is a basis or precondition for the competitiveness of the country and attraction of the investments. The results of potential improvements in other areas will not give actual results if the rule of law keeps having the second lowest score of all the categories and indices included in this research. Monitoring the implementation of the activities to improve the rule of law will remain at the top of the MFIC priorities in the following years as well.

In 2018 and 2019, **labor market and employment** were particularly popular topics in the light of adopting new Labor Law. The investors advise, as they did before, that a systematic reform continuation is needed in terms of harmonization with the EU standards. The adoption of the Labor Law, as one of the crucial systemic laws, especially complex due to often misinterpreted different interests of employers and employees, marked the year 2019 and its implementation was evaluated in the 2020 and 2021 questionnaires with the same score of 5.9. Although the amendments to the Labor Law were announced for 2022, these were not prepared and by decreasing the rating by 0.2 (being 5.7 at the level of 2019), the message is sent that the reforms need to continue in the next period. The plan of the line ministry, based on the consultations with the social partners, presents the amendments in Q3 2024 which means that the amendments should be prepared seriously in 2023 bearing in mind current experience and complex negotiations on this act.

**Property development** shows a continuous decrease since the best year 2019 and the score is 5.8 what is by 0.3 lower than last year. This shows that the pandemics

had negative impact on property industry and this negative impact continues.

**Corporate governance** had a growing trend from 2016 to 2019 and after two years of decrease, the rating has increased by 0.3 and it is 6.2 for 2022. The foreign investors recognize the importance of this topic for their operations and that is why we have separate rating for this area. The stagnation of several years does not bring optimism that more important improvement can be made in the following period.

**Taxation**, as a category of particular interest, recorded a continuous small increase between 2015 and record 2020, with the decrease of 0.5 in 2021 and another decrease of 0.4 in 2022 and rating of 5.6. This is the record year but in negative sense – it is the lowest since 2011 since this research is done. The ratings for this are were stable for years and they were interpreted in a way that the tax policy is still attractive for foreign investors. The new data raise concern and it will be important what the foreign investors will say in the following years to be able to monitor the trend clearly.

## NEW INDIVIDUAL AREAS FOR RATING

By taking into account the priorities of the MFIC members and for more detailed analyses of business environment, a few new categories were introduced since 2016 that the MFIC members recognized as important that need to be in focus of the state authorities, since they are representing the existing or potential barriers to businesses. These are Human Capital, Black Market and Inspections, Regulations on Public-Private Partnership, Public Procurement, Digitalization of Public Services, Regulations on Personal Data Protection.

Out of six analyzed areas, three areas record the increase: black market and inspections (0.3), human capital and regulations on personal data protection (0.1). The remaining three areas record a decrease for 0.2 or 0.3.

By analyzing these categories we can observe the following:

1. Regulations on **public and private partnership** records a smaller decrease, the first one since 2019, by 0.2, so the rating is 5.6. In practice, the investors do not see much the results of the implementation of the adopted regulations and it is reflected in the rating as well.



of the priorities of public sector and that the funds and expertise of many donators or partners from the country and abroad are available, this rating raises concerns and may be linked with the rule of law. Digitalization is transparency and anti-corruption and these are important segments of the rule of law.

**4.** Besides the rule of law score, **black market and inspections** score raises concerns as well – despite the increase of 0.2 it has the score of 5.1 and it is one of the three low-rated years since the research is made (2020, 2021 and 2022); such low score demonstrates that the activities related to this very important area for foreign investors and national legal businesses lack.

**5.** **Human capital** is a bright point with the increase of 0.6 and rating of 6.3. The 2022 rating is at the level of 2019.

**6.** Regulations on **personal data protection** stagnate in the last three years and have the rating 6.0.

It can be concluded that the analyzed categories have constant low ratings ranging up to 6.3 and when they record an increase, it is related to the categories that were recording a decrease in previous years. So, in the best case scenario, we have stagnation of low ratings without keeping a better rating if it is given at all. As recommended in previous years, decision makers should transform these messages into priorities and harmonize them with international standards and practices.

In the next period, the MFIC will support the development and reforms in these areas with concrete proposals. The MFIC members are willing to get involved and contribute to decision makers in order to have better results for better competitiveness of business climate of the country.

**2. Public procurement**, after a record score in 2021, records a drop by 0.2 and has the score of 5.7. The procedure for electronic procurement was recognized as reform procedure and it is expected that the process is still intensely improved with the elimination of all recognized barriers.

**3. Digitalization of public sector** has the lowest rating of all the categories in this research and after a decrease of 0.3 compared to the last year, its score is 4.8. This decreasing trend is noticed in 2020, in the years when the digitalization was most needed. The foreign investors expect that this process has almost the same pace of digitalization process ongoing in the public sector and their expectations are not met this year. Bearing in mind that digitalization is always recognized as one



**MONTENEGRO  
INVESTMENT  
DESTINATION  
WITH GREAT  
POTENTIAL**



# MONTENEGRO - OVERVIEW

**NOTE:** *having the intention to provide within the White Book a broader overview of business environment and to summarize the data collected from other relevant sources, we will present in the following section the data taken from the published and publicly available local and international reports which might be useful to the readers of this edition. Those data do not represent the opinions of the Council Members nor the official positions of the Council as organization – the data were not subject of our research in the format in which it is presented here. We would like to use this opportunity to thank the organizations from which the data were taken.*

**M**ontenegro has made good progress and is moderately prepared in developing a functioning market economy. After experiencing a sharp recession in 2020, the economy recorded a strong rebound in 2021 and kept growing at a steady pace in the first half of 2022, as the removal of COVID-19 restrictions buoyed both domestic and external demand. The economic recovery and rapidly rising inflation led to surging revenues and a very large improvement in the budget balance. The fallout from Russia's war against Ukraine has been limited so far, notwithstanding these two countries' very important contribution to Montenegro's tourism in the past. Driven by surging global commodity prices, inflation increased significantly. The government adopted an ambitious fiscal reform programme (called 'Europe Now'), to support the post-pandemic recovery while providing fiscal stimulus measures easing the burden on households from rising energy and food prices. External imbalances decreased significantly thanks to the rebound of tourism, while the situation of the labour market started to improve even if structural problems persist. The banking system remained stable, and non-performing loans did not increase significantly in 2022 after the loan moratorium adopted in the context of the COVID-19 crisis expired in 2021. However, close supervision is needed to monitor and address risks in view of tightening financing conditions.

Last year's recommendations were partially addressed. In the coming year, in order to improve the functioning of the market economy, Montenegro should in particular:

- ▼ once the recovery is entrenched, implement a me-

dium-term fiscal consolidation plan targeting further public debt reduction;

- ▼ strengthen fiscal governance by setting up an independent body for fiscal oversight;

- ▼ adopt a strategic plan to perform an analysis of all state-owned enterprises and prepare a proposal for the optimal portfolio of state ownership;

- ▼ develop and implement concrete measures to reduce the informal economy.

A broad consensus was maintained on key economic policy fundamentals notwithstanding changes of government. The last two governments reaffirmed their strong commitment to the EU path and related economic reforms. Important elements were the support to further diversify the economy according to a smart specialisation strategy based on partnerships between businesses, public entities and academia, and the continuation of the Europe Now programme, a major fiscal reform initiative introduced at the end of 2021 to support post-pandemic recovery. The government expects to limit some of the negative impacts from the war on Ukraine on the local economy by reducing taxes on basic consumption goods and fuels, providing support for agriculture production, and focussing on alternative tourist markets to compensate for the loss of Russian and Ukrainian visitors. The new minority government formed in April 2022, endorsed the conclusions of the Economic and Financial Dialogue between the EU and the Western Balkans and Türkiye on 24 May 2022, agreeing to implement macro-fiscal and structural policies and reforms to foster a strong recovery outlined in the previous government's Economic and Reform

Programme (ERP). The policy guidance set out in the conclusions of the Economic and Financial Dialogue of 12 July 2021 were partially implemented.

A strong rebound of the economy in 2021 was largely driven by a revival of tourism. After recording annual growth of some 4.6% on average since 2017, in 2020 Montenegro's economy registered one of the deepest contractions in Europe (-15.3%) due to the COVID-19 crisis and the large role of tourism in the economy. GDP growth rebounded strongly by 12.4% in 2021, following the reopening of borders and the ensuing robust revival of tourism. The recovery of tourism had positive spillover effects across the economy, including on net exports and, to a lesser extent, private consumption. Government consumption increased only moderately, as COVID-19-related support measures started to expire. Investment activity remained weak, contracting by 10% y-o-y in 2021. The outbreak of Russia's war against Ukraine in February 2022 had so far limited direct impact on Montenegro's economy, as the country is not reliant on Russian gas or oil. However, Montenegro is exposed to Russia and Ukraine in terms of tourism and investment (the latter mostly in real estate). Further withdrawal of COVID-19 containment measures and strong growth in tourism activity boosted annual GDP growth in the first quarter of 2022 too, rising by 7.2% over the year. Domestic demand was fuelled by a two-digit surge in private consumption, while government consumption and capital formation grew at a more moderate pace. However, net exports had a negative contribution to economic growth, as strong demand and rising import prices broadened the trade deficit. Overall, the rebound of the economy brought partially back Montenegro's level of per-capita income in purchasing power standards to 47% of the EU-27 average in 2021, compared to 45% in 2020, but still remains below the 50% level registered in 2019.

The strong recovery of tourism helped reduce the external deficit. Montenegro has been recording very high current account deficits in the last five years, averaging 16.5% of GDP since 2017. The current account gap narrowed to 9.2% of GDP in 2021, compared to 26.1% of GDP a year before. This sizeable improvement was mainly driven by a surging surplus in the services account, which reached 19.5% of GDP in 2021 compared to 4.2% in 2020 thanks to recovering tourism, and almost equalled its pre-pandemic level. Moreover, inflows from compensation of employees working abroad and from remittances also expanded in 2021. By contrast, the merchandise trade deficit widened to 39.0% of GDP in 2021 due to a fast growth in imports driven by stronger domestic demand and rising global commodity prices. The rapid increase in exports did not suffice to

compensate for stronger import growth, as merchandise exports covered only 21.5% of total imports. The reopening of the economy resulted in a fast recovery in net FDI too, which surged 23.5% y-o-y in nominal terms and totalled 11.2% of GDP in 2021, thus surpassing the external deficit. Investment in real estate was almost 2.4 times higher than a year earlier. On the other hand, investment into intercompany debt dropped by 24.6% y-o-y, as local firms required less support from their foreign parent companies. The recovery in FDI inflows continued in the first half of 2022. The current account deficit increased significantly in the first half of 2022, by 31% year-on-year, driven by a sharp rise in the value of imports. The stock of international foreign exchange reserves declined from the equivalent of 6.8 months of imports of goods and services at the end of 2021, to 5.3 months in the second quarter of 2022.

Inflation has been increasing substantially but Montenegro has a very limited set of monetary policy tools to tackle it. Inflation remained low in the period 2017-2020, averaging 1.3%. However, since March 2021, higher food and energy prices kept generating inflationary pressures, with the harmonised index of consumer prices rising on average by 2.5% in 2021 and by 4.5% y-o-y at the end of year, compared to -0.8% average contraction in 2020. Russia's war against Ukraine exacerbated price pressures and inflation has remained elevated throughout 2022. In the first seven months of 2022, consumer prices increased in Montenegro by an average of 13.7% y-o-y, compared to (8.9%) in the euro areas.

The recovery of economic activity has been reflected in the growing number of registered businesses. So far, electronic registration remains only available for single-member limited liability companies. This does not seem to represent a major obstacle given the increasing number of newly registered businesses. The reduction of a significant number of local taxes and fees, and the availability of some 40 support programmes in addition to the pandemic support measures helped to promote entrepreneurship. Thus, at the end of 2021, the number of business increased by 8.7% to 65,621; this compares to 60,361 in 2019 before the COVID-19 crisis. Also in December 2021, the government adopted a program to attract digital nomads, offering tax reliefs on personal income to foreign companies' teleworkers.

The out of court's bailiff system remains the key pillar for enforcement of debt claims, but needs to be reinforced. In 2021, the number of debt claim cases increased by 15.6% y-o-y. However, almost two thirds of cases received during 2021 are still pending, stressing the need to reinforce the debt collection system. The

Commercial Court presents a higher rate of successful case handling, receiving 1,065 cases in 2021 and solving 95.4% the same year, with an average time for resolution of bankruptcy proceedings of 221 days compared to 234 days a year before. Overall, Montenegro's bankruptcy system is relatively well functioning, but some extreme cases are negatively affecting the average proceeding time.

Government efforts to reduce informality need to continue and require more focus in the coming years. The abolition of health contributions in 2022 reduced some of the disincentives for employers to formalise employment. However, the government still needs to adopt a comprehensive action plan (pending the completion of a survey on informality among enterprises and households) for fighting the informal economy, including the strengthening of enforcement capacities, and in particular, tax and labour inspections.

The banking sector proved to be resilient and the financial sector stability has overall been maintained. The banking sector further consolidated after recording two mergers in 2021, reducing the total number of banks in Montenegro from 13 to 11. Yet, the ownership structure of the banks' capital did not change significantly. At the end of 2021, bank's capital was predominately foreign with an 85% share, originating mainly from large banking groups from the EU in control of 79.9% of the banking market, while the share of domestic capital totalled 15%. The Central Bank of Montenegro (CBCG) concluded in September 2021 an asset quality review (AQR) for all domestic banks according to the ECB methodology. Results confirmed the stability and strong position of the domestic banking system at the start of the COVID-19 crisis. During the pandemic, the CBCG adopted ten packages of temporary measures aimed at preserving the liquidity and solvency of domestic banks. As a result, the balance sheets of domestic banks recorded significant growth, and the capital adequacy ratio totalled 18.5% at the end of 2021, well above the statutory minimum of 10%. The phasing-out of fiscal support and targeted loan moratoria did not lead to a significant deterioration in the quality of the loan portfolio, but risks remain and should be closely monitored, in particular in the context of a worsening growth outlook and tightening financing conditions. The NPL ratio increased to 6.2% at the end of 2021 up from 5.5% the year before, to peak at 6.9% in January 2022 and to start declining gradually afterwards, reaching 6.3% in June. Credit activity has been growing continuously since 2019, supporting the corporate sector in particular. Total loan growth accelerated from 5.0% y-o-y in 2020, to 6.6% y-o-y in 2021 and further 6.8% y-o-y in June 2022.

The rapid increase was led by lending to the corporate sector, while the increase in loans to households remained moderate and loans to the public sector decreased. The recovery of the economy has been reflected in a fast increase in banks' deposits too, which went from a 2.6% y-o-y contraction in 2020 to a 12.8% y-o-y expansion in 2021, and a surge by 21.4% y-o-y in June 2022, again led by the corporate sector. Although trending down, lending interest rates are still high presenting one of the major obstacles to access finance, in particular for small businesses. In March 2022, the government adopted a law to establish a national Credit Guarantee Fund. With the support from the EBRD, work commenced to establish a roadmap and overarching framework for the new institution.<sup>1</sup>

## EU INTEGRATION PROCESS



Accession negotiations with Montenegro were opened in June 2012. To date, 33 negotiating chapters have been opened, of which three have been provisionally closed. Montenegro accepted the revised enlargement methodology. Montenegro continued to implement the Stabilisation and Association Agreement (SAA) and meetings of the joint bodies under the agreement took place at regular intervals.

Overall progress in the accession negotiations depends on progress in the area of rule of law, as per the requirements set out in the Negotiating Framework as well as in the revised methodology formally accepted by Montenegro in the Intergovernmental Conference held on 22 June 2021. Progress towards meeting the interim benchmarks set in the rule of law Chapters 23 and 24 is key to achieving further progress in the negotiations overall, as no further chapters will be provisionally closed before this milestone is reached. The 14th Intergovernmental Conference held on 13 December 2021 and the SA Council held on 14 July 2022 provided political steer on accelerating work to meet that milestone. In order for Montenegro to take further steps forward in the accession path, it was urged to address all remaining gaps in the areas of freedom of expression and media freedom, the fight against corruption and organised crime, and to accelerate and deepen reforms on the independence, professionalism and accountability of the judiciary. The pace of this work will be determined by Montenegro.

The Montenegrin authorities' political commitment to the strategic goal of EU integration and their ambition

<sup>1</sup> European Commission: Montenegro 2022 Report

to move forward in the accession negotiations based on continuing reform progress have been consistently stated as the country's key priority. The failure to build consensus on key matters of national interest continued and caused two governments to fall on votes of no-confidence. Political volatility, government instability and tensions have stalled decision-making processes and reform implementation.

Montenegro's continued full alignment with the EU's foreign and security policy, including EU restrictive measures following Russia's unprovoked aggression against Ukraine, its vocal support for EU initiatives at the UN in response to this aggression, as well as for international law and a rules-based international order, is commendable. This is a strong signal of the country's strategic orientation and commitment to the goal of EU accession.

Political commitment, credible engagement and consensus building by all relevant institutions and actors in carrying out Montenegro's EU reform agenda remain fundamental. It is important that all political actors exercise their responsibility to participate in political debates in Parliament and engage in constructive coordination on all relevant EU-related legislative initiatives.

The COVID-19 pandemic continued throughout the reporting period. In spring 2022, Montenegro lifted partially the restrictions, introduced to limit the severity of the pandemic. During the reporting period, Montenegro adopted fiscal measures to mitigate the severe economic and social impact of the crisis.<sup>2</sup>

## EUROPEAN COMMISSION : MONTENEGRO 2022 REPORT



Montenegro is moderately prepared as regards public administration reform. Overall, limited progress was made, including the adoption of the new 2022-2026 strategy for public administration reform. Conversely, the effects of the reorganisation of the public administration and the amendments to the Law on civil servants and state employees adopted in 2021 continued to be felt, with staff changes, a loss of know-how on EU accession process-related matters and an overall slowing of the pace of reforms. The lowered requirements introduced by these amendments are a source of continuing concern with regard to the merit-based

recruitment, competence and independence of civil servants. Furthermore, draft amendments of the Law on local self-government would similarly lower such requirements at the local level. Amendments to the Law on access to information have yet to be adopted by Parliament. Effective lines of accountability within the administration are still to be established. Strong political will is needed to effectively address issues related to merit-based recruitments, optimisation of the state administration and implementation of managerial accountability.

Montenegro remains moderately prepared when it comes to its judicial system. Limited progress was achieved overall during the reporting period. The implementation of key judicial reforms remains stalled. Certain long-pending high-level judicial appointments took place, while several others, including at the Constitutional Court (for which a qualified majority in Parliament is required) are still pending. Concerns remain over the institutional performance and consolidation of independent Judicial and Prosecutorial Councils. The track record on judicial accountability remains limited. The judiciary's effective independence, integrity, accountability and professionalism need to be further strengthened, including by implementing the relevant constitutional and legal framework and by adopting legislative changes in line with European standards. The judiciary's efficiency also needs to be strengthened. The adoption of a new strategy for the rationalisation of the judicial network is still pending, as is the implementation of the ICT strategy for the judiciary. Montenegro continues to make progress on the domestic handling of war crimes. Montenegro has achieved some level of preparation in the fight against corruption. Limited progress was achieved during the reporting period, with last year's recommendations only partially met. The track record on prevention of corruption further improved, in particular due to the positive trend in the work of the Anti-Corruption Agency. However, more needs to be done to ensure the Agency's integrity, impartiality and accountability, and to improve its tangible results and public trust, in line with the recommendations of the peer review mission conducted in 2021. To demonstrate a credible criminal justice response, Montenegro still must improve its track record of investigations, prosecutions and final convictions in the fight against corruption, including high-level corruption. Furthermore, the legal and institutional framework must be improved in line with the EU acquis and European standards, including for the effective use of financial investigations and asset seizure and confiscation in such cases. The sectors most vulnerable to corruption require targeted risk assessments and dedicated action.

<sup>2</sup> Evropska komisija: Izvještaj za Crnu Goru za 2022. godinu





# MONTENEGRO

on its European path

#EUenlargement



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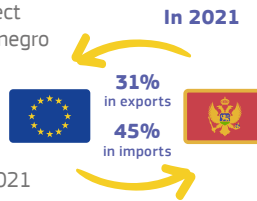
## Key milestones

- DECEMBER 2008**  
Application for EU Membership
- MAY 2010**  
Entry into force of the Stabilisation and Association Agreement
- DECEMBER 2010**  
EU candidate country status granted
- JUNE 2012**  
EU decides to open accession negotiations
- DECEMBER 2013**  
'Rule of Law' chapters 23 and 24 are opened for negotiations
- JUNE 2020**  
All 33 screened chapters have been opened, three of which are provisionally closed
- JUNE & DECEMBER 2021**  
Political Intergovernmental Conferences under the revised enlargement methodology provide political steer to the accession process

Source: EU Data

## Trade & investment

- The EU is Montenegro's biggest trading partner
- The EU's Foreign Direct Investment in Montenegro reached €169.4 million in 2021
- Volume of trade in goods with the EU was €1.5 billion in 2021



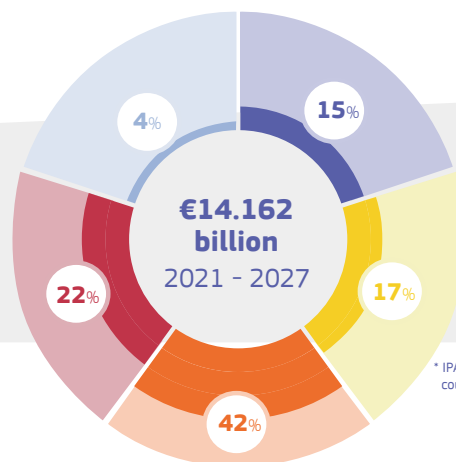
## Economic & Investment Plan

Over the next seven years, the EU will mobilise up to **€30 billion** in cooperation with international financial institutions through the Economic and Investment Plan for the Western Balkans launched in 2020. The following EIP project for Montenegro was endorsed in 2022:

- Environment and climate:** Podgorica wastewater treatment plant

## EU funding

- The EU is the largest provider of financial assistance to Montenegro
- The EU is supporting the socioeconomic development and reforms in the enlargement region, including in Montenegro, with financial and technical assistance through the **Instrument for Pre-accession Assistance (IPA)**
- For 2021-2027, IPA III funding for the whole enlargement region is **€14.162 billion\***. It responds to thematic priorities
- The Annual Action Plan 2021 for Montenegro adopted a budget of **€32.41 million** supporting actions in the areas of agriculture, environmental and climate action, EU integration, reforms as well as connectivity and green agenda
- For 2014 - 2020, IPA II funding allocated for Montenegro amounted to **€269.2 million**
- €1 billion provided in European Investment Bank loans since 1999



\* IPA assistance is based on EU thematic priorities rather than pre-defined country allocations, hence the global amount for the enlargement region.

## Human capital & innovation

- The EU pays special attention to youth, education and innovation and is helping the Western Balkans implementing Youth Guarantee schemes to support youth employment
- 4,000+ participants from Montenegro in student, academic and youth exchanges under ERASMUS+ (2014-2020)
- Reforms of the social welfare and child-care systems implemented with EU support
- €14.4 million in support to civil society (2014-2020)

Last updated: 12/2022

On the economic criteria, Montenegro has made good progress and is moderately prepared in developing a functioning market economy. After experiencing a sharp recession in 2020, the economy recorded a strong rebound in 2021 and kept growing at a steady pace in the first half of 2022 as the removal of COVID-19 restrictions buoyed both domestic and external demand. The recovery led to surging revenues and a very large improvement in the budget balance. The fallout from Russia's war against Ukraine has been limited so far, despite these two countries' very significant contribution to Montenegro's tourism in the past. Driven by surging global commodity prices, inflation increased significantly. The government adopted an ambitious fiscal reform programme (called 'Europe Now') to support the post-pandemic recovery and provided fiscal stimulus measures easing the burden on households from rising energy and food prices. External imbalances decreased significantly thanks to the rebound of tourism, while the state of the labour market started to improve, even if structural problems persist. The banking system remained stable and non-performing loans did not increase significantly in 2022 after the expiry in 2021 of the loan moratorium adopted in the context of the COVID-19 crisis.<sup>3</sup>

## KEY PRIORITIES FOR 2023:

- ▼ There needs to be continuity of economic policy and implementation despite political change. Public institutions should be strengthened to mitigate the potentially harmful effects of frequent political changes on policy-making and reform progress.
- ▼ The pathway to decarbonisation should be developed. The National Energy and Climate Plan (NECP) should be finalised, setting out plans for ending coal-powered generation, while a modern regulatory framework that creates incentives for private investment in renewable generation should be developed.
- ▼ Public-sector reform should be stepped up. Key measures that should be prioritised include adopting the draft Public Administration Reform Strategy, formulating a state ownership policy and centralising oversight of state-owned enterprises (SOEs), and improving fiscal impact analyses of proposed social measures and public investment plans.<sup>4</sup>

## EBRD TRANSITION REPORT 2022-2023: BUSINESS UNUSUAL

### Highlights:

- ▼ Economic recovery continues. A strong performance by the tourism sector was the driving force behind 13.0 per cent gross domestic product (GDP) growth in 2021. Robust household consumption growth continued into 2022, supported by a minimum wage hike, but rising imports are stifling the growth rate.
- ▼ The government introduced tax measures to improve living standards and decrease informality. In addition to an 80 per cent minimum wage hike, the authorities introduced progressive taxation and reduced the sizeable labour tax wedge.
- ▼ Reforms in the energy sector have continued. The Montenegrin power exchange company is making progress on establishing a day-ahead electricity market with two regional power exchanges, while the state-owned power utility has joined the day-ahead power market of the Serbian power exchange.

## WORLD BANK: REGULAR ECONOMIC UPDATE FOR THE WESTERN BALKANS: MONTENEGRO: BEYOND THE CRISES

- ▼ While still recovering from the pandemic, Montenegro is facing renewed headwinds.
- ▼ Growth is estimated at a strong 6.9 percent in 2022, led by private consumption and tourism rebounding.
- ▼ Inflation surged to new highs but its adverse impact on the cost of living was largely mitigated by an increase in real disposable incomes.
- ▼ Due to the tax reform and increased social spending, the fiscal deficit is expected to widen to 4.9 percent of GDP in 2022.
- ▼ High public debt and a deteriorating global environment require near-term fiscal consolidation.

<sup>3</sup> European Commission: Montenegro 2022 Report

<sup>4</sup> EBRD Transition Report 2022-2023: Business Unusual

## Recent economic developments

Private consumption is driving growth. GDP growth was remarkably strong in the first half of 2022 at 10.3 percent, driven by surging private consumption, underpinned by increases in real disposable income, household credit, employment, and remittances. Private consumption, further supported by a stronger-than-expected tourism season, is expected to lead growth in 2022, which is estimated to reach 6.9 percent. Despite a decline in the number of Russian and Ukrainian tourists, tourism continued recovering in 2022, boosting exports. However, an increase in imports alongside stronger domestic demand is expected to turn net exports negative for the year. Government consumption is projected to support growth, while investment is estimated to grow only marginally, still affected by higher costs of materials, supply-chain disruptions, and completion of a first section of highway.

Reviving tourism is stimulating economic activity. In the first seven months of the year, the number of international tourist overnight stays in accommodation facilities reached 93 percent of the 2019 level, with the number of stays in July alone reaching their 2019 level. Tourism in turn supported retail trade, which expanded by 16 percent in real terms through July. However, in the same period, industrial production declined by 3.6 percent, as unfavorable hydrological conditions affected electricity generation. Similarly, construction declined by 3 percent, but an increase in the number of building permits issued points to a likely resumption of construction activity in the near term.

The labor market shows continuous improvement. Labor Force Survey data reveal a 30 percent increase in employment in Q2 2022, which equally benefited male and female employees. The activity rate rose to 59.5 percent in Q2 from 46.8 percent a year ago, while in the same period the unemployment rate fell to 14.6 percent from 17.1 percent in Q2 2021. The administrative data show record-high employment in July of 235,343 employees, exceeding the July 2019 employment by 9.4 percent, with all sectors but public administration registering double-digit growth rates. The registered unemployment rate fell to 16 percent in July 2022 from 22 percent in July 2021. In the first seven months, the average net monthly wage increased by 21 percent in real terms, due to the reduction in labor taxes and an increase in the minimum wage.

Inflation has been galloping in 2022. Global inflationary pressures and higher wages have been driving a surge in prices. In the first eight months, inflation averaged 11 percent, peaking in August at 15 percent. Most of the

inflation is explained by increases in the price of food and non-alcoholic beverages (19.4 percent) and fuel (30.5 percent). The cost-of-living crisis has been largely mitigated so far by an increase in real disposable income through the tax reform, which resulted in an increase in the net average monthly wage of 21 percent in real terms in the first seven months. The tax reform reduced labor taxes from a flat 39 percent of total labor cost to an average of 22 percent.

The financial sector is well capitalized and liquid. In July 2022, outstanding loans were up by 4.4 percent, driven by lending to the private sector and households. At the same time, deposits were up by 20.4 percent, similarly led by increases in the private sector and households, but also nonresidents. As a result, the loan-to-deposits ratio declined to 77 percent, its lowest level ever. In the first seven months of 2022, new loans surged by 37 percent, outpacing new lending in the same period in 2019. The June average capital adequacy ratio was a healthy 18.9 percent, well above the regulatory minimum, while nonperforming loans increased to 6.9 percent of total loans from 6.3 percent in June last year. Overall, the financial sector seems to be in a good position, though at a time of high economic uncertainty and vulnerabilities to global shocks, added vigilance on the side of bank supervision is warranted.

External imbalances are expected to widen from their 18-year low in 2021. In the first half of 2022, exports of goods and services grew by 72 percent, based on equally strong performance on both goods and services. Transport and tourism services led service export growth, while exports of electricity and metals, benefiting from higher prices, supported merchandise exports. In the first seven months of 2022, Montenegro exported 62 percent more in value of electricity and metals than in all of last year. Owing to higher demand, import growth was also strong, expanding by 52 percent by June. Net primary and secondary incomes strengthened, primarily due to strong net remittances, which increased by 23 percent. Net FDI increased by 73 percent in the same period and financed more than half of the current account deficit. In July 2022, international reserves stood at €1.7 billion, covering seven months of merchandise imports.

Lower revenues as a share of GDP and higher social spending are estimated to widen the fiscal deficit to 4.9 percent of GDP. Total revenues as a share of GDP are projected to drop from 44.4 percent of GDP in 2021 to 40 percent in 2022. There was a solid increase in VAT and excise collection in the first eight months of 2022 despite the reduced VAT rate of 7 percent for the hospitality industry and a 50 percent reduction of the excise

on fuel as a cost-of-living mitigation measure. But revenues from social security contributions and the personal income tax declined as part of the government's tax reform that removed healthcare contributions, which was planned to be financed by progressive income taxation and higher excises. At the same time, expenditures increased, led by higher social and capital spending. In December 2021, the Parliament increased minimum pensions by 36 percent, followed by another increase of 10 percent to be implemented in September. These adjustments, without complementary reform measures, are significantly increasing the pension costs and threatening pension system sustainability and equity. The Ministry of Finance has prepared a revision of the 2022 budget to account for new expenditures, including pensions, higher-than-planned social spending, and clearance of health arrears.

In August, there was a vote of no confidence in the government—the second government to collapse in 2022. The complexity and fragility of the political landscape in Montenegro exacerbates already high uncertainties, slows the reform process, and diverts the focus from imminent economic challenges. Prudent fiscal policy based on continuous public debt reduction and policies to support growth are of critical importance in such an environment.

## Outlooks and risks

The unfavorable global economic outlook and high uncertainty are weighing on Montenegro's recovery prospects. Growth is expected to moderate to 3.4 percent in 2023 and further to 3.1 percent in 2024, as private consumption growth slows. The projections do not assume that the remaining sections of the highway will start by 2025, as fiscal space is limited. The projections do assume that investments will be recovering, driven by the energy and tourism sectors, but at a slower pace, as major public investments are finalized. Tourism is expected to continue improving in 2023, although deteriorating growth prospects in the EU and the region can slow its recovery.

The current account deficit is projected to decline gradually until 2024. While higher energy prices are disproportionately affecting the poor, they are also supporting a reduction in the trade deficit as Montenegro's growing electricity capacity is used for energy exports. These, together with exports of tourism and transport services, are projected to support a reduction in the current account deficit to 9.7 percent of GDP in 2024. Inflation is projected to decelerate to 5.9 percent in 2023 and further to 2.6 percent in 2024 as global supply shortages ease.

<sup>5</sup> WB: Western Balkans regular economic report: Beyond the crises

The fiscal balance is expected to moderate over the medium term but will remain elevated. The fiscal deficit is projected at 4 percent of GDP in 2023 and 2.7 percent of GDP in 2024, unless additional measures compensate for the decline in revenues as a share of GDP. As a result, public debt is expected to stay high at 73 percent of GDP. Given the tightening of global financial conditions and Montenegro's sizable financing needs of around 9 percent of GDP per year in 2023–24, Montenegro will require careful debt management and stronger control over its expenditures.

The outlook is clouded with multiple downside risks. Prolongation of the war in Ukraine would further amplify geopolitical uncertainties and reduce growth prospects in Montenegro and its trading partners. Inflationary pressures are accelerating monetary tightening, which translates into more expensive external, but also domestic financing. Political instability and delays in government formation are major domestic risks. The severity of challenges ahead requires strong political commitment and actions to mitigate these risks.<sup>5</sup>



## INTERNATIONAL REPORTS – ECONOMIC FREEDOMS AND CORRUPTION PERCEPTION

Researches of international organisations on the countries regarding economic requirements for investments and other analyses covering various economic aspects are important precondition for a country to be positioned in a global economic map. This segment is not only important from the political point of view and does not represent only the parameter to rank good and bad market players but it is also a foundation for the reforms in the countries pretending to be leaders in investment context. More serious analyses of the economic environment are of priority to improve the policy of attracting foreign investors and to create economic forecasts to strengthen the economy in the country.

The reports that analyzed Montenegrin economy are Report on Economic Freedoms (Heritage Foundation), Index of Economic Freedoms (Fraser Institute), Index of Corruption Perception (Transparency International) and Index of global competitiveness (the World Economic Forum).

# CORRUPTION PERCEPTION INDEX – TRANSPARENCY INTERNATIONAL

Transparency International is a leading global organisation of civil society established in 1993 having the mission to create a healthy society without corruption. Its main role is to improve life standard worldwide by undertaking the activities to raise awareness and reduce tolerance towards corruption.

**Corruption Perception Index (CPI)** ranks the countries and territories according to the perceived corruption levels in public sector. It is an aggregate indicator which combines diverse corruption information sources.

## Global overview

- ▼ CPI 2022 analyzed 180 countries and territories.
- ▼ Even though the findings show that some countries are well ranked, there is no country with 100 points. More than two thirds of total number of the ranked countries in 2022 Index have the results lower than 50.
- ▼ Global average when it comes to the points is 43 points.

Countries with strong institutions and well-functioning democracies often find themselves at the top of the Index. Denmark heads the ranking, with a score of 90. Finland and New Zealand follow closely with a score of 87. Norway, Singapore, Sweden, Switzerland, the Netherlands, Germany, Ireland and Luxembourg complete the top 10 this year.

On the flip side, countries experiencing conflict or where basic personal and political freedoms are highly restricted tend to earn the lowest marks. This year, Somalia, Syria, and South Sudan are at the bottom of the index. Venezuela, Yemen, Libya, North Korea, Haiti, Equatorial Guinea and Burundi are also in the bottom 10.

In the past five years, only eight countries have significantly improved their scores, and 10 countries have dropped significantly, including high-ranking countries such as Austria, Luxembourg and the United Kingdom. The rest (90 per cent of countries) have had stagnant corruption levels.

## Eastern Europe and Central Asia

Across Eastern Europe and Central Asia, high-level corruption is closely linked to political instability, weakened institutions and – in the most extreme cases – violent conflict. In the region with the second lowest average score (35), there is a vicious cycle of corruption and authoritarianism, as many governments undermine democratic processes, crack down on civic space and restrict media freedoms.

## Position of Montenegro based on Corruption Perception Index 2022

Based on Corruption Perception Index 2022, Montenegro had the rating of 45 and it stepped down for one place compared to 2021 report.

# INDEX OF ECONOMIC FREEDOMS – FRASER INSTITUT

The index published in Economic Freedom of the World measures the degree to which the policies and institutions of countries are supportive of economic freedom. The cornerstones of economic freedom are personal choice, voluntary exchange, freedom to enter markets and compete, and security of the person and privately owned property. Forty-two data points are used to construct a summary index, along with a Gender Legal Rights Adjustment to measure the extent to which women have the same level of economic freedom as men. The degree of economic freedom is measured in five broad areas.

## GLOBAL RESULT

### The best ranked countries

The most recent comprehensive data available are from 2020. Hong Kong remains in the top position, though its rating fell an additional 0.28 points. Singapore, once again, comes in second. The next highest-scoring nations are Switzerland, New Zealand, Denmark, Australia, United States, Estonia, Mauritius, and Ireland.

## Ranking of other big countries

The rankings of some other major countries are Japan (12th), Canada (14th), Germany (25th), Italy (44th), France (54th), Mexico (64th), India (89th), Russia (94th), Brazil (114th), and China (116th).

## The ten lowest-rated countries

The ten lowest-rated countries are: Democratic Republic of Congo, Algeria, Republic of Congo, Iran, Libya, Argentina, Syria, Zimbabwe, Sudan, and lastly, Venezuela.

# MONTENEGRO IN WORLD ECONOMIC FREEDOM REPORT: ANNUAL REPORT 2022

According to the report „World Economic Freedom 2022“, Montenegro was given the score of 7.46 and deteriorated its position for two places compared to the previous report and it is placed 40th.

The Index of Economic Freedoms covers these areas:

- ▼ Size of government – 97<sup>th</sup> position
- ▼ Legal System and Property Rights – 61<sup>st</sup> position
- ▼ Sound Money – 7<sup>th</sup> position
- ▼ Freedom to trade internationally – 63<sup>rd</sup> position
- ▼ Regulation – 15<sup>th</sup> position

# ECONOMIC FREEDOM REPORT – HERITAGE FOUNDATION

Heritage Foundation is founded in 1973 as research and education institute having as a mission the promotion of conservative public policy based on the principle of free entrepreneurship, limited state impact and individual freedoms.

Economic Freedom Index represents the reviews of the Heritage Foundation and in its 29th edition it presents the list of global economic freedoms for 184 graded countries. The publications published by the Heritage Foundation since 1995 follow the ratings of the countries worldwide within 12 economic freedoms which assess rule of law, government size, regulatory efficiency and open markets.

Economic freedoms are measured based on 12 specific factors, grouped into four broad categories, or pillars graded on a scale of 0 to 100:

- ▼ Rule of Law (property rights, judicial effectiveness, government integrity)
- ▼ Government Size (government spending, tax burden, fiscal health)
- ▼ Regulatory Efficiency (business freedom, labor freedom, monetary freedom)
- ▼ Open Markets (trade freedom, investment freedom, financial freedom).

## GLOBAL OVERVIEW

The 2022 Index, which considers economic policies and conditions in 184 sovereign countries from July 1, 2020, through June 30, 2021, reveals a world economy that, taken as a whole, remains “moderately free.” However, the global average economic freedom score is now 60—a loss of 1.6 points from the previous year’s 61.6.

Despite the notable downturn of global economic freedom, there continues to be a clear relationship between improving economic freedom and achieving higher economic dynamism as well as greater overall well-be-

ing. No matter what their existing level of development may be, countries can measurably boost their economic growth by implementing steps to increase economic freedom through policies that reduce taxes, rationalize the regulatory environment, open the economy to greater competition, and fight corruption.

The standard of living, measured by incomes per capita, is much higher in economically freer countries. Economies rated “free” or “mostly free” in the 2022 Index enjoy incomes that on average are more than three times higher than those in other countries and almost seven times higher than the average incomes of “repressed” economies.

As documented once again in the 2022 Index, economic freedom also correlates highly with overall well-being, which includes such factors as health, education, the environment, innovation, societal progress, and democratic governance.

Twenty-seven countries earned a designation as “mostly free” by recording scores of 70.0 to 79.9, and an additional 54 countries were considered “moderately free” with scores of 60.0 to 69.9. Thus, a total of 88 countries, or about half of the 177 countries graded in the 2022 Index, have institutional environments in which individuals and private enterprises benefit from at least a moderate degree of economic freedom in the pursuit of greater economic development and prosperity.

On the opposite side of the spectrum, 50 percent of the countries graded in the 2022 Index (89 economies) have registered economic freedom scores below 60. Of those, 57 economies are considered “mostly unfree” (scores of 50.0 to 59.9), and 32 countries, including China, are in the economically “repressed” category.

A notable reshuffling has taken place at the top of the rankings. Singapore maintained its status as the world’s freest economy, but Australia dropped out of the “free” category, and New Zealand dropped to fourth place, behind Switzerland and Ireland. Luxembourg, Taiwan, and Estonia joined the “free” category for the first time. Quite notable is the continuing decline in the “mostly free” category of the United States, which plummeted to 25th place, its lowest ranking ever in the 28-year history of the Index. The major causative factor in the erosion of America’s economic freedom is excessive government spending, which has resulted in mounting deficit and debt burdens.

## Montenegro in Index 2021

According to Heritage Foundation Index, Montenegro ranks 103rd with total score of 57.8. This is a decrease for 12 places compared to previous report.

At the regional ranking list, out of 45 European countries, Montenegro is ranked 41st what is a progress for 1 place compared to previous year.

## THE GLOBAL COMPETITIVENESS REPORT (WORLD ECONOMIC FORUM)

The last report of the World Economic Forum is published in 2020 and it prepared during Covid pandemics as special edition and that is why it was not included in this edition of the White Book covering 2022.

## CREDIT RATING AGENCIES

Credit rating agencies monitoring Montenegro, Moody’s and Standard and Poor’s, evaluated the stabilization of public finance and with their ratings they encouraged further reforms of fiscal consolidation. This is especially indicated by a stable and positive outlook of the last ratings given by these agencies.

INTERNATIONAL INDICATOR	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	
<b>Doing Business</b>	77	65	56	56	51	44	36	46	51	42	50	50	-	-	-	
<b>Corruption perception Index - Transparency International</b>	85	69	69	66	75-	67	76	61	64	64	67	66	67	46	45	
<b>Economic freedoms - Heritage Foundation</b>	-	94	68	76	72	70	68	66	65	83	68	92	91	103	-	
<b>Economic Freedom of the World - Fraser Institut</b>	58	78	47	37	28	49	38	62	59	85-	72	83	80	38	40	
<b>Global Competitiveness Index – WEF</b>	65	62	49	60	72	67	67	70	82	77-	71	73	-	-	-	
<b>Credit rating - Standard &amp; Poor's</b>	BB+ (neg. 10.11.)	BB+	BB (neg. 31.03.)	BB (neg. 13.12.)	BB- stable (June)	BB- negative	B+ stab. (Nov)	B+ stable	B+ negative	B+ stable	B+ stable	B+ stable	B+ Negative [5, B+Negative (September)]	B stable (March)	B stable (September)	
<b>Credit rating - Moody's</b>	Ba2 (stable 12.03 neg. 18.12.)	Ba3 (neg. 30.04.)	Ba3 (neg.)	Ba3 (stable 30.03.)	Ba3 stable	Ba3 stable	Ba3 negative	Ba3 negative	Ba3 negative	B1 negative	B1 stable	B1 positive	B1 positive	B1 stable (September)	B1 stable (October)	B1 stable (September)

[1] the methodology of report preparation has been changed significantly;

[2] reviewed rating for 2017 is 90;

[3] reviewed rating for 2017 is 73;

[4] reviewed rating for 2017 is 73;

[5] Due to COVID-19 virus, rating outlook for Montenegro is changed from stable into negative with keeping the rating B+/B;



## IMPORTANT EVENTS IN 2022

### EU-Western Balkans summit in Tirana, 6 December 2022

This was the first-ever summit between EU and Western Balkans leaders to take place in the Western Balkans region.

The summit was an opportunity to reconfirm the key importance of strategic partnership between the EU and the Western Balkans, a region with a clear EU perspective.

The main topics of discussion were:

- ▼ tackling together the **consequences the Russian aggression against Ukraine**
- ▼ intensifying **political and policy engagement**
- ▼ reinforcing **security and building resilience** against foreign interference
- ▼ addressing the challenges posed by **migration**, the fight against terrorism and organised crime.

At the end of the summit, the **Tirana declaration** was issued.

### EU perspective

The Tirana declaration reaffirms the EU's **unequivocal support for the EU perspective** of the Western Balkans.

The EU reconfirms its full and unequivocal commitment to the European Union membership perspective of the Western Balkans and calls for the acceleration of the accession process, based upon credible reforms by partners, fair and rigorous conditionality and the principle of own merits.

In this declaration, EU leaders welcome the Western Balkans partners' resolve to **uphold core European values and principles**, in line with international law.

EU leaders recall the importance of **continuing reforms**, notably in the area of **rule of law**, and in particular those related to the independence and functioning of the judiciary and the fight against corruption and organised crime.

The EU's **new energy support package** will help the Western Balkans:

- ▼ mitigate the impact of the energy crisis, with specific support for vulnerable families and SMEs
- ▼ accelerate the energy transition and energy independence, notably thanks to the REPower EU Plan

In the Tirana declaration, EU leaders recall their decision to open **up the common purchases of gas, LNG and hydrogen** to the Western Balkans partners and encourage them to use this platform.

### A robust economic foundation for the future

The Tirana declaration highlights how the continued implementation of the Economic and Investment Plan and the Green and Digital Agendas for the Western Balkans will help strengthen the region's economy and resilience.

A new package of EUR 400 million in EU grants worth EUR 1.2 billion in investment value, to finance 12 investment projects, has just been approved, while adopted projects are entering the implementation stage.

The EU will also continue its support to the agricultural sector. The EU remains the region's main investor, trading partner and donor.

During the summit, EU and Western Balkans leaders took stock of the progress made:

- ▼ towards integration of the Western Balkans with the EU internal market
- ▼ on free movement and recognition of IDs for all citizens of the region
- ▼ on mutual recognition of university diplomas and professional qualifications within the region
- ▼ on the modernisation of Western Balkan economies payments systems in line with the EU standards
- ▼ in the digital area
- ▼ in the implementation of the EU-Western Balkans green lanes, an initiative to facilitate cross-border logistics and continuous flow of goods

EU and Western Balkans leaders also welcomed the agreement between the telecom operators signed in the margins of the summit. It will result in reducing roaming costs between the EU and the Western Balkans in 2023, with a view to their full removal in 2027.

# FINAL CONCLUSIONS

Generally observed, Montenegro's position deteriorated according to three most important international reports regarding its economic reviews. Until the publication of this White Book edition, the Global Competitiveness Index of the World Economic Forum for 2021-2022 has not been published yet. Decision-makers should be guided by the international reports reviews to implement the reforms more efficiently and to implement more intensely the innovative solutions. This is especially important in the regional ranking since all countries equally incline to the investment attraction and creation of better requirements for business. Thus, Montenegro should invest more efforts not only to preserve the existing positions but also to progress faster than others.

In that sense, the following recommendations are important:

- ▼ more efficient reform implementation and further steps to improve tax procedures (paying surtax to the income tax is a special procedure which is implemented 12 times per year; no system connection and data share between Tax Administration, local self-government units and funds; complicated system of tax returns and requests with mandatory books which is time-consuming in terms of data collection to fill in the tax return form; relatively high contribution rates impacting total tax burden; long and not enough automatized procedures of VAT return);

- ▼ significant modernization of the work of cadastral and notary services, especially when it comes to the respect of deadlines in the procedures, costs reduction and introduction of modern, electronic systems that would shorten the registration procedure (software connection of the notaries with the Land Administration to increase legal security – this would help simplify the procedure of property registration for end users; impossibility to submit the documentation online; impossibility to pay taxes online; necessity to respect deadlines defined under the Law on State Surveying and Cadaster of Immovable Property);

- ▼ creation of foundation for further infrastructure investments, both traffic and communal infrastructure,

but also implementation of intensive measures for future investments in key sectors of tourism and agricultural production;

- ▼ keeping up with the measures of labor market flexibility and freedom growth, improvement of education and healthcare policy with the creation of investments opportunities;

- ▼ continue with the policy of improving the work of the administration and raising efficiency at all levels, especially in the part of a greater consistency in the implementation of policies at local and state level;

- ▼ further development of Montenegrin economy and society through digitalisation as development and transformation policy;

- ▼ creation of grounds for improved public finance policy with special focus on new investments that may contribute to stabilization of public finance with the reduction of deficit and maintenance of public debt.

Regarding political positions, Montenegro traditionally keeps the level of the stable countries with clear messages from the international community that it is a reliable and politically respectable partner. This applies to the NATO community and fast EU integration process as well.

# **DIGITALIZATION** AS PRECONDITION FOR ECONOMIC GROWTH



**MFIC** Montenegrin Foreign  
Investors Council



# EVALUATION OF REGULATORY ENVIRONMENT IN MONTENEGRO

**E**valuation of regulatory environment in Montenegro is a very important part of the MFIC activities, presented as well in each edition of the White book. The MFIC members use different channels and mechanisms to express their observations, comments, suggestions on specific issues that can be further improved to better accommodate the needs of business and economic development and to update and improve the regulations that create business barriers and bring it in line with modern international standards and best practices. Besides efficient legislation that is in line with modern practice and adopted with involvement of the main stakeholders, “regulatory environment” considers implementation, execution and judicial practice as important elements and preconditions for attractive and stimulating environment in Montenegro.

## REGULATORY FRAMEWORK AND COUNCIL COMMITTEES

As it is stated in the introduction, there are three committees within the MFIC: ICT Committee (established in 2014), Finance Committee (established in 2022 that replaced the Banking Committee established in 2019) and Insurance Committee) and Regulatory Policy Committee established in November 2019. Representatives of those sectors have found their interest in uniting within the MFIC and in creating a joint platform for mutual communication and for communication with the decision-makers. We will present below briefly the work of these two committees i.e. main topics that were elaborated in the previous period.

### 1. INFORMATION AND COMMUNICATION TECHNOLOGIES (ICT)

#### Recommendations of the Regulatory Committee

We live in the information era where new technologies appear on a daily basis to make everyone’s life simpler and better. The pace at which the technology develops today is almost exponential. ICT sector enables efficient interaction and business

management via digital world. It is the key actor in the digital transformation of the Montenegrin economy. Even though digital transformation and electronic services are facing big challenges nowadays, the foundations for development are set and we expect the progress that will differentiate Montenegro in a successful transition towards sustainable economy and society. Strengthening of ICT profession has a stimulating effect to the overall economy and the ICT industry is the source of big changes in business practice of other industrial activities.

A global ICT sector is making a constant progress, by introducing innovations and technological developments related to the Big Data, Cloud Computing, Artificial Intelligence (AI), Machine Learning (ML), Virtual Reality (VR), Internet of Things (IoT). Due to the intention to unite the world as much as possible, a digital travel is naturally imposing that diverse actors gather and make a huge community.

Digital goals of the European Union (EU) by 2030 focus on four key pillars: skills, digital transformation of business, safe and sustainable digital infrastructure and digitalisation of public services and they set frameworks Montenegro should aspire to in the process of digital transformation.

Geopolitics and challenges in supply chain have additionally increased the interest for development of common technical solutions such as OpenRAN. Montenegro is an example of such approach – in 2022 the coverage of the first Montenegrin highway was ensured by joint action of all the operators that implemented OpenRAN.

New hubs were opened in the country designed to be the space for the young people to look for the possibilities to use innovative technologies in different areas, to acquire skills and knowledge and to be used as platform to communicate with citizens, private and public sector.

The main topic in ICT sector is development of 5G that changes the way in which we perceive the online world. Montenegro is the first out of six Western Balkans countries that implemented with success the auction for radio frequencies intended for 5G development. All the three mobile operators ensured adequate quantities of radio-frequencies to give to their users the real experience of modern technologies.

Introduction and upgrade of broadband infrastructure is considered key progress factor. Fast internet will improve the connectivity and integration, it will enable the companies to be more resistant and more competitive, it will support green transition and contribute to the improvement of management and transparency, particularly in public sector. A broadband coverage of rural areas with social and economic impact will improve the inclusion of the vulnerable groups because they will have the access to the possibility to create digital skills and new digital solutions in education, healthcare and public administration.

In line with the Digital transformation strategy of Montenegro 2022-2026, in 2022 the proposal of the Law on amending the Law on foreigners was adopted. The main reason to adopt this Law is the need to have the possibility for foreigners doing business electronically to regulate their legal status in Montenegro. With these amendments, digital nomads are allowed to enter Montenegro based on long-stay visa (visa D) and to regulate the permit for temporary residence up to two years. The Program to attract digital nomads until 2025 was adopted aiming at increasing the number of digital nomads staying in Montenegro and recognising Montenegro as attractive tourist destination for their stay.

In addition, the new Law on electronic document was adopted in 2022 and it is expected that it will contribute to the improvement of business environment and a greater use of electronic document and digital signature. It should reduce the use of paper for mass use of electronic documents and digitalisation of the existing hard copy documents. This Law contributes as well to the additional improvement of legal framework in digitalisation, it is additionally harmonised with the Law on electronic identification and electronic signature to create conditions for its wider implementation in legal transactions, administrative, judicial and other proceedings what will result in the development of new electronic

services and acceleration of digital transformation to the benefit of all citizens and economy in Montenegro.

During the fifth Digital summit of the Western Balkans economies organised in September 2022 in Pristina, it was concluded that the Western Balkans countries are committed to creating better conditions for connection via safe and transparent digital environment. An important, joint goal is the need to undertake the activities on improvement of regional cooperation regarding cyber security by increasing the protection of critical infrastructure, resistance of cyber security and cyber security awareness in the way that all the countries are focused on prevention and detection of cyber threats and prevention, detection and efficient response to incidents to mitigate their impact and to provide for the fast recovery. In addition, some other activities are recognised as important for the implementation in the following period such as development of “digital identity” and inclusion in the European High-Performance Computing Joint Undertaking (EuroHPC).

Finally, we would like to use this opportunity to draw the attention to some issues faced by the operators of the electronic communications in daily operations.

## **Law on electronic communications**

We welcome the beginning of the work of the working group that prepares the new Law on electronic communications by which the EU Directive 2018/1972 of the European Parliament and Council and other relevant EU directives will be transposed in the national legal system of Montenegro. We believe that this process will help Montenegro have an adequate legal framework regulating the activity of electronic communications specific for the innovations and big technological changes which must be followed by legislative framework to ensure the implementation of the adopted set of programs and strategies that are of crucial importance for digital progress of Montenegro.

This is very important since digitalisation and 5G development are on the top of the agenda of the operators in Montenegro, as it is already emphasised. From another point of view, it requires timely provisioning of regulatory preconditions and pro-investment policy and stimulating business environment required for further investments and business in Montenegro.

Some initiatives are given below that will be in the focus of the operators during public debate on the draft Law which should help moving into online environment the

process of contracting the services of electronic communications and respecting of contractual obligations, what would shorten all the processes and ensure environmental protection.

We believe that the percentage of Internet services used in Montenegro is already high enough to have the requirements to prescribe by Law the obligation to issue the e-bill for the provided services (if the user accepts it), to eliminate the obligation to conclude the contract in writing which means physical contact of the user and sales agent, because the new manner of doing business should reduce the physical presence of the user to the greatest possible extent and a simpler procedure of contracting, services to change tariff package, to activate options, additional services to the existing package and alike.

When it comes to construction and use of electronic communication networks (Article 39 of the Law in force), the new Law should contain a clear provision that would leave no space for different interpretation which represents a significant business barrier, as we have witnessed so far, being interpreted in a way that the parts of networks and relate equipment must be located in Montenegro.

The MFIC and the Montenegrin operators of electronic communications addressed the state bodies before regarding this matter and explained why it is necessary to amend the provision of the Law that would enable the operators doing business in international environment as parts of the corporations, as it is the case with the Montenegrin operators, to be connected with technical and organisational and integrated solutions at the level of the international groups to ensure innovations, improve services and optimise resources. Accordingly, the operators should have the right to use the electronic communication infrastructure, device and equipment of other operators in Montenegro and abroad for the needs of their networks, based on the commercial contracts and in line with the provisions of the Law on electronic communications and other valid regulations.

The answers we received regarding that initiative point out to the fact that the current regulatory framework (or at least its interpretation) introduced limitations which were not incidental as it could often be heard by the representatives of the competent institutions that these restrictions should ensure protection of working places in Montenegro.

This time, we would like to stress out the need to review this issue from a broader perspective. It is unquestionable that the ICT is one of the greatest, fastest growing and the most important sector in modern and develo-

ped countries and Montenegro should achieve its goal to join developed economies by developing this sector. We believe that it is necessary to put special focus on the ICT as industrial branch which may enable the development of all other industrial branches and it may help ICT sector to offer to the market in a simpler and faster manner the innovative solutions and advanced services which the EU citizens already have. In doing so, the operators will be allowed to invest sustainably in the networks and services and they will have the possibility to hire IT experts i.e. open “highly paid” working places, what would be the end goal – to keep that category of jobs in Montenegro. This requires harmonisation of labor legislation as well and this will be elaborated further below.

A technological trend in programming in the last several years is linked to the cloud services or in other words, optimisation of server infrastructure which may be hired when needed. It is necessary to optimise the space to work with the data and processing time for data processing or to make the data efficient and effective. That is why it should be necessary to have clear legal definitions that the operators may use the devices and equipment which does not have to be necessarily in our country. In this way, the operators will be able to optimise the costs related to the investment and maintenance of equipment and transfer the funds for employing the work force that will deal with the development of digital services for the citizens and economy in Montenegro. We believe that such access would be win-win for everybody:

- ▼ it would increase the number of employees at highly paid positions with the operators,
- ▼ it would enable the development of new digital services and products for the Montenegrin market which
- ▼ reduce the operating costs of business entities what is reflected on the users through lower prices of services.

The new Law should specify a different regulatory framework when it comes to the universal service which will not represent a big financial burden to the service provider and operators participating in the fee of the net cost. After ten years of providing this service in Montenegro, we can say that the definition of the universal service request reasonability (in the law and especially in bylaws) contributed to exaggerated costs for construction of new locations of mobile network (especially non-commercial areas of Montenegro) – 11 locations in Montenegro out of which some based on the request of one user only, so we can say that the resources are wasted because nearly 1 million euro was spent for the universal service (speech services and internet access on the fixed location only) and the service is

used by 15 users in Montenegro at the most for the last several years (on average) out of 56 registered since 2013. The calculated income of the operators from the universal service amounted to 15.000 €. We can rightly claim that the current regulatory framework in force is unsustainable and irrational because it makes the provision of universal service in Montenegro highly demanding in financial way (we would rather say dissipation of resources because as a rule, these users do not pay the bill of the universal services and are deactivated and the infrastructure built for the needs of the universal services must stay at the location).

We believe that we should follow the good practice of the EU member states to which we pointed out several times in our letters to the line ministry and the Agency for electronic communications. Specific limitations should be introduced to prevent the dissipation of the funds and the abuse of the applicants of the service at a landline location in which they are not actually interested but they only need a better mobile network signal. This is confirmed in practice based on the examples such as when the operator of the universal service offered to the applicant the connection which includes a technical solution via landline network, the applicant would cancel the request. Another example includes the cases when the users of the universal services via mobile network would use the service barely for a month and did not spend the resources included in the subscription.

We think that it is necessary to define a reasonable request of the user of the universal service in a way to define that in case it is needed to build or extend the network for service provision, a reasonable request should be the request submitted by at least 20 natural and/or legal persons, or some other manner of limitations should be introduced that exists in the EU member states practice. In any case, there must be some kind of limitation because the construction of the network for one user only in a non-commercial area is imposing the unreasonable financial burden to the service provider and as far as we know such practice exists only in Montenegro.

We believe that the new law should define in more details the manner of financing the regulatory body for electronic communications to understand clearly which charge should be paid by the operators of electronic communications and how it is calculated, in line with the EU regulations i.e. EU Directive 2018/1972 of the European Parliament and the Council (so-called EECC) which defines that “any administrative charges imposed on undertakings providing electronic communications networks or services under the general authorisation or

to which a right of use has been granted shall: (a) cover, in total, only the administrative costs incurred in the management, control and enforcement of the general authorisation system...”. So, the real administrative costs of the regulator should be covered, with the restriction that the operator may be charged only the amount which will be enough for the regulator to perform the activities within their competencies on one side and that the operators having the obligations of further investments are not overburdened financially. It is also needed to define more clearly that within the Financial plan the regulator needs to specify precisely the manner and purpose of using the funds that represent the difference between total generated income and total generated expenses in a calendar year, or surplus of the generated income which may only be used to meet the legal obligations of the regulator in the next calendar year, as it is defined under the current Law in force as well.

## Law on Cinematography

Financing of the Film Fund by the operators of electronic communications is the subject that has been part of the recommendations of this Committee for years already and during this period, the ministries competent for the culture and electronic communications expressed their understanding for this issue from time to time and it was expected that the Law on cinematography would be amended to eliminate this unjustified financial burden. The amendments to the Law should include the provision of Article 36, paragraph 2, point 5 of the Law prescribing the obligation of public communication network operators, including internet access operators, to allocate 0.9% of annual revenues generated through internet services, broadcasting of TV programs and renting of cinematographic works for the Film fund for financing of cinematography (in accordance with the conclusion of the Government Competitiveness Council from the session held in November 2019).

After the intersectoral communication, it was expected that the work on the amendments to the Law on cinematography would start which would include the deletion of the provision of point 5 paragraph 2 of Article 36 of the Law, in line with the best practice in the EU and wider. So, it was expected to eliminate the obligation of the electronic communications operators or, if the line ministries stay with their opinion that the operators have to pay the charge in one part (even though we do not consider it justified), that the charge is calculated for the basis which does not include the income of the operators generated based on the Internet access service. Based on the answers of the line institutions to the recommendations from the MFIC White Book: Invest-



tment climate in Montenegro 2021, we conclude that such option was reacted with completely wrong argumentation.

Namely, the answer of the Ministry of culture and media is based on the fact that the electronic communications operators sell their Internet packages and allow to a wide number of users to access the Internet and the available international analysis of the market confirmed that the Internet users visit most frequently web portals and platforms with cinematographic or audio-visual content. It is also pointed out that the liberal regulations regarding the Internet access facilitate the access to the legal and illegal websites from which different audio-visual contents may be downloaded or watched what results in an unauthorised use of the cinematographic works and their illegal use what further impacts the development of cinema, TV market, reduction of income in broadcasting, development of irregular viewers' habits and insufficient development of film culture. As the Ministry replies, this creates an extremely unfavourable business environment for cinematography development in Montenegro.

In this way, the Ministry totally neglects the net neutrality principle established both in EU and national legislation defines includes (in brief) that "provider of Internet access services, when providing Internet services, shall treat equally any activity, without discrimination, restriction or disturbance, irrespective of the sender and recipient, as well as any content to be accessed or distributed through the applications or services used or provided or terminal equipment that is used".

It is not worth mentioning that the operators are not responsible for preventing the access to the websites dealing with the illegal distribution of cinematographic works and the stated arguments of the Ministry point out that the operators should be "punished" by paying the charge to protect the interests of the cinematography sector because they cannot prevent the access to these websites nor they are allowed to do so. It is worth mentioning that there is a court practice when it comes to these matters and the recent one we are aware of happened on 2nd March 2019 when the Supreme Court of Switzerland brought the judgment stipulating that the Internet service providers are not liable for illegal download of the films from the webpages of third parties and web portal allowing the download of the films and they are not obliged to monitor or block the contents from these websites or web portals.

We remind that Article 36 of the Law prescribes that the payers for the Film Fund are legal and natural persons engaged in the activity of using cinematographic works.

However, the operators have already paid the use of cinematographic works and they pay it as broadcast fee to TV houses with which they concluded broadcast agreements and as contracted fee for using copyright rights and related rights. When it comes to using the cinematographic works, the operators allocate on a monthly basis 2% of their income based on AVM content broadcast to the organization „A-prava Montenegro“ which protects the rights of producers including domestic and international authors. So, the introduction of the fee for basically the same thing cannot be observed other than double taxation i.e. taxation for the same matter. Furthermore, when it comes to the fees paid to TV houses for TV channels broadcast or the fee paid to collective organizations for protection of copyright rights and related rights, we must point out that this is a high percentage of the income of the operators.

As it could be understood from the answers of line Ministry for the culture, as an argument, that this charge is paid by the operators in the Republic of Croatia, we want to stress out that it is a wrong interpretation of the provision of the Croatian Law on audio-visual activities which reads: "For the implementation of the National program, the operators of public communication networks, including Internet service providers, shall pay 0,8% of total annual gross income generated in the previous calendar year by performing the activity of broadcasting and/or retransmission of audiovisual programs and their parts in public communication networks, including Internet and cable broadcast.

The same provision is contained in the new Croatian Law on audiovisual activities which is in force as of 2023.

It is clear that this is the basis for charge calculation which includes the income from the service of TV broadcast which may be ensured as well via Internet and cable TV (so IPTV and CATV).

So, we cannot accept that the Internet service access is "taxed" because of potential ignorance of technology which ensures the broadcast of TV channels service

## Law on copyright and related rights

In the context of the previous recommendation, we would like to draw the attention to the Law on copyright and related rights in the part related to the organisations for collective management of the rights or to the manner of defining the fee to use the protected matter. Namely, the provision of Article 171 of the Law envisages that the tariff defines the acceptable fee for single

forms of use of protected matters. The same Article defines that the tariff should be defined as follows:

1) as a percentage of gross revenue which the user earns through an activity which is conditioned by the use of protected matter (ex. concert producers, dancing schools, discos, etc.);

2) as a percentage of gross revenue which the user earns through an activity which is conditioned by the use of protected matter, whereby it cannot be established which share of revenue derives from the use of protected matter (ex. broadcasts of broadcasting organizations, cable retransmissions etc);

3) as a percentage of costs for the use of protected matter, if the user does not earn any revenue;

4) in proportion to the revenue earned by the use of protected matter, if the revenue is earned from the use of protected and unprotected matters;

5) as a lump sum per number of uses of protected matter, if the use of protected matter is not indispensable for the conduct of the activity of the user, or where the revenue or costs for the use of protected matter cannot be exactly established and/or where the establishment of this revenue requires unproportionate costs.

However, this proposal of the Law does not define total percentage which the users of the protected matters should allocate to use all the protected matters, and the operators point out to this before the relevant institutions at several occasions.

We remind that, in addition to the organisation A Prava Montenegro, the operators must pay the fee to organisation for collective management of rights of the musicians – PAM – and previously mentioned charge for the Film Fund. Interim tariff of the NGO Organisation of photography authors was officially published in the meantime and it relates to the cable retransmission of the works from the repertoire of the organisation to be paid by the cable operators (operators were introduced with this interim tariff only after it was published in the Official gazette). The Organisation of the photography authors did not respect the legal procedure that should precede the adoption of the interim tariff. More precisely, they did not send the invitation to the operators to participate in the negotiations to define the tariff or to conclude a mutual contract; it defined the interim tariff with the Ministry of economic development and tourism, without any participation of the operators or without any information to the operators hereon. The Organisation did not enable the participation in the

negotiations and it did not introduce the operators with the decision allowing it to perform the activity of collective management of property rights of the photography authors. If the operators were enabled, they would certainly take part in the negotiations, directly or through an organised representative association that would participate on their behalf in the negotiations with the Organisation to conclude the tariff contract. Just like it was the case when defining the tariffs of the collective organisations that were established before (A Prava Montenegro and PAM), when the operators participated directly in the negotiations with the collective organisations.

By taking into account the practice from the region, we believe that it is necessary to define under the law a maximum percentage (unique tariff) the users of the protected matters would be obliged to pay to use the protected matter, for all existing and future organisations for collective protection of holders of any copyright (for the overall volume of copyrights used through retransmission of TV channels). So, such defined maximum percentage would be a maximum obligation of the user for the use of all the protected matters and collective organisations that protect the holders of the rights would regulate mutual relations regarding their share in percentage in income distribution.

If we do not take this into account, Montenegro will be the country where the operators of TV channels broadcast services pay the biggest fee for the protection of the rights of musicians and producers even if we make the comparison with the EU member states. There are lots of rights for the protection of which the organisations have not been found yet.

We would like to bring an example from Serbia where the unique tariff is in force and it was adopted by two organisations: “OFPS”, protecting the rights of the phonogram producers and “PI” protecting the rights of performers, and the OFPS charges this unique tariff based on the Contract on business cooperation on charging the unique tariff concluded between the OFPS and PI.

We believe that the proposed manner of defining the unique tariff would be more acceptable for all the users of the protected matters and it would not be too big financial burden (the operators are anyway enough burdened by the state levies when performing their activity).

This is how the predictability of the business as one of the preconditions of stability and encouragement of further investments would be ensured and with the growing number of the collective organisations and arbitrary and non-transparently defined tariffs for the pro-

tected matters this is not the case. The way this is done now does not bring benefit to anyone since potentially endless amount of charges the operators have to pay based on retransmission may exceed the budget envisaged for the development of the very TV platforms used for the retransmission and it can make this service obsolete and uncompetitive what would lead to the smaller amounts to be distributed to the holders of the copyrights.

## **Recommendations for the draft of the new Law on spatial planning and construction of buildings**

Telco operators used the public invitation of the line ministry to the public to submit the initiative for the preparation of the new Law on spatial planning and construction of facilities twice (in 2021 and 2022) and pointed out to a series of problems they faced in the application of the current Law. We expect that the working group to work on the Law and the Ministry will accept the suggestions and initiatives of the operators and that the new Law will ensure adequate conditions for construction of facilities of the electronic communication infrastructure and its protection.

We will not use this opportunity to present the initiatives for the text of the new Law in the White Book since these are sent to the line ministry but we think that the issue of infrastructure protection must be mentioned in this edition of the White Book.

Operators of electronic communications have an important role in the development of digital society and support to the implementation of the state strategy in that domain. To do it smoothly, an important precondition is that the electronic communication infrastructure used for service provision is protected from damage-destruction and we witness that the infrastructure is often devastated due to incomplete or wrong interpretation of the current Law on spatial planning and construction of buildings. The new Law must remove the doubts, misunderstandings and underregulated matters as it is a so-called critical infrastructure and the services to be provided using this infrastructure are the services of general interest and continuity in their provision is as important as the continuity in water supply or electricity supply or another services of public interest.

The most frequent problem faced by the operators (especially those who own underground infrastructure) are frequent damage or cutting of electronic communications cables or other infrastructure while constructing

buildings and especially while reconstructing roads. The reason for this is the fact that while issuing the urbanistic technical conditions and drafting project documentation on the telecommunication segment is not treated in almost all cases.

Therefore, the authorities responsible for issuing Urbanistic Technical Conditions and evidences required for the preparation of technical documentation in most cases do not comply with the legal obligations defined in Article 74 paragraph 5 of the Law on Spatial Planning and Construction. Unlike telecommunication infrastructure, other installations, such as energy and water systems are protected appropriately since all publicly available issued technical conditions require „energy consent” and “water system consent” while the owners of telecommunication infrastructure owners are brought in unfavorable position. Furthermore, in the review procedures, contrary to Article 82, the reviewers do not obtain telecommunication consent from the body for technical requirements and it can be witnessed from the reviewed projects that there is no electronic communication phase.

The new Law must unambiguously state that the Agency for electronic communications and postal services is responsible for issuing these requirements as a body for technical requirements bearing in mind that when plan document is prepared, the Agency is submitted the requests for issuing the opinion on planning compliance of electronic communication networks, infrastructure and related equipment. The Agency has the data i.e. the database of electronic communication infrastructure of all operators who own electronic communication infrastructure. So, the Agency would issue the requirements for connection to telecommunication infrastructure in the process of issuing the UTC. The lack of this document has clearly caused the illegality of construction so its issuance would prevent devastation of space, digging, subsequent digging, overdigging of the already built facilities what happens often in practice.

With the current manner of implementing the projects of construction and notably reconstruction of roads, the operators, apart from physical vulnerability and devastation of infrastructure, losses in traffic and indirect losses, bear quite often direct material costs. In this way, the required funds for electronic communication infrastructure protection cannot be precisely planned and that makes it harder to meet the legal obligation of consistent service provision and protection of electronic communication infrastructure integrity.

The only way to act preventively and to reduce lots of problems the operators face in practice is to define one

address (as for electro energetic and water infrastructure) that will be binding when issuing UTC. In this way, unnecessary costs that occur due to very frequent damages and cutting of infrastructure would be reduced. For easier orientation, we would refer to the provisions of current Law, i.e. adding another item (item 17) to the Article 55 paragraph 1 that would read: “evidence from responsible regulatory agencies on existing underground cables/infrastructure at the location/plot where construction/reconstruction is ongoing.”

We expect that the new Law will recognize the importance of digital transformation and improve its implementation with its provisions by obliging the investors to install optic infrastructure of electronic communications in new buildings which ensures high speed internet to implement the services of “smart homes” at some specific period of time. In addition, the new Law should encourage the reduction of electricity consumption and reduction of CO<sub>2</sub> emission by predicting subsidies to install infrastructure for solar panels (not only as current ad hoc project of the EPCG) and infrastructure for charging electric cars in new buildings and alike.

## **Amendments to the Law on roads**

In the previous edition of the White Book we pointed out to the need to amend the Law on roads in the part related to the „Notification of Works on Public Roads“ or the provision of Article 35 of the Law on public roads paragraphs 4 and 5 defining that the persons that own or manage the infrastructure facilities that are installed or placed in a public road (sewerage, water supply, electrical lines, electronic communication lines, gas pipeline, oil pipeline), when carrying reconstruction or other works on a public road at their cost, during the construction of a public road that is financed by the public road developer, shall relocate structures, facilities, devices, installations and lines or adapt them to the resulting changes at their own expense. Should they fail to relocate or adapt the structures, facilities, devices, installations and lines by the beginning of works execution on construction or reconstruction or works execution on public roads, they shall be responsible for the damage that may occur due to the untimely commencement of relocation.

We pointed out that due to unclear criteria to distinguish reconstruction and construction of new public road, infrastructure holders are faced in practice with possible abuse of these legal provisions and they bear significant costs for relocating their infrastructure (there are cases when reconstruction includes road construction of a fairly new roadway or adding a new roadway next to the

existing one). Thus, the amendments of this provision should remove such possibilities of abuse, as it can be seen in the region. For example, in North Macedonia, this situation is solved in a way that in case it is needed to relocate the infrastructure there is no difference regarding construction of a new road or reconstruction of the existing one, in both cases the investors bear the costs of relocation. It is the same in the Republic of Croatia where infrastructure holder bears the costs of infrastructure relocation only if there is illegally built infrastructure. We consider these solutions reasonable because the owner of the legally built infrastructure should enjoy the rights guaranteed by the Constitution. In their response to this White Book recommendation the line ministry did not reply to the basic problem to which the recommendation focused nor took into account the reference to the good examples in practice so we believe that this recommendation should be repeated in the new edition of the White Book since we are convinced that there are reasons to improve this provision of the Law to prevent potential abuses and unjustified financial burden of the owner of infrastructure due to infrastructure relocation.

## **Electronic business – finalization of regulatory framework**

In order to implement digitalization of society including transfer to e-business and mass use of electronic documents in everyday business, after the new Law on electronic document was adopted in 2022, it is necessary to harmonise other laws to complete the legal framework regulating this domain by adopting the amendments to the following laws:

### **LAW ON CERTIFICATION OF SIGNATURE, HAND WRITING AND TRANSCRIPT**

The recommendation related to the stated Law was part of the previous edition of the White Book and based on the answer of the responsible Ministry of Justice we are happy to conclude that the Law amending the present Law will soon be adopted. We thank the Ministry for their reaction and we express our expectation that we will have the clear regulation that will define the manner of certifying the printed copy of the electronic document and electronic copy of the document.

### **INITIATIVE TO ADOPT THE REGULATIONS THAT WOULD DEFINE IN MORE DETAILS THE VIDEO IDENTIFICATION AS A MANNER TO CHECK THE IDENTITY OF THE PERSON TO BE ISSUED QUALIFIED CERTIFICATES**

To further improve the legal framework of electronic business, it is necessary to regulate video identification as a manner to verify the identity of the person to be issued the qualified certificates. The Law on electronic identification and electronic signature prescribes in Article 49 paragraph 3 point 4 that the verification of the identity of the natural person, legal person or the public body issued the qualified certificate may be performed by applying other identification methods which provide security of identity verification that is equal to the identity verification in physical presence. Before applying the method referred to in paragraph 3 point 4 of this Article, qualified provider of electronic service shall obtain the consent of the Ministry to apply this method.

At the moment, there are no bylaws that regulate in more details the manners of video identification and requirements under which specific methods provide security of identity verification equal to the identity verification in physical presence and the adoption of these acts would accelerate the processes of digital transformation in economy and society.

There are examples in the EU countries like in Spain where this is already regulated under the Regulation on the requirements the vendor of such solution should meet to be able to use in the process of issuing the qualified certificates where by the following processes may apply:

1. synchronous (prescribed for the banks) which means that the agent and the client have video connection (this means that all the steps of the process of identity check including the giving of proof are done in a single process with the communication in real time between the agent and the client);
2. asynchronous which means the subsequent verification by the agent of the collected material (ex. biometric comparison of selfies and photo from the ID document, document verification) before final approval and issuing of proof.

## LAW ON ARCHIVES

The recommendation related to this Law was the part of the previous White Book edition but the line ministry did not respond to it. So, we consider it important to point out once again to the necessity to amend the Law to regulate electronic archive material, prescribe the obligations of creator and holder of archive material in electronic form as well as management of electronic documents. Bylaws should also be amended to regulate procedures and technological solutions for reliable electronic archiving of documents. In this way, the definiti-

on of electronic document would be completed regarding its keeping in electronic form, in accordance with the provisions of the Law on electronic document.

## Labor-related legislation

### LABOR LAW

Several associations of employers in Montenegro, including the Montenegrin Foreign Investors' Council, sent a joint initiative to the Ministry of Labor and Social care in 2022 regarding radical changes of the Labor Law with specific proposals of potential legal solutions including related explanations. We hope that the initiatives will be accepted and it would contribute that the Montenegrin labor legislation takes into account the needs of the economy and market business and bring positive changes in favor of the employers and the employees. We will include here the initiatives that we deem very important and we will not give the details of all the recommendations. For easier follow-up of the recommendations, we will state the current provisions of the Law currently in force.

#### *Article 42 (Employment contract to perform the operations out of the employer's premises)*

COVID-19 pandemics showed that some solutions prescribed under the Labor Law are not flexible enough to be applied in practice. Article 42 prescribes special employment contract for working out of employer's premises, regulating the work on distance and work from home. We believe that special employment contract to work out of employer's premises should be deleted. Employment contract should regulate such relation if the employer needs such arrangement partially or in full.

#### *Article 43 (obligation to inform the Labor Inspection on employment contracts out of employer's premises)*

The purpose of this article is not clear since the employer shall keep all employment contracts, including these contracts as well. In addition, it is not clear why the Inspection should be informed in these cases. Alternatively, we think that informing the Inspection is not needed for the employers having their unions.

#### *Article 47 paragraph 1 point 1 (allocation to another appropriate job)*

Legislator envisaged several cases when it is possible to offer the amendment to the employment contract. Still, the law does not define clearly what happens if the em-

ployee is offered annex to the contract in case of partial change of job description within the same job position, what happens very often in practice. In a broader interpretation, it can be concluded that if the employee refuses such offer to conclude the annex, the provisions related to the allocation to another appropriate job position apply. However, to avoid potential dilemma in practice, we suggest amending Article 47, paragraph 3 to add new point after point 3 reading:

“4) changes related to job description within the current job;”. In doing so, points 4 to 11 would be points 5 to 12. Another option is to add new paragraph to Article 47 that would read:

“Allocation to another appropriate job position, under this Law, shall include the change of job description within the current job position.”

#### **Article 54 paragraph 2 (agreement between the Agency for transfer of employees and users)**

When it comes to the agreement on transfer of the employees, we propose to prescribe general agreement instead of the agreement given in Article 54 that would regulate the rights and obligations between the Agency and the users. This general agreement can be annexed regarding the needed elements (number of employees to be transferred, time period, place of work, operations to be performed and possibly some specificities, depending on the situation). In practice, this proposal is the only sustainable solution because it happens that the number of workers differs from month to month. As a compromise, since this is delicate matter, we suggest keeping these elements but in a more flexible form – as obligation of the user to deliver the precise information to the Agency before employees transfer on the number of employees to be transferred, time period, place of work, operations to be performed. Accordingly, we suggest that the paragraph 2 of Article 54 reads as follows:

“Agreement from paragraph 1 of this Article contains in particular:

1) Obligation of the employer user to deliver to the Agency the precise information on the following before the employees are transferred:

- Number of employees to be transferred,
- Time period for which the employee is transferred,
- Place of work,
- Operations to be performed by the employee.

2) Implementation of occupational safety and health at the workplace of the employee,

3) Manner and deadline within which the user shall sub-

mit to the Agency the wage calculation and regulations that the user applies when calculating the wage.”

#### **Article 55 paragraph 6 (equal working conditions to the transferred employee)**

Besides the fact that paragraph 4 of Article 55 precises wages, paragraph 6 of the same article creates uncertainty about other rights of the transferred employee which cannot be in more unfavorable proportion than the rights of the employees with the user directly. To solve this matter, we suggest defining more precisely these rights so that the transferred employee can be clearly protected against all forms of discrimination and be able to implement Article 5 of the Directive 2008/104/EC of the European Parliament and Council on temporary agency work: “The basic working and employment conditions of temporary agency workers shall be, for the duration of their assignment at a user undertaking, at least those that would apply if they had been recruited directly by that undertaking to occupy the same job.

For the purposes of the application of the first subparagraph, the rules in force in the user undertaking on:

(a) protection of pregnant women and nursing mothers and protection of children and young people; and

(b) equal treatment for men and women and any action to combat any discrimination based on sex, race or ethnic origin, religion, beliefs, disabilities, age or sexual orientation;

must be complied with as established by legislation, regulations, administrative provisions, collective agreements and/or any other general provisions.”

Accordingly, we suggest amending paragraph 6 to add concrete rights referred above because such broad definition is not sustainable. We suggest adding paragraph 7 to read:

The rights referred to in paragraph 6 of the present Article shall include:

- 1) work duration and working hours schedule;
- 2) overtime work;
- 3) night shifts;
- 4) break during the work, daily, weekly and annual leave;
- 5) absence with the compensation of the wage in accordance with the Law;
- 6) elements for calculation and disbursement of wage and paid leave benefits;
- 7) occupational safety and health;
- 8) protection of pregnant women and nursing mothers;
- 9) protection of the youth.

#### **Article 64 (Overtime work)**

We suggest amending the paragraph 3 to read:  
The employer without a trade union shall inform the labor inspector on the introduction of the overtime work within three days as of the day of adopting the decision on overtime work.

We suggest amending the paragraph 8 to read:  
“Notwithstanding paragraph 7 of this Article, a collective agreement may envisage different maximum duration of overtime work at annual level.”  
Chapter 5 (earnings, compensations and other allowances)

The solution contained in the current Law is an example of inflexible rules which do not exist even in the neighboring countries (there is a similar economic structure, high unemployment rates with the burden of inherited strict standards of previous system of social governance of business entities) nor in the EU practice.

The existing rules regulating earnings, compensations and other allowances complicate to a large extent (they even disable some entities) to run business processes and decision-making to entrepreneurs since they neglect the situation in the labor market, productivity and business results of a company as elementary assumption and precondition to define the wage/earnings.

It is thus proposed to regulate the entire chapter in a way that will ensure work process and HR management of high quality and thus create better and more stimulating working conditions for the employees.

#### **Article 94 (wage definition)**

Wage definition given in Article 94 is not precise and it is particularly questionable if observed together with Article 95. That is why it is required to create a logical and linguistically precise regulation in order to avoid dilemma and problems in practice. From the definition of gross wage given in Article 94 paragraphs 2 and 3, it can be concluded that the employer must pay the part of the wage based on other income (winter allowances, cash compensations in case of need, jubilee allowances...) and work performance what is not the case here nor the objective of this regulation, especially if we take into account that Article 97 paragraph 3 prescribes that if the rules and criteria to value the achieved work performance are not defined, it shall be considered that the employee has achieved expected/standard work performance at work. That is why we suggest amending Article 94 to read:

(1) The employee is entitled to gross wage defined in accordance with the Law, collective agreement and employment contract.

(2) Gross wage referred to in paragraph 1 of this Article shall be composed of special part of the wage, basic wage, wage increment obtained under the conditions defined by the law, collective agreement and employment contract, together with related taxes and contributions in accordance with special laws.

#### **Article 95 (basic wage and its calculation)**

The period during which the provision defining basic wage and its calculation and elements has been applying indicated that it is needed to regulate it more precisely and more flexibly. When previous amendments to the Labor Law were made, including the law in force, all business associations and entrepreneurs, without exceptions, insisted on cancelling a mandatory implementation of job complexity coefficients (and calculated coefficient value) especially when it is observed as a single way to define wage system because the use of coefficients is just one of the models known in comparable practice. Bearing in mind the requests and needs of the industries that the employer shall have the possibility to made business decisions for which they are accountable (including wage calculation model), by respecting all rights of employees defined by the Law and collective agreement, we suggest precisising and amending Article 95 to read:

Basic gross wage (hereinafter referred to as: basic wage) is a wage an employee obtains for full time job i.e. the time period that equals full time and expected work performance in the prescribed working conditions. Basic wage is defined based on the conditions defined under the Job description act which are required for the position the employee contracted and time spent at work.

Basic wage is obtained by multiplying calculation value of the coefficient and the coefficient of the complexity of work, unless regulated otherwise in a special law. Calculation value of the coefficient and the coefficient for the complexity of work are established in the collective agreement, i.e. general act of the employer in case when there is no collective agreement with the employer, unless regulated otherwise by a special law.

The law, collective agreement or employer's document may stipulate different manner of wage calculation which cannot be unfavorable to the employee when compared to wage calculation given in paragraph 2 of this Article.

Employment contract may define basic wage which is larger than the basic wage defined and calculated based on collective agreement or general act of the employer.

## **Article 97 paragraph 2 (work performance)**

The regulation restricting the right to the employer to regulate the matter of wage in its documents due to the fact that they have a trade union is a huge problem for many companies and it is not beneficial for employees. It is neglected that the existence of trade union with the employer does not mean that this trade union is ready to negotiate with the employer about any wage-related issue. It gives them the position to block the wage definition, whether it comes to operational issues, wage increase, bonus introduction and alike. In addition, if negotiations for collective agreement with the employer are initiated, such regulation allows to the trade union to refuse all the proposals of the employer what brings into question the sustainability of business as it blocks the employer to run the business and disables them to regulate the wage definition within their documentation. For comparison, following the example of legislation from our surrounding (mostly related to us regarding some social and economic features and definitions), we notice that the wage, without exceptions, is “left” to the employer to define it in their documentation. It is considered that it is enough to establish the wage equality principle for the same job or for the work of the same value. This means that the basic wage cannot be defined in the amount inferior to the basic wage of the employee working at the same position in the premises of the employer. It is especially important to stress out that such prescribed regulation enters into constitutional freedom to perform business activities and may hamper competitiveness of a company just because it has a trade union. Given the abovementioned, we suggest amending Article 97 to read:

Work performance of the employee is established on the basis of quality and scope of the work performed, as well as the effort invested and the attitude of the employee towards duties at work.

Norms for evaluation of achieved work performance where the nature of work allows so and incentives for increase or decrease of basic wage based on work performance shall be regulated by the collective agreement with the employer, i.e. general act of the employer, unless regulated otherwise by a special law.

If the norms for evaluation of achieved work performance are defined under the act of the employer, the employee must be informed in advance on the criteria and amounts of wage increase or decrease based on work performance.

If the norms and criteria for evaluation of the work performance are not defined, it shall be considered that the employee achieved expected work performance during

the time spent at work.

## **Article 99 (wage equality)**

Implementation of provisions of this Article showed that these are frequently interpreted quite narrow. This principle is introduced by MOR Convention no. 100 on equal remuneration of men and women workers for work of equal value from 1950 but it was later amended to include the wage equality for the same work of all employees, regardless of gender, race or other personal features. In national legislation, next to the Labor Law, this principle is regulated as well under the Law on prohibition of discrimination. In addition to the cases given in the Labor Law and the Law on prohibition of discrimination, discrimination in work shall also refer to the payment of unequal salary or remuneration for work of equal value to a person or a group of persons, on any ground.

But, distinction, exclusion or giving preference is not considered to be discrimination if so require the peculiarities of the particular work in which personal characteristic of a person represent real and decisive condition of doing the work, if the purpose to be achieved that way is justified and if the condition is proportionate. Key criteria to compare when doing the work refer to the following:

Skills: knowledge and capabilities acquired through education and practical/working experience; Effort: physical, mental or psychological linked to the doing the work; Responsibility: responsibility in performing the job, including the nature, scope and complexity of the job; to what extent the employer relies on the employee in doing the work and responsibility of the employee towards working obligations. Working conditions: conditions under which the work is done including factors such as noise, heat, cold, isolation, physical danger, health danger etc.

The very title of the working position does not give automatically the right to the wage that another employee at the same position has, but the wage depends on concrete work and responsibility of each employee. That is why we suggest amending Article 99 to read:

- (1)** The employee shall be guaranteed the same wage for the same work or work of the same value.
- (2)** Work of same value shall mean work at the same position where equal work contribution is made with equal responsibility, in the same working conditions.
- (3)** In case of violation of the rights referred to in paragraphs 1 and 2 of this Article, the employee shall have the right to indemnity equal to the unpaid part of the wage.



(4) Decision of the employer or agreement with the employee contrary to paragraphs 1 and 2 of this Article shall be null and void.

### **Article 100 (contracted wage)**

This Article defines contracted wage as a wage that may be determined in the employment contract with the director, manager or other employee performing duties of special importance for the employee, and in other cases defined under collective agreement. Business associations request that “other cases” in which the wage may be contracted are not regulated (only) under collective agreement but that the employer shall have that possibility as well. The reason for this is that in addition to the operations of special importance for the employer, there are cases when the employer wants to stimulate the employee with contracted wage who has special knowledge and/or skills and/or capabilities to perform the operations.

It is also possible to specify some jobs of particular importance (highly specialised jobs that are scarce because these employees leave the country as they are better paid in other countries). Keeping the talents and highly specialised employees in the country should be a national priority if we do not want to become the country of low qualified labor force. One of the models to enable to the employers to keep this category of employees in the country would be to introduce specific tax reliefs for such jobs to be able to give higher net wages.

The objective of this proposal is to enable every employer, depending on the labor market offer and their needs, to negotiate with the employee the wage amount and the employee may decide to enter into labor relation based on such offer. Accordingly, we suggest amending Article 100 paragraph 1 to read:

- (1) Contracted wage is the wage that may be determined in the employment contract with the director, manager or other employee performing duties of special importance for the employee, and in other cases defined under collective agreement or act of the employer.
- (2) The wage referred to in paragraph 1 of this Article may include specific wage increments based on grounds referred to in Article 98 of this Law, if so specified in the employment contract.

## **THE LAW ON STRIKE**

We would like to point out to the provisions of the Law on strike related to the:

- 1) Place of the strike and
- 2) ensuring the minimum work process at the time of striking in the domain of the public electronic communications which are defined as one of the areas where minimum work process must be ensured in line with the provision of Article 19 of the Law.

1) Article 15 of the Law on strike defines the place and manner of strike organising and it envisages the following:

“The strike is manifested as a peaceful gathering of employees at the workplace or within the business premises of the employer.

A strike may be manifested by the employees not attending the work.”

We believe that the precision on the strike manifestation “or within the business premises of the employer” gives space to the employer that performs the activity of public interest to take part in the definition of the space for gathering of the employees who are striking. Without any intention to restrict the right of the employees to strike, we think that this provision collides with other provisions of the Law on strike.

According to the currently valid provision of the Law on strike, the Strike Committee could theoretically specify the space for gathering which can be used only by some employees (ex. Data center) under the decision of the employer due to security reasons.

That is why we consider it necessary that the employer that performs the activities of public interest participates in the definition of the space for employees gathering so we propose to amend Article 15 in a way to add new paragraph 1a after paragraph 1 reading:

“In the activities of public interest referred to in Article 19, the strike is manifested in peaceful gathering of the employees within business premises defined by the management body of the employer, at the proposal of the Strike Committee.”

- 2) Article 27, para. 2 and 3 of the Law read:  
„2) An employee who participates in a strike shall not be entitled to a wage, unless otherwise agreed by the parties in the dispute.
- 3) An employee who is obliged to work during a strike, for the purpose of ensuring minimum work process, under Article 22 of this Law, shall be entitled to wage in proportion to the time spent at work.”

In practice, the right to the wage defined under the provision of Article 27 paragraph 3 applies in a way that the



## 2. BANKING SECTOR

employee is disbursed total wage they would have if they were not in strike. The Decision on minimum work process during a strike in the activity of public electronic communications (“Official gazette of Montenegro”, no. 75/18) prescribes which jobs related to electronic communications make minimum work process during the strike and in some segment, their scope is very narrow so in practice it can be an insignificant part of the jobs which the employee performs in accordance with the Job description act with the employer and the employment contract.

As it can happen during the strike that there is no need for that specific activity of the employee striking (and the employee should perform the duties from the minimum work process), in theory the employee will not perform these tasks because these were not needed and they should be fully paid even though they did not perform these tasks at all but were present or were not present in the premises of the employer. Such kind of positive discrimination in relation with the employees who are not striking and who perform their regular activities, which may be even bigger during the strike, is not acceptable especially if we take into account the provision of Article 28 paragraph 3 of the Law reading: “An employer cannot provide the employees, who do not take part in a strike, on the basis of non-participation in a strike, with bigger earnings or other more favorable work conditions.”

To avoid such discrimination in practice, the provision of Article 27 paragraph 3 should be amended to read:

„ An employee who is obliged to work during a strike, for the purpose of ensuring minimum work process, under Article 22 of this Law, shall be entitled to wage in proportion to the time spent at work at specific tasks envisaged under the act on minimum work process according to the number of hours actually spent to perform these tasks. The record on the number of actually spent hours shall be kept by direct manager of the employee or authorised person of the employer.

After paragraph 3, new paragraph 3a should be added to read:

“The provision of Article 27 paragraph 2 of the Law shall apply to the employee who is obliged to perform the tasks envisaged under the act on minimum work process but during the time spent at work there were no tasks related to these specific activities.”

Finance Committee was established in 2022 and it replaced Banking Committee established in 2017 and gathered the members of the Banking Committee (Adiko, CKB, Erste, Hipotekarna, NLB, Mastercard and EBRD), Insurance Committee (Generali, Lovćen, Sava and Uniqa) and member companies belonging to the accounting, audit and mediation (Ekonomik accountants, Finveo and PwC).

As it is stated in European Commission Report on Montenegro 2022, Montenegro is moderately prepared in the area of financial services. Overall, some progress was achieved in the reporting period, with good progress in the area of bank and financial conglomerates, some progress on insurance and no progress on capital markets. Last year’s recommendations were met to a substantial degree in the banking area.

In the coming year, Montenegro should:

- ▼ Complete legislative alignment with and implementation of the capital requirements and bank recovery and resolution legislation,
- ▼ Advance work on the drafts of the Law on Insurance, Law on investment funds, Law on alternative investment funds and Law on pension funds, aligned with EU legislation.

The legislation is partially aligned with the EU acquis on banks and financial conglomerates. Laws on credit institutions and on resolution of credit institutions and most of their implementing legislation (aimed at alignment with Basel III standards) have applied since January 2022, bringing the legal framework closer to the current EU rules. Work is still ongoing on adopting and implementing some of the related regulatory acts and documents that were produced by the European Banking Authority (EBA) and the Single Resolution Board (SRB). Work is also in progress on further changes to the banking legislation, aimed at alignment with the latest EU rules on the resolution of credit institutions.

The Central Bank of Montenegro (CBM), in cooperation with the EBA, initiated the procedure for assessing the equivalence of Montenegro’s regulatory and supervisory framework for credit institutions with EU rules. The CBM also started negotiating a cooperation agreement with the SRB on the exchange of information and cooperation in the area of resolution planning and im-

plementation for banks and financial conglomerates operating on a cross-border basis.

The CBM adopted, since the outbreak of the COVID-19 crisis, eleven packages of temporary measures to mitigate the impact of the pandemic on the banking sector and improve the country's financial stability. The independent review of the asset quality in all banks (AQR), which started in February 2020, was completed in September 2021. The results of the AQR exercise confirmed the stability of the banking sector of Montenegro, a satisfactory asset quality and capital adequacy of the banking system. The solvency ratio of the banking sector, adjusted after the AQR was finalised, amounted to 16.2%, substantially above the statutory minimum of 10%.

The list of important topics discussed in 2022 is given below.

## PROPOSALS OF THE FINANCE COMMITTEE

- ▼ Creation of a SPOC (single point of contact) within the Government for foreign investors in case of issues;
- ▼ Follow up and offer advise/support for the introduction of block chain technology and crypto currencies;
- ▼ Enhance and support financial literacy inside the population (coordinate activities, actively participate – schools, universities, pensioners);
- ▼ Aligning “localized IFRS standards” with international practice (close the gaps and avoid unnecessary local amendments);
- ▼ AML law / KYC standardization: As an example, disclosure of contracts for electronic payments – as an obstacle for internet banking and a local peculiarity;
- ▼ Overall dilemma: Rule of law - foreign investors are treated as a cash-cow penalized by unfair, biased and ridiculously interpreted local law by the courts. Judges are not controlled and not called responsible for creative and one-sided interpretation of law;
- ▼ We are experiencing international IT companies, web development companies, software development companies and global online trading companies (companies trading on e-bay, Amazon, etc.) activities to be treated as “highly risky”, regardless of if there is a parent company or not and if that parent company is RU, US, UK, have complex UBO structures, etc. it goes from small individuals up to multinationals;
- ▼ Potential measures considered by the Government to support SMEs and MSMEs lending;
- ▼ Plans in relation to Europe Now and broadly tax and labour policy.

## LAW ON CONSUMER PROTECTION - USERS OF FINANCIAL SERVICES

The Law on Consumer Protection - Users of Financial Services (“Off. Gazette of Montenegro”, No. 43/15), has been brought and entered into force on 8th August 2015. In accordance with Article 48 of the Law, it should have started to apply after the expiration of a six-month period from the date of its entry into force (in February 2016). Pursuant to Article 45 it is stipulated that “The regulations for the implementation of this Law will be adopted within three months from the date of its entry into force”, but they were not brought yet. Having this in mind, we believe that it is necessary to define the official status of this Law and a clear regulatory framework for the conduct of banks. We also consider that this Law is highly contradictory and non-compliant with other applicable laws and it contributes to legal uncertainty in the banking sector (especially in court proceedings).

This Law excludes the possibility for banks to charge tariffs related to payment transactions, and tariffs for closing accounts and transferring funds to another bank, for cancelling the payment cards and withdrawing funds from the account which is opposite to Article 10 of the Law on Payment Operations (“Off. Gazette of Montenegro”, No. 62/13 and 6/14). We also believe that the manner of and deadlines for informing about conditions and their modification related to banking services provision are in conflict with the Law on Payment Operations.

We also point out that the Law on Consumer Protection - Users of Financial Services is contradictory to itself in many provisions, and as an example we point out to Article 3 which states that the Law does not apply to mortgage loans, while articles 7 and 26 of the Law deal with mortgage loans. In Article 15, the Law determines the “Agency” as the regulator, and not the Central Bank of Montenegro. The provisions regarding the content of the banking service contracts, the guarantors, the content of informing the users at the pre-advertising stage and in the negotiating phase, the time limits for complaint, the rights and obligations of banks in relation to the provisions regulated by other valid regulations are contradictory.

In this regard, the provisions of this Law are in conflict with the provisions of the Law on Obligations (“Off.

Gazette of Montenegro”, No. 47/08, 04/11 and 22/17) and the Law on Misdemeanors (“Off. Gazette of Montenegro”, No. 1/11, 39/11, 32/14, 43/17 and 51/17). The existence of this Law is a source of legal and reputational risk and we believe that the Central Bank of Montenegro and competent national authorities should take steps to resolve the status of this Law and define a clear regulatory framework.

## **REGULATORY FRAMEWORK IN MONTENEGRO ALLOWED THE CLIENTS TO DO THE BUSINESS ELECTRONICALLY VIA SIMPLE VERIFICATION SYSTEMS**

The Law on Payment Operations (“Off. Gazette of Montenegro”, no. 62/13 and 6/14) recognizes and defines the meaning of the terms “means of distance communication” and “payment transactions performed via telecommunications, digital or information technology devices”.

Also, the Law on Consumer Loans (“Off. Gazette of Montenegro”, no. 35/13, 73/17, 72/19 and 8/21) defines and allows the “use of means of distance communication”, while the Law on Obligations (“Off. Gazette of Montenegro”, no. 47/08, 4/11 and 22/17) describes the conclusion of a contract electronically by introducing the notion of electronic signature. Consumer Protection Act (“Off. Gazette of Montenegro”, no. 2/14, 6/14, 43/15, 70/17 67/19 and 146/21) describes in detail the processes of concluding distance contracts, and the provisions of this law apply to banks and other economic entities.

Digital communication channels are recognized in national regulations, so today it is possible to transfer cash using online banking - at home and abroad, create time deposits, create standing orders and other advanced functionalities that have financial effect on the client - all completely online - without coming to the branch. Clients sign all instructions online within the Internet and mobile banking, using tokens, biometrics (behind which the token is unlocked) or some other type of two-factor authentication.

At the same time, we find the need to further regulate the field of online lending and thus provide customers with the same level of online experience that exists when transferring money and paying for products and services in online stores.

Law on Obligations, Article 1169 and Law on Consumer Loans, Article 16, stipulate that the Loan Agreement must be “in writing, on paper or some other durable medium”.

The Decision on the Credit Registry (“Off. Gazette of Montenegro”, no. 39/18 and 18/19), Article 11, prescribes the obligation of the client’s written consent for an inquiry into the credit registry, “given on the KR-SK Form”.

The Law on Electronic Identification and Electronic Signature (“Off. Gazette of Montenegro”, no. 31/17 and 72/19), Article 14, stipulates that a qualified electronic signature (QES) “has the same legal effect as a personal signature”; however, this Law and the Article are in conflict with the aforementioned regulations and the eventual court proceedings on the loan would depend on the interpretation of the court, and for a specific area there is no precedent.

Therefore, the obligation to use QES will continue to be a business barrier to the widespread use of digital services in the financial sector, and in the meantime some alternative solutions are needed.

Law on Consumer Protection (“Official Gazette of Montenegro”, No. 2/14, 6/14, 043/15, 70/17, 67 /19 and 146/21) in Article 12 Paragraph 5 prescribes that, in the price list or tariff of financial services that include commissions or fees and expenses that can be claimed, including advisory financial services, the trader is obliged to specify the cases in which these commissions or fees and expenses, including advisory financial services, are charged and, if applicable, the frequency of their collection.

Paragraph 6 of the mentioned Article prescribes that commissions or fees or costs that are borne by the consumer must correspond to the actual services provided or incurred costs.

Such provisions of the Law, which are imprecise, may affect the current practice of banks which is based on legal regulations and, depending on the interpretation of competent state bodies, create additional obligations for banks and limit the freedom of banks to determine the prices at which they provide financial services to clients who are natural persons, therefore, in this sense, the Law should be amended and Paragraph 6 should be excluded.

# KEY REGULATIONS ACCORDING TO THE MFIC



## LABOR LAW

In accordance with the request of the Secretariat to the Competitiveness Council, based on the instruction of the Ministry of Economic Development, the MFIC prepared and delivered the proposals and suggestions to amend the Labor Law which are presented below:

### **Article 24**

*The Employer shall notify the Employment Bureau on job vacancy in a manner and procedure defined under specific law.*

#### PROPOSAL:

- The Employer shall notify the Employment Bureau on job vacancy in a manner and procedure defined under specific law. This provision does not include the employers founded by the State of local self-government units.

The reason for this proposal is unnecessary administration for the employer as well as the right of the employer to hire the person who fits their needs best. The obligation of public announcement creates additional administration, harmonization with the announcement deadlines which sometimes cannot be met in practice, and legal obligation that the employer must inform the Employment Bureau about the selected candidate – in case they fail to inform the Employment Bureau, the penalties are prescribed.

### **Article 26**

*The Employer shall inform the applicants on the selected candidate within 45 days as of the expiry of the deadline to submit the applications.*

The reason to remove this provision is given below.

When announcing job vacancies through different channels, the employers always point out in the announcement that only short-listed candidates who meet the requirements given in the announcement will be invited for job interview.

It happens in practice that the persons not meeting the required terms under the announcement apply for the job.

When we talk about submitting the application on job vacancy via the Employment Bureau, the employers have possibility to advertise the job vacancy without announcement so they are not obliged to act in line with this Article. That is why the existence of this Article is questionable.

### **Article 37**

*termination of which is defined in advance, upon completion of the contracted work or upon the occurrence of specific event.*

Our proposal is to determine what the employment in exceptional circumstances is as well as work completion specified by deadline or event. This definition of definite contract identifies the very feature of the contract with the temporary service contract. Having this in mind, the employer shall envisage in their job description acts these types of contracts because if they do not include these, they could not hire a person for definite period of time.

On the other side, the Law has already specified protection mechanisms and envisaged that the employment of persons for definite period of time cannot be longer than 36 months in continuity.

### **Article 39**

To envisage that the CEO or General Manager may be hired for a job out of the contracted employment relation.

### **Article 64**

*The employer shall inform labor inspector on the introduction of overtime work within three days as of the day the decision on overtime was made.*

We propose the removal of this provision. The question is what effect did it have in practice because the manner of its introduction and other issues of overtime definition subject to penalties and they create additional administration as sometimes deadlines cannot be met in practice.

### **Article 78**

Bearing in mind the exception in Article 78 compared to Art. 75 and 76, to review the possibility to define exceptions for the same industries/sectors regarding distribution of working hours. If we take the example of ports, where port operator does not have any influence or has some influence to the arrival of cargo ships or freight arrival by train/truck where in case of transportation delay (ex. Act of God affecting the arrival of ship, road accidents or electricity interruptions on the railway or train breakdown and alike), port operator cannot esti-

mate the exact start and termination of their work. This can be linked to the Directive 2019/1152, item 30, 32, Chapter II, Article 4, point m, Chapter III, Article 10, point 1 Minimum predictability of work. The distribution should be defined not to exceed 40 working hours per week, but with exceptions that on some days, due to work process and unpredicted circumstances as given above, the employees may work longer whereas on the days when the workload is reduced, they may leave earlier with the guarantee to the employees that they will be reimbursed monthly fund of hours for all employees.

#### **Article 90**

*(6) If the employer has any doubt in the righteousness of the absence from work, they may submit the request to the competent body to challenge the temporary prevention to work, in accordance with the regulations on health insurance.*

We suggest amending this Article as follows:

If the employer is not satisfied with the answer received from the competent body, they may contact the Ministry of Healthcare, as second instance body, to examine temporary prevention to work. The reason for this amendment is that we contacted the competent bodies (Medical Centre or the Health Insurance Fund) in most cases when we questioned if the temporary prevention to work is justified – we received positive answer from these bodies confirming the findings of their colleagues (doctors) and issuance of the reports on temporary prevention to work in accordance with the Rulebook.

#### **Article 95**

To cancel the mandatory implementation of job complexity ratios and ratio calculating value so that the employer can autonomously define the wage system whereby ratio application is only one of the possibilities.

#### **Article 108**

Paragraph 14 of this Article of the Labor Law prescribes that the employee who refuses to conclude employment contract within five days as of the take-over with the employer successor, the employer predecessor shall cancel the employment contract. This provision cannot be enforced in case when the employer predecessor ceases to exist and the employee refuses to sign the contract with the employer successor within the said five days.

The proposal is to amend this provision to envisage that the employee shall express themselves on the take-over within specific deadline as of the day of receiving the information from the employer predecessor. In case the employee refuses to transfer the employment contract

or does not reply within the given deadline, the employer predecessor may cancel the employment contract.

#### **Article 172**

*Contract from Article 47 paragraph 1 points 1, 2 and 3 of this Law includes wage reduction, the employee referred to paragraph 1 points 4 and 5 of this Article is entitled to the severance payment which cannot be lower than three average monthly salaries in Montenegro without taxes and contributions”.*

This provision should be precised to define the exact severance payment amount belonging to the employee in this case, without using the wording “which cannot be lower than...”.

Paragraph 4 of this Article prescribes that “the employee from paragraph 1 items 5 and 8 of this Article is entitled to the severance payment from Article 169 of this Law”.

This provision should be amended in a way that the employee is entitled to severance payment from Article 169 of the Labor Law only in case of collective lay-off and not in case when the employee refuses to conclude the Annex to the work contract referred to in Article 47 paragraph 1 points 2 and 3 of the Labor Law.

We point out that in Article 172 paragraph 3 and 4 of the Labor Law the point 5 repeats so it should be corrected.

## **LAW ON ID CARD**

In December 2018 the Government of Montenegro passed the Law amending the Law on ID card which will enter into force as of March 2020. The goal of this Law is to improve the standards regarding the issuance of ID documents in line with the latest trends and to reduce the possibilities to abuse IDs. As it was explained from the Ministry of Public Administration, the Law sets out that the ID card is electronic official document containing a chip that stores electronic identification certificate and the certificate for qualified electronic signature used to norm a digital identity of citizens. In this way, a new stage in development of service quality in public administration will start, with the establishment of the systems for e-identification and e-payment.

By taking this into account, the MFIC addressed the line institutions, the Ministry of Public Administration and the Ministry of Internal Affairs, with the initiative to amend the Law regarding the very template of a new ID card. Our members, electronic communication operators and banks, pointed out to the fact that some laws

regulating electronic communication and banking operations prescribe the obligation to register the address of their service users. Since the template of the valid ID card does not contain the information about the user permanent residence, our members face problems with registration of this information which can be obtained based on personal statement of the user. We stress out that this way of collecting the information does not guarantee the accuracy of the information and the question arises if this obligation of electronic communication operators and banks makes sense bearing in mind that the accuracy of the information cannot be guaranteed as it is not registered based on official document.

At the same time, we would like to emphasize that the ID cards of all neighboring countries, including Croatia as the EU member, as well as other EU countries, have the permanent residence of the ID card holder.

We also point out that the Law on anti-money laundering and terrorism financing defines in Article 6 paragraph 2 that the reporting entities should identify the client and check their identity based on reliable, independent and objective sources and monitor customer's business activities.

Article 6 paragraph 2 of the Croatian Law on Identity Card reads as follows: The form of the identity card shall contain: the coat of arms of the Republic of Croatia, the title "Republika Hrvatska" (Republic of Croatia), the title "osobna iskaznica" (identity card) and the identity card number, the marking of an electronic document and the space for the entry of: surname, name, information on sex, information on citizenship, date of birth, personal identification number, period of validity, permanent residence, date of issue, the name of the police administration or a police station issuing the identity card and machine readable data. The form of the identity card shall also contain the space for a photo and the person's signature.

With respect to the above mentioned, we suggest amending Article 6 paragraph 2 of the Law on ID card as soon as possible in a way to include the permanent residence in the ID card template.

## LAW ON INTERNAL TRADE

Amendments to the Internal Trade Law, Article 35a, stipulate that wholesale and retail trade in Montenegro cannot be performed on Sundays and public holidays defined by the law regulating public and other holidays, in sales facilities or other outlets that will be determined by the regulation of the Ministry.

Irrespective of paragraph 1 of this Article, wholesale and retail sale may be performed on Sundays in pharmacies, bakeries and pastry shops, florists, souvenir shops, and stores selling newspapers, plant protection chemicals and funeral equipment. The exemptions also cover the petrol stations and the attached stores, farmers' markets, stands and vending machines outside the farmers' markets, mobile shops, as well as stores, kiosks and vending machines at the bus stations, airports and ports. They also include the stands and kiosks open during the events, festivals, exhibitions and public screenings, as well as the wholesale storage facilities.

This Law came into effect as on 14th October 2019 with the first non-working Sunday of 20th October 2019.

Bearing this in mind and in order to promote Montenegro as a serious tourist destination, we suggest amending the Law to exclude shopping malls from the Law due to their specific activities or to reduce their working hours on Sundays from 6 hours to 8 hours in the following periods 10 am to 6 pm, 12 pm to 8 pm, 12 pm to 6 pm.

At the same time, we point out to the practice in the region where shopping malls in Serbia, Bosnia and Herzegovina, Croatia and Macedonia are open on Sundays while in Slovenia the working hours are shortened. Shopping malls in Great Britain, Finland, Denmark, Sweden, Bulgaria, Turkey and Romania are open on Sundays.

The initiative to cancel non-working Sunday was supported by all business associations in Montenegro who are members of the Competitiveness Council.

## OTHER BARRIERS

As an additional part of this White Book, we will very briefly list the examples of "small barriers" that our members faced. We asked what the "small" barriers are, and here are their replies:

1. Missing regulation on defining the accountancy industry and implementing regulations/by-laws for the accounting industry (code of ethics, internal audit requirements for the industry, pricing standards, etc.), therefore unregulated market, low transparency, low quality, missing standardization, etc.
2. Missing regulations on re-selling electricity, specifically with the focus on development of DC charger stations in ME. Roll-out of nationwide DC infrastructure is blocked due to the fact this regulation is not in place. It directly influences carbon footprint, green agenda, ac-

cessibility for electric cars for tourists, etc.

**3.** Law on Sales Tax on Used Motor Vehicles, Vessels, Airplanes and Aircrafts prescribes unjustifiably high tax rate.

**4.** Number of local taxes and their amount should be reduced.

**5.** Labor Law is inadequate and should be more flexible. In particular, employer should have more flexibility in terminating the employment contract as current conditions for termination of contract are rather strict and are not suitable for market economy. Employer is required to conclude, as a rule, employment contract with indefinite term, which is in practice extremely difficult to terminate, as termination requires a lengthy and complicated procedure, further complicated by judicial practice which is rather lenient towards employees. Therefore, employers are forced to keep employees even if they are not performing their work obligations, which can have direct negative effect on business results of a company as well as on the employment rates in the country.

**6.** Judicial practices are uneven, i.e. different judges in same or similar situations give different judgments which is not in line with rule of law standards. Constitutional Court of Montenegro has declared that Articles of Association of one association in Montenegro are unconstitutional and has revoked it, but has in consequent proceedings upheld the decision of basic and high courts which were solely based on Articles of Association that were already declared as unconstitutional. Courts have different approach to parties in litigations based on their background – are they public or private institutions, physical person etc. Even in the case of simple procedural issues, Constitutional Court of Montenegro does not deliver judgments in timely manner which is not consistent with the right to a trial within a reasonable time. Also, even though the Constitutional Court is required by law to discuss cases in order in which they were received in Court, in practice this is not the case.

**7.** General inefficiency of public service. Even when services are linked between institutions, and an institution can easily check the records, companies are required to provide certificates on such records increasing the workload and backlog of public institutions and of companies.

**8.** Inconsistence and time gap between the date of issuance of work and residence permit for foreigners and their registration in Tax Administration. As various regional units of Tax Administration in Montenegro prescribe different rules in this regard, this imposes uncertainty and is causing insecurity. We opine that certain amendments to the applicable laws should be done in this regard, setting up the explicit deadlines and the documentation which is to be considered when registering a foreigner as an employee with the Tax Administration

**9.** The permitting environment particularly for complex projects, is uncertain and subject to last minute changes of process and extension of collective consideration de-

laying permitting and unknown sufficiently clearly in advance to be able to plan for.

**10.** Many aspects of long-standing large framework government agreements facilitating foreign and local investment on government land are increasingly being challenged or undermined. The ultimate outcome of such challenges is uncertain and unknown but the extreme delays resulting from their being launched with little or no consequences if ultimately deemed to be inappropriate, is damaging to progress and investor confidence.

**11.** Special stimulus initiatives such as Citizenship By Investment promoted upon efficient execution in order to secure large-scale investment and government incomes to strategic/infrastructure funds have become extremely protracted, frustrating investment progress and collection of government contributions and associated VAT and delaying employment and tax-generating trading activities coming out of property development.

**12.** Access to the courts to challenge commercial and property rights at little or no cost regardless of outcome seems to overwhelm the capacity of the courts to process such challenges.

**13.** Good progress on matters associated with investment activities can often be made at Municipality level but there are many areas where central government approvals/processing are still required and so in the current climate local level activities also become frustrated or protracted in many cases.

**14.** Timely consultation and announcement of changes in fiscal policy is lacking.

**15.** Digital transformation process management is not fast enough - modernization of the state administration, through introduction of e-services, savings would be enabled through elimination of the parallel and overlapping processes; time needed for processing would be shortened.

**16.** Regulatory environment in Montenegro, although it is in accordance in most of areas with EU standards, is facing challenges in many areas like laws and following rulebooks adoption (for example even the work of working groups on these texts is efficient the legal adoption of these laws, regulations a Missing of state spatial plan for so many years is devastating for serious investors and raise the costs of investment; Very often there is not enough coordination between ministries and other national institutions, and sometimes, like in our case recklessness of certain state officers postponed our planned project activities.

**17.** Cyber security has shown to be a big issue of concern and the State should make additional efforts in that field.

**18.** Also, in many state institutions the rule of 15 or 30 days reply on requests and submissions is not followed at all which slows down the processes without proper explanation.



**19. Tax Consolidation:** The interpretation of the tax authority of the law requirements on accepting a group for the purpose of tax consolidation is not allowing the addition of newly established subsidiaries after the issuance of the decision on accepting tax consolidation and for a period of 5 years from the date of issuing the decision. Such interpretation is hindering the benefit of the tax consolidation option as envisaged by the law. They should allow the automatic inclusion of any newly established subsidiary, by way of notification.

**20. Presentation of the Income Statement:** the currently binding statutory local chart of accounts, and the model financial statements issued by the institute of chartered accountants of Montenegro isn't adopting the two methodologies of income statement presentation (by nature and by function), and limits it to one methodology that doesn't necessarily suite the business nature of all companies, especially real estate development companies. They should allow the two methodologies based on the nature of business.

**21. Managing Director of Subsidiaries:** Currently a foreign employee is not allowed to be a managing director of more than 3 companies, which doesn't facilitate the operations of a group of companies as we have in Lustica. The managing director of the parent company should be allowed to serve as the managing director of all subsidiaries within the group.

**22. Lengthy and delayed administrative procedures and lack of qualified personnel and poor communication in between the authorities -** As the Government recognized the necessity for simplifying administrative procedures and reducing the level of bureaucracy, Ministry of Public Administration created the portal [www.euprava.me](http://www.euprava.me). This website was developed as a kind of electronic state administration counter for individuals and legal entities, with the intention to exercise parties' rights and obligations in a more quick, simple and efficient manner. However, despite its existence, e-administration is still underdeveloped, as it is not being used as much as it would be expected. Furthermore, most of public servants are still avoiding giving their services through this platform, i.e. in electronic form, or they are properly educated how to use it. Consequently, they still require physical submission of documents in most of cases, and therefore physical presence before the administrative bodies. This is not only time costly, but also significantly slows the procedure itself and business operations. Also, an administrative body that is very important for business operations, is the Central Registry of Business Entities, which is unfortunately the real representative of the pre-mentioned issues. Officials often ask for documentation that are not prescribed as necessary by law, while also requiring submission of documentation in a physical form, which therefore causes long waiting in lines. Additionally, the deadlines for the completion of the work are

regularly breached. Altogether, this administrative climate has very negative consequences for business operations. We also must emphasize the poor communication between the authorities, especially the ones that are part of the same jurisdiction, i.e. Tax Authority and CRPS, which causes significant delays in procedures where positive regulation took the effort to simplify them, exactly in order to speed up certain events. That is the reason why even simple legal procedures can last to over a year, such as simple liquidation of the company, which is unacceptable and causes major complication for the foreign investors. Finally, another fact that slows down Montenegro's companies in doing business is unregulated area of electronic business. It is necessary to work on the improvement of the level of professionalism and competency of public officials through constant educations and assessments, as well as submitting quarterly reports on the finished and unfinished tasks to their supervisors. These recommendations can be easily implemented but require accountability of the public sector and its employees. In that light, it is noteworthy to mention the project created by the Ministry of Public Administration, called Digital Academy, with the intention to implement the goal of digitalization of public services. Its purpose is to educate civil servants and state employees to improve their professional and digital skills for free. What makes the Digital Academy different from other forms of professional development is its adaptability to current needs and trends. However, this project has recently started with its realization, and it will take some time to see its positive effects. While there has been some slow progress on administration to these processes, this trend must continue and significantly improve. Even though possibility to apply and register online exists in theory, it is highly important to start implementing these innovative forms of operations, which would undoubtedly help businesses save time and work without bureaucratic barriers and slowdowns, but also can be significant for transparency of public administration proficiency in work.

**23. In the area of Rule of Law, the main issue is related to the lengthy procedures and a court system burdened with cases. Duration of most cases is several years or more. This indicates that businesses in Montenegro are exposed to the inefficient court system, and that their cases often cannot be brought to a resolution in a timely manner. Also, there can be an unequal treatment in the private sector regarding the application of regulations. This can be portrayed through existence of grey employment markets, where employees do not have formal employment status. Therefore, they have no insurance or rights based on a Montenegrin labor law, while employers avoid paying taxes, or complying with the rules the, while labor inspections choose to remain blind to it. This can point to another problem in the system,**

embodied in the corruption. In that regard, concrete steps must be made to enforce the existing laws and regulations on non-compliant employers/companies, which again indicates on the necessity of the qualified, competent and non-corrupted workforce in the public sector. In addition, mediation and arbitration, as an alternative way of dispute resolution to court proceedings, is not commonly used to solve disputes in Montenegro. Mediation and arbitration could be used to circumvent the slowed court system and resolve disputes in amicable way and in a timely manner. These alternative dispute resolutions should be more considered in cases when, for example, contractual agreements entered by business parties are not honored or fully honored, as it would be solved more efficiently and quickly, as well as with less costs. On the other side, the court system is overwhelmed and generally it takes years to get a final decision on a disputed case, that frequently negatively affects business operations of companies that are in the dispute.

**24.** Infrastructural challenges are specific to the south of Montenegro, i.e. coastal line, which is the heart of Montenegrin tourism, particularly during the summer months. Outdated infrastructure in terms of the roads in this area, causes many difficulties for the private sector in terms of transportation of both tourists and moving goods and products, as bad roads cause many crowds, waiting in the rows as they block the regular flow of people and commerce. Additionally, there are still problems of adequate electricity, sewage systems and water supplies in some areas, especially in the smaller places, but that are highly interesting and visited touristic places (suburbs). Finally, towns that are ones of the most attractive touristic destinations in Montenegro, such as Budva, Tivat and Kotor have wild landfills, what results in leaving waste on public areas and affects appearance of the city. In this regard competent authorities who are in charge of monitoring the behavior of the locals towards public areas should sanction this behaviour, which does not happen very often. An improvement can be seen in the northern region in terms of construction and functioning of the highway section, but the project is still unfinished. Finally, public bus transport is highly disorganized, often late and online ticket booking is not practiced. This causes uncertainty as to whether there will be a place in transport at all, especially in the peak of the tourist season when the crowds are much bigger compared to the rest of the year. South part of Montenegro, i.e. its coast, needs major improvements regarding infrastructure. Namely, the roads should be improved and better organized, in a way that will facilitate transport of people and commerce in that area, particularly during the summer season (May-September). In that light, the solution can be found in creating and organizing a transport team, with the task to

perform a demand assessment and to create a master spatial plan for the entire coast, or the parts that the focus should be put on. For example, they could do various models and simulations that give them the optimal road solution, in order to avoid congestion and improve infrastructure in terms of adding new lanes, roundabouts, semi-roundabouts, traffic lights at problematic locations, etc. But in order to reach those results, the transport team needs to do a transport assessment. Further, in order to do transport assessment, there needs to exist a transport master plan for the coast. This transport master plan should be done at the level of the entire Montenegro, as a part of the spatial plan of Montenegro. However, the spatial plan for the whole of Montenegro should have been executed, but this project has not started yet. The Minister of Urban Planning and Ecology announced that it should start in the beginning of this year. Also, for resolving the problem of electricity, sewage systems and water supplies in suburbs at the coast there should be political will in order to improve that area, with the adequate plan – project and competent workforce to execute it.

**25.** Real estate and construction are amongst the most important sectors in Montenegro, as they represent one of the most attractive industries for investors. Given its importance for the Montenegrin economic development and business, special attention should be drawn to jurisdictional ministries and municipalities to simplify long and complicated procedures when realizing projects in these areas (for example, when building new structures). There are continual problems with the slow speed at which relevant ministries and municipalities provide the necessary services and infrastructure (i.e. roads, sewage and water connections) for new construction projects. At the seaside (mostly in Tivat) it regularly happens that information with the Land Registry about ownership is incorrect and/or not updated within the given legal deadline. Economic Citizenship Program, with its uncertainty each year also brings worry to foreign investors who showed interest in the past and are willing to participate. Information on this Program provided in media, show lack of basic understanding of principles of such Program and demonstrate that the country is not able to cope with the challenges such Program can bring. The more detailed and firm strategy on such Program should be much more thoroughly considered and information on its duration provided on timely and more structural basis.

## IMPLEMENTATION STATUS OF THE ACCEPTED RECOMMENDATIONS FROM THE WHITE BOOK 2021

The table below contains the answers of the responsible institutions to the recommendations given in the last edition of the White Book:

### MINISTRY OF ECONOMIC DEVELOPMENT AND TOURISM

#### RECOMMENDATION

Telco operators expect that the announced upcoming transposition of „the EECC” in the Montenegrin regulatory framework will bring the extended RF spectrum license validity period (instead of 15 years defined under the current Montenegrin Law, the validity period should not be shorter than 20 years as the EECC defines). Telco operators in Montenegro are hoping that those trends at EU level will be transferred to our market.

#### ANSWER OF RESPONSIBLE INSTITUTION

The MEDT prepares the draft of the Proposal of the Law on Electronic Communications that will soon be discussed with the operators. Article 49 of the Directive 32018L1972 prescribing the duration of the right will be transposed into the draft Law. The validity period of 15 years is prescribed for the operators of mobile and land-line networks in the first paragraph, but the period of 20 years for provision of wireless broadband services of electronic connections is prescribed in the third paragraph.

### MINISTRY OF ECONOMIC DEVELOPMENT AND TOURISM

#### RECOMMENDATION

Law on electronic communications - In 2019 the Ministry for Economy, responsible for telco sector organized public consultations and round table discussions on the proposal of the Law amending the Law on electronic communications. The proposed amendments telco operators were interested in and which were accepted by the working group for the Law elaboration at the time, referred to the following: - signing the contract by the consumer, implying that the contract could be signed in addition to wet signature, by an electronic signature, advanced electronic signature, qualified electronic signature and signature in a digital form; - issuing the bill for the services, implying that the bill will be available to the consumer in a way defined under the General Terms and Conditions for the services. Unfortunately, this Law was not enacted in 2020 and 2021, and it is in the interest of telco operators that it is enacted as soon as possible even though the Government announced that the preparation of the new Law on electronic communications will be initiated in 2022 and it will represent the transposition of the EU Directive 2018/1972 of the European Parliament and the European Council into Montenegrin legislation (but the Law cannot be adopted before the end of 2023). Thus, it seems reasonable, before adopting the new Law, to work on amendments to the current Law adopted before almost 9 years (August 2013). This is a quite long period of time for a law regulating a dynamic activity such as electronic communications. The domain of electronic communications is changing fast in terms of technology so regulatory framework must accompany such development. While waiting for the line ministry

#### ANSWER OF RESPONSIBLE INSTITUTION

The Government Work Program 2022 sets out the elaboration of the new Law on Electronic Communications which, among others, transposes the Directive on electronic communication code. As it is a very complex and demanding directive, the MEDT hired an expert via public call who would be in charge of elaborating the first version of the new draft of the Proposal of the Law on Electronic Communications. The Law transposes several EU directives, some delegated directives and the EU rules to be implemented. So, the law will not be amended, it will be a completely new law which we hope will answer the challenges in the sector at least by 2030 with regular amendments if needed.

and the Government to start preparing the proposal of the Law amending the Law on electronic communications, we suggest that they take into account the proposals, suggestions and comments provided by telco operators in 2019 during public debate on the Law proposal (both these that were accepted and these that were not accepted at the time). We remind that in 2019 the working group for the elaboration of the Proposal of the Law on amendments rejected many operators' initiatives because they did not refer to the proposal of the Law amending the Law on electronic communications but to the valid Law on electronic communications. We believe that this is an unacceptable reason. Namely, we are not familiar with such practice and it is not good to introduce it because when amendments to any law are made it is always a good opportunity to improve the law to the largest possible extent regardless of the fact whether these suggestions refer or not to the very amendments prepared by the working group and presented for public debate.

We also remind that some of these amendments proposed by the operators were discussed within other initiatives before the working group started preparing the proposal of the Law.

The representatives of the Ministry and the Agency for Electronic Communications in the working group were familiar with these initiatives. We refer here to the amendments of the following articles of the Law which is currently valid: 36, 39, 51, 78, 83, 152, 157, 162, 192 and 194 but also to other articles of the Law the amendments of which were proposed.

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## **MINISTRY OF CULTURE AND MEDIA** **MINISTRY OF ECONOMIC DEVELOPMENT AND TOURISM**

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### RECOMMENDATION

Law on cinematography fee - For years already, the MFIC and telco operators challenge the obligation of the operators to pay the fee for financing the Film Fund. As most relevant institutions assessed these initiatives reasonable and legally grounded, including previous Ministry of Economy and the Government Competitiveness Council, it was expected that this unjustified parafiscal fee will be eliminated in 2020 or 2021 but it did not happen due to specific circumstances caused by health and economic crisis.

We believe that the line ministries will work in the future period on the amendments to the Cinematography Law which will eliminate this unjustified financial burden. We remind that the initiative refers to the adoption of the Law amending the Cinematography Law (Official gazette of Montenegro, no. 42/15) to amend the provision of Article 36 paragraph 2 item 5 of the Law

### ANSWER OF RESPONSIBLE INSTITUTION

Answer of the Ministry of Culture and Media: the Law on Cinematography is made following the best practices in the region and Europe and it is the model of diversified financing where the State takes part but also legal entities which use directly or indirectly cinematographic works to generate profit and improve their own business activities. In terms of cinematography funding, it is complied with the best European and international practices and it is positively evaluated by the European Commission.

When it comes to the grounds to determine an Internet operator being payer of the Film Fund fee, we point out that by selling their Internet packages, they provide Internet access to a large number of users while the available international market analysis explain that Internet users mainly visit portals and platforms with cinematographic or audio visual content (Annual Piracy Report

prescribing the obligation of public communication network operators, including internet access operators, to allocate 0.9% of annual revenues generated through internet services, broadcasting of TV programs and renting of cinematographic works for the Film fund for financing of cinematography.

By the end of March 2021, the operators received the answer from the Ministry of Economic Development (as line ministry for electronic communications) that this Law is within the competencies of the Ministry of Education, Science, Culture and Sport. Since the provision of Article 36 of the Law includes the obligations for telco operators, they reminded that the Ministry of Culture and the Ministry of Economy at the time started reviewing this Article and that they will review as well in the forthcoming period the relevance of Article 36 of the Law, in accordance with the conclusion of the Competitiveness Council.

After intersectoral harmonization, it is expected that the amendments to the Cinematography Law will be initiated which, in line with the best practice in the EU and wider, can include deletion of the provision of item 5 paragraph 2 of Article 36 of the Cinematography Law – removal of the obligation of telco operators. Should line ministries decide that telco operators have to pay the fee in one part (here we don't see the reason nor grounds) in that case, this provision should be amended in a way to calculate the fee to the basis not including the income generated from the internet access services. We remind that our opinion for cancelling the obligation to finance the Film Fund by telco operators was justified by the fact that there must be legal and logical grounds in terms of using the very works, in this case cinematographic works. Therefore, Article 36 of the Law prescribes that the payers for the Film Fund are legal and natural persons engaged in the activity of using cinematographic works. However, the operators have already paid the use of cinematographic works and they pay it as broadcast fee to TV houses with which they concluded broadcast agreements and as contracted fee for using copyright rights and related rights. When it comes to using the cinematographic works, the operators allocate on a monthly basis 2% of their income based on AVM content broadcast to the organization „A-prava Montenegro“ which protects the rights of producers including domestic and international authors. So, the introduction of the fee for basically the same thing cannot be observed other than double taxation i.e. taxation for the same matter. Furthermore, when it comes to the fees paid to TV houses for TV channels broadcast or the fee paid to collective organizations for protection of copyright rights and related rights, we must point out that both contracting parties define the fee amount and it usually reflects the counter value of the good that is used, while this is not the case with the

Montenegro 2017, MUSO – research conducted by the Film Centre in cooperation with the MUSO Agency from the Great Britain), it is in the interest of the Montenegrin cinematography to continue cooperation with these companies. So, it is necessary to work on continuous synergy and finding new opportunities for potential partnerships. On the other hand, we should not forget that a liberal regulation regarding Internet access facilitates the access to legal and illegal websites where it is possible to download or watch audio visual contents resulting in unauthorized use of cinematographic works and their illegal trade impacting cinema, development of TV market, reduction of income based on broadcast, development of irregular viewers' habits and accordingly underdeveloped film culture. This creates unfavourable business environment for cinematography development in Montenegro.

Given the abovementioned, we believe that the circumstances which existed before the Law on Cinematography in 2015 were not amended in a way that requires the initiation of its amendment. The current legal solutions can be further analysed taking into account the needs of cinematography sector and business operations of the proposers, with the consultation of the practice in European countries and the context of Montenegrin small market.

fee amount prescribed by the Cinematography Law. We need to stress out that this is a high percentage of the income which does not have its grounds in terms of using the cinematography work.

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## MINISTRY OF ECOLOGY, SPATIAL PLANNING AND URBANISM

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### RECOMMENDATION

Law on Spatial Planning and Construction of Facilities – Telco operators used the public invitation of the line ministry to the public to submit the initiative for preparation of the new Law on spatial planning and construction of facilities and pointed out to a series of problems they faced in the application of the current Law.

Telco operators as Government partners, including the implementation of the digital society strategy among other things, has an important role and responsibility in providing telecommunication services to the industry and the citizens. To smoothly provide these services, the basis is protected electronic communication infrastructure which is often damaged due to incomplete or wrong implementation of the valid Law on spatial planning and construction of facilities. There is no doubt about the great importance of the electronic communications and protection of its infrastructure which is more importantly also a critical infrastructure. However, the practice shows that we need to raise the awareness much more that it is an activity of common interest, that the consistency in service provision is equally important as the consistency of water or electricity supply. During the health crisis, it was evident that smooth telecommunication service provision is important, as a significant number of legal entities and citizens have moved into online mode to meet their business and private obligations. We believe that electronic communication infrastructure needs to have such treatment in ordinary circumstances as well. That is why the regulatory framework has to take this into account and to make it possible, the Law needs to remove the obstacles which currently exist in the application of the valid Law on spatial planning and construction of facilities.

The most frequent problem faced by the operators (especially those who own underground infrastructure) are frequent damage or cutting of electronic communications cables or other infrastructure while constructing buildings and especially while reconstructing roads. The reason for this is the fact that while issuing the urbanistic technical conditions and drafting project documentation the telecommunication segment is not treated in almost all cases. Namely, by having insight in the issued Urbanistic Technical Conditions it can be concluded that there are no conditions for connection to the telecommunication infrastructure or the list of regulations that need to be respected is given just provisionary.

### ANSWER OF RESPONSIBLE INSTITUTION

The recommendations from the White Book on investment climate in Montenegro are definitely useful and they should be duly taken into account when the new Law is elaborated. In doing so, it is important to make a required distinction between the definition of legal solutions and their implementation, what is rightly suggested. The segment of electronic communal infrastructure is represented in the Law during the process of elaboration and adoption of planning documents, their implementation and elaboration of technical documentation and construction of buildings. However, new legislation should prescribe the mechanism which will protect this important segment of building construction. The current Law on spatial planning and construction envisages centralization of planning documents creation and construction preliminary notice (excluding temporary and ancillary facilities) and construction permits for complex engineering buildings. This policy segment will be reviewed in the process of elaborating new Law and accordingly, steps and procedures which will ensure stability of the spatial planning and building construction system will be prescribed. In the part of the proposal related to the fact that the reviewed main design submitted with the construction preliminary notice and documentation prescribed under Article 91 of the Law on spatial planning and construction of buildings contains the project with all the data on infrastructure as mandatory part, we inform you that the reviewed main design is made in accordance with UTC. Accordingly, those amendments related to electronic communication infrastructure and the need to implement them as integral/mandatory part of the reviewed main design should be first observed within the UTC in a way that the project of electronic communication is integral/mandatory part of the main design and that the responsible Agency must give its consent.

Together with the amendments to the current Law, it is necessary to amend the valid rulebooks on creation of technical documentation containing mandatory elements of the technical documentation which may contain as well the part/stage related to the project of electronic communication infrastructure.

Based on the Law on state survey and real estate cadaster, Article 130, the obligation of the infrastructure owner is to record in the real estate cadaster, after the

Therefore, the authorities responsible for issuing Urbanistic Technical Conditions and evidences required for the preparation of technical documentation in most cases do not comply with the legal obligations defined in Article 74 paragraph 5 of the Law on Spatial Planning and Construction. Unlike telecommunication infrastructure, other installations, such as energy and water systems are protected appropriately since all publicly available issued technical conditions require „energy consent” and “water system consent” while the owners of telecommunication infrastructure owners are brought in unfavorable position. Furthermore, in the review procedures, contrary to Article 82, the reviewers do not obtain telecommunication consent from the body for technical requirements and it can be witnessed from the reviewed projects that there is no electronic communication phase. But it must be assured under a clear and precise regulation that the final design and reviewed final design must contain the segment of electronic communication infrastructure and network as well as all other infrastructure (installed along the road or railway, bridge etc. built in the roadbed, bridge and alike or any other objects in precisely given volume, dimensions and so on). In accordance with the current Law, the final design is a mandatory document enclosed to the notification of building work (Article 91) and it must contain all the data on the infrastructure affected by the construction of a future facility, its reconstruction or adaptation. It must be clear that the inexistence of these segments causes illegal construction. This would prevent illegal construction and devastation of space, digging, subsequent digging, overdigging of already constructed facilities what happens often in practice. Montenegro, being EU candidate country, must follow the European standards and it should provide it in the process of adopting the *acquis Communautaire* and the EU practice. With the current manner of implementing the projects of construction and notably reconstruction of roads, the operators, apart from physical vulnerability and devastation of infrastructure, losses in traffic and indirect losses, bear quite often direct material costs. In this way, the required funds for electronic communication infrastructure protection cannot be precisely planned and that makes it harder to meet the legal obligation of consistent service provision and protection of electronic communication infrastructure integrity. Therefore, it is necessary to have clear provisions of the Law which will prescribe that when elaborating technical documentation and project review the following must be obtained from the body for technical requirements responsible for electronic communication infrastructure: requirements, base maps, opinions, consents and other evidence needed for planning and construction. It is crucial to clearly define which body for technical requirements issues the requirements for connection to

completion of the building construction, the changes that occurred in the area due to construction – installation of cables. Since the cables registry is not functional yet, the investor cannot obtain all required data.

The new Law should define the possibility to obtain the consent of the telecommunication infrastructure owner to the main design in the process of issuing construction permit. The question of changing the terms “adaptation” and “reconstruction” should be reviewed during the elaboration of the new Law.

Answer of the Ministry of Economic Development and Tourism:

The draft proposal of the Law on electronic communications will fully include the Directive 32014L0061 and the existing Law on the use of physical infrastructure for installation of high-speed electronic communications networks. Chapter II Construction of networks and related infrastructure and Chapter III Expropriation and restriction of ownership rights deal with the issues pointed out by the operators in the White Book. By transposing Article 22 of the Directive 2018/1972/EU the responsibility of collecting the data for the procedure of surveying market interest for construction shall be conferred to the regulator. Every three years, the regulator shall announce public call for inquiries on intention to build or upgrade the broadband networks and they will additionally conduct survey of market interest upon the request of public sector body allocating the funds (art. 18 and 19).

To ensure higher efficiency of joint construction, the provision was added which regulates that in case of the easement over the property owned by the state or local self-government unit, the mandatory part of the easement contract is the provision to allow joint construction by another network operator but only on the same part and with the payment of the serving fee. In case of easement contracted by infrastructure operators, it is prescribed that the fee amount can be defined with the contract no later than ten days before joint construction begins (Article 27). Moreover, there are other articles prescribing in details almost all issues given in the White Book. The Law envisages additional tasks of the regulator in terms of monitoring market interest, with further operations extension and setting of geographic information system for collection, processing and validation of acquired data (getting all the required entry data for preparation of calls and compliance with relevant institutions, data holders).

the electronic communication infrastructure. Even though it can be concluded from the current Law, the new Law must unambiguously state that the Agency for electronic communications and postal services is responsible for issuing these requirements as a body for technical requirements bearing in mind that when plan document is prepared, the Agency is submitted the requests for issuing the opinion on planning compliance of electronic communication networks, infrastructure and related equipment. In addition, the Agency has the data i.e. the database of electronic communication infrastructure of all operators who own electronic communication infrastructure. So, the Agency is mandatory actor that would issue the requirements for connection to telecommunication infrastructure in the process of issuing the UTC. The only way to act preventively and to reduce lots of problems the operators face in practice is to define one address (as for electro energetic and water infrastructure) that will be binding when issuing UTC. In this way, unnecessary costs that occur due to very frequent damages and cutting of infrastructure would be reduced. For easier orientation, we would refer to the provisions of current Law, i.e. adding another item (item 17) to the

Article 55 paragraph 1 that would read: “evidence from responsible regulatory agencies on existing underground cables/infrastructure at the location/plot where construction/reconstruction is ongoing.”

In addition, we want to point out that the operators pointed out earlier, before the current Law was enacted, to the need to change definitions of some terms in the Law such as adaptation, reconstruction, rehabilitation since current solutions represent a significant obstacle for telco operators when it comes to these activities applied to electronic communication network i.e. infrastructure what results in significant consequences for the users and their right to be shortly removed network interruptions.

In that sense, we suggest defining the term “adaptation” in the new Law to add the following to the current definition:

„ Replacement of the existing installations of telecommunication infrastructure or their upgrade to repair the damage and/or connect the users shall be considered adaptation under this Law”. Accordingly, the definition of the term “reconstruction” should be amended to read:

“reconstruction means execution of works on the existing structure, which are used to perform: extensions and additions; repair of the damaged structures; reinforcement of the construction; replacement of installations (with the exception of telecommunication infrastructure described in the definition of adaptation), appliances, plants and equipment, modification of the existing process of production and other works impa-



cting structure stability and safety; change of structural elements; alteration of external appearance of the building as compared to the final design; impact on the environment and safety of adjacent structures and traffic; change of the water regime; change of the conditions for protection of natural and immovable cultural heritage, goods under preliminary protection and protection of their protected environment”;

These changes would impact the amendment of Article 111 of currently valid Law (“Restriction with Regard to Implementation of Law”) for which we suggest the following text: “Provisions of the present Law that are related to construction/reconstruction and adaption shall not apply in the case where the structure is built in view of preventing the threatening natural or other disasters or the extraordinary or state of war, or if the building of structure jeopardizes the lives and health of persons, the safety of surrounding structures, traffic or the adjacent structures, with the purpose to prevent their negative effects or to ensure the protection and the rehabilitation of their direct detrimental consequences. Upon the completion of works on construction, reconstruction/adaptation of public interest activity infrastructure, the procedure of required reporting of works to competent bodies is initiated.”

We also consider it important that the new Law recognizes the need to repair the damage of electronic communication infrastructure as a consequence of implementation of local government or state bodies projects. This refers to situations when the operator, after a project is implemented the investors of which are state bodies or local self-government bodies and companies, witnesses damage/destruction of their infrastructure and repairs it with significant material costs and time (receiving required consents from competent bodies to the very works). In order to prevent these costs borne by the operators, without being responsible for the damage, the Law should define more precisely the obligations of the investor regarding relocation or repair of the damaged infrastructure of electronic communications having in mind its importance for the entire society and its status of critical infrastructure. The investor should be obliged to get land registry excerpts with technical requirements from all infrastructure holders in all situations (construction, reconstruction or adaption of facilities). It should be taken into account that it often happens that local self-government bodies avoid the obligation to get land registry excerpt and issue the decisions on adaptation or reconstruction even in cases when we have construction of new facilities of higher volume compared to the existing one to avoid the costs of infrastructure relocation (very common situation when roads are built). It should be mentioned as well that the damage/interruption of electronic communication infrastructure is a criminal offence defined under

Article 328 of the Criminal Code and it covers the offence of destruction, damage, alteration, making unusable or removing public infrastructure devices for telecommunications system devices or another public device or obstruction of their use.

The new Law should recognize the importance of digital transformation and improve its implementation with its provisions by obliging the investors to install optic infrastructure of electronic communications in new buildings which ensures high speed internet to implement the services of “smart homes” at some specific period of time. In addition, the new Law should encourage the reduction of electricity consumption and reduction of CO<sub>2</sub> emission by predicting subsidies to install infrastructure for solar panels (not only as current ad hoc project of the EPCG) and infrastructure for charging electric cars in new buildings and alike.

We would use this opportunity to point out to some other problems related to the application of the current Law – procedure of obtaining the licenses – the State must provide for a smooth application of the Law in all municipalities and unification of procedures in the municipalities. It is also necessary to communicate with local self-governments the importance of adopting clear procedures on the manner of obtaining the required licenses and construction of telecommunication infrastructure, including telecommunication sewage and the decision-making process regarding the use of public municipal infrastructure. The procedures of obtaining the licenses significantly differ in municipalities and telecommunication infrastructure is not clearly classified – some municipalities consider it temporary facilities while others consider it local facilities of common interest and that is why the procedures and required documentation for construction differ largely. In some municipalities, it is required to obtain the consent of Chief Architect for the exterior of a temporary facility but it is not required in most other municipalities, what is another example of different procedure. We believe that it should be clearly defined that the consent is not needed when it comes to temporary telecommunication elements because in the architecture terms, we cannot do much about the exterior of a pole construction or outdoor cabinet, especially in non-urban locations where it is not completely defined what and which parameters should be met to get the consent.

Another example of this kind is related to the local fees (the difference can be up to 10 times in different municipalities). The similar case is with EKO procedure and the fees paid for the work of the members of the commission for evaluation of the elaborate on environmental protection, what points out to a possible lack of legal and institutional predictability.

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## MINISTRY OF CAPITAL INVESTMENTS

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### RECOMMENDATION

Law on Roads –

Article 35 of the Law on public roads which refers to the „Notification of Works on Public Roads“ defines in paragraphs 4 and 5 that the persons that own or manage the infrastructure facilities that are installed or placed in a public road (sewerage, water supply, electrical lines, electronic communication lines, gas pipeline, oil pipeline), when carrying reconstruction or other works on a public road at their cost, during the construction of a public road that is financed by the public road developer, shall relocate structures, facilities, devices, installations and lines or adapt them to the resulting changes at their own expense. Should they fail to relocate or adapt the structures, facilities, devices, installations and lines by the beginning of works execution on construction or reconstruction or works execution on public roads, they shall be responsible for the damage that may occur due to the untimely commencement of relocation. Since there are no clear criteria to distinguish reconstruction and construction of new public road, infrastructure holders are faced in practice with possible abuse of these legal provisions and they bear significant costs for relocating their infrastructure. In practice reconstruction includes road construction of a fairly new roadway or adding a new roadway next to the existing one. The amendments of this provision should remove such possibilities of abuse, as it can be seen in the region. For example, in North Macedonia, this situation is solved in a way that in case it is needed to relocate the infrastructure there is no difference regarding construction of a new road or reconstruction of the existing one, in both cases the investors bear the costs of relocation. It is the same in the Republic of Croatia where infrastructure holder bears the costs of infrastructure relocation only if there is illegally built infrastructure. We consider these solutions reasonable because the owner of the legally built infrastructure should enjoy the rights guaranteed by the Constitution. This includes that the investor shall provide the supervision over the execution of works to the infrastructure holders and that the investor and holder of infrastructure may agree that the infrastructure holder undertakes the measures on relocation and protection but at the expense of the investor.

### ANSWER OF RESPONSIBLE INSTITUTION

Answer of the Ministry of capital investments:

Provision of Article 6 of the Law on roads (“Off. Gzt MNE”, no. 82/20) defines that the right of way may be acquired on public roads, for the purpose of installing communal, water supply, electric power supply and electronic communications facilities with the associated equipment and similar facilities and equipment of public interest, if not endangering the road stability, safety and traffic regime on public roads, and on traffic areas, out of tracks of public road intended for service provision to traffic participants, the right of way may be given under special conditions.

Closer requirements for installation of pipelines, water supply, sewage, electric, telephone and telegraph cables and alike on public road are defined under bylaws. In line with its authorities under Article 17 of the Law on roads, the Traffic Administration issues traffic and technical requirements and consent to install pipelines, water supply, sewage, electric, telephone and telegraph cables and alike on public road.

Based on the issued consent of the Traffic Administration to install pipelines, water supply, sewage, electric, telephone and telegraph cables and alike on public road, the owners i.e. holders of these installations have the right to install these in the roadbed i.e. road land out of roadbed.

If state roads have to be reconstructed, the owners or holders of these installations shall remove them in line with Article 35 of the Law on roads.

The installations to be put or that have already been installed in the roadbed or road land out of roadbed are owned by the State of Montenegro and the holders of installations need to solve property and legal relations to be able to perform the installation what is impossible in most cases. Installation owners do not have any problem with property and legal relations if the installations are put in the roadbed and road land. The volume of state road reconstruction regarding the installations in the roadbed and road land does not impact their relocation and adjustment to the new situation.

Regardless of the fact that a state road is reconstructed in the existing volume or it was extended, it is necessary to relocate the installations. Reconstruction of state roads is done in line with the planning documentation and in most cases, this impacts the adjustment of existing roads to this planning documentation and thus installations as well.

When new roads are built planning documentation defines corridor. Project documentation defines the road alignment and all required elements. After project documentation is elaborated, the Elaborate on expropriation is prepared. In most cases, when constructing new

roads their alignment intersects or matches different installations (transmission lines, water supply lines, postal and telephone services and alike) which cannot be expropriated under the law and in these cases the investor bears the costs of relocation and adjustment of the installations to the new situation.

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## MINISTRY OF ECONOMIC DEVELOPMENT AND TOURISM

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### RECOMMENDATION

Law on using physical infrastructure to install high-speed electronic communication networks – This long-awaited document came into effect as on 18th January 2022. Even though its goal is to transpose the relevant EU Directive 2014/61/EU of the European Parliament and the Council that should result in reduction of costs for installing high-speed electronic communication networks, this Law has some inconveniences which may cause problems to telco operators in practice. More specifically, the application of the provision of Article 17 paragraph 1 may slow down the construction of electronic communication networks. This provision reads: „Network operator that plans to construct physical infrastructure shall publish the notification on the planned construction on their webpage and submit the notification to the Ministry six months before the notification on construction is submitted, in accordance with the Law.“ Since the operators of electronic communications are network operators at the same time in line with the Law, they have the same obligation and since they perform the activity that is changing and developing fast in a very competitive market with dynamic technology improvement this can represent an important business barrier for the electronic communication operators. The obligations defined under Article 17 paragraph 1 of the Law may significantly slow down the construction of networks and structures as the operators would have to wait for another 6 months, once they meet the requirements for construction, to start with the construction in order for other network operators interested in using and coordinated construction to join the entire process.

### ANSWER OF RESPONSIBLE INSTITUTION

The Law is fully implemented in the new Law on electronic communications and solves all inconveniences given here. The deadlines indicated by the operators are defined in the directive and they cannot be argued because they refer to equal treatment of market participants. The operators must simply accept that any investment in any infrastructure network includes the survey on the competition interest to co-invest in the network. A significant slowing down is excluded because it is envisaged that anyone who intends to invest in the infrastructure must inform the regulator before making a design so that the regulator can conduct the survey on the interest in the market for co-investment. So, investments in infrastructure are visible as of the moment the decision on investment is made.

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## MINISTRY OF ECONOMIC DEVELOPMENT AND TOURISM

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### RECOMMENDATION

Internal Trade Law – Amendments to the Internal Trade Law, Article 35a, stipulate that wholesale and retail trade in Montenegro cannot be performed on Sundays and public holidays defined by the law regulating public and other holidays, in sales facilities or other outlets that will be determined by the regulation of the Ministry. Irrespective of paragraph 1 of this Article, wholesale and retail sale may be performed on Sundays in pharmacies,

### ANSWER OF RESPONSIBLE INSTITUTION

Provision of Article 35a of the Law on internal trade prescribing the prohibition to trade on Sundays and during State and other holidays is introduced in our legislation upon the initiative of the Chamber of Commerce sent to the line ministry in 2018. The Law on Internal Trade envisages exceptions as well so retail trade is allowed on Sundays to specific merchants such as: pharmacies, bakeries, gas stations, markets, retail stores, kio-

bakeries and pastry shops, florists, souvenir shops, and stores selling newspapers, plant protection chemicals and funeral equipment. The exemptions also cover the petrol stations and the attached stores, farmers' markets, stands and vending machines outside the farmers' markets, mobile shops, as well as stores, kiosks and vending machines at the bus stations, airports and ports. They also include the stands and kiosks open during the events, festivals, exhibitions and public screenings, as well as the wholesale storage facilities. This Law came into effect as on 14th October 2019 with the first non-working Sunday of 20th October 2019.

Bearing this in mind and in order to promote Montenegro as a serious tourist destination, we suggest amending the Law to exclude shopping malls from the Law due to their specific activities or to reduce their working hours on Sundays from 6 hours to 8 hours in the following periods 10 am to 6 pm, 12 pm to 8 pm, 12 pm to 6 pm.

At the same time, we point out to the practice in the region where shopping malls in Serbia, Bosnia and Herzegovina, Croatia and Macedonia are open on Sundays while in Slovenia the working hours are shortened. Shopping malls in Great Britain, Finland, Denmark, Sweden, Bulgaria, Turkey and Romania are open on Sundays.

The initiative to cancel non-working Sunday was supported by all business associations in Montenegro who are members of the Competitiveness Council.

skis and vending machines located inside bus and railway stations, airports, ports and alike.

The Law came into effect in July 2019 and it is being implemented since October 2019. The implementation of this Article does not include the stores not working on Sundays (free Sunday) or on State and other holidays. Paragraph 1 of this Article prescribes that Wholesale and retail sale cannot be performed on Sundays and public holidays defined by the law regulating public and other holidays. Article 2 of this Law prescribes that the Trade, under this Law, is sale and purchase of goods and trading services. So, the provision does not define the non-working day for the employee – the employer (merchant) may recruit an employee to make the inventory, arrange products, cleans the shop and alike on Sunday or on holidays. This Law establishes the prohibition to trade on Sundays and on State and other holidays.

Within the Social Council, the Ministry of Economic Development started negotiations on cancelling this provision, partly or in total. Working version of the Memorandum on cooperation between the employers, trade unions and the State was prepared but the trade union left the negotiations at the last moment. The proposed Memorandum included the amendments to the Labor Law, Law on Tourism and hospitality and the Law on Internal Trade so that a part or all merchants could be exempt from the prohibition during tourist season.

Ministry of Economic Development and Tourism launched these negotiations again with the industries and trade unions with the effort to find the agreement and design a model that would be beneficial to the industries bearing in mind the following season and the fact that the tourism is a strategic economic branch crucial for the Montenegrin economy. On the other hand, the goal is to provide protection to the employees regarding their labor-related rights and the right to dignified work. Two working meetings of all stakeholders were held in May and beginning of June but there was no agreement. Further discussion on this topic will be continued within the Social Council.

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## MINISTRY OF INTERIOR

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### RECOMMENDATION

Rulebook on single European number 112 for emergency calls - This Rulebook sets out the manner and terms of introducing a single European number 112 for emergency calls (hereinafter: number 112), service quality of calls handling, service quality parameters to use the number 112, their threshold values and measurement methods as well as the manner of precise and reliable location evidence of the person calling 112 and emergency services' numbers.

### ANSWER OF RESPONSIBLE INSTITUTION

Pursuant to Article 142, par. 3 and 5 and Article 143, paragraph 4 of the Law on electronic communications ("Official gazette of MNE", number 40/13), the Ministry of Information Society and Telecommunications adopted the Rulebook on single European number 112 for emergency calls, with the consent of the Ministry of Interior and thus we believe that the amendments to this Rulebook are within the competencies of the Ministry of Economic Development and Tourism and the

Legal grounds for adopting this Rulebook are specified in Articles 142 and 143 of the Law on electronic communications. We consider it necessary to harmonize the Rulebook with the Law on electronic communications in the part where Article 143 paragraph 2 prescribes that the electronic communication operator shall in no delay and free of charge submit to the Operational and Communication Center (the OCC) all available data on the calls to number 112 and other emergency services especially personal data on the user, number from which the number 112 was dialed, call time and duration and call location in accordance with the technical possibilities.

Contrary to this provision of the Law, Article 13 of the Rulebook prescribes among other things: Introduction of devices and equipment needed for processing and delivering the data on caller location and delivery of information to OCC 112 on caller location shall be performed in the following stages:

„ - within six months as of the day when this Rulebook comes into effect, it is ensured that the area defining the caller location matches the area covered by the radio base station sector (Cell ID/Sector ID) and that the caller location may be detected and location data may be submitted to the OCC 112 within 30 seconds as of the moment the call is made or SMS is received;

- within 12 months as of the day when this Rulebook comes into effect, it is ensured that the circle area defining the caller location is within a circle of 300 m radius for urban and suburban areas and 1000 m for other areas in 95% of made calls or SMS and that the caller location may be detected and location data may be submitted to the OCC 112 within 30 seconds as of the moment the call is made or SMS is received;

- within 24 months as of the day when this Rulebook comes into effect, it is ensured that the circle area defining the caller location is within a circle of 150 m radius for urban and suburban areas and 300 m for other areas in 95% of made calls or SMS and that the caller location may be detected and location data may be submitted to the OCC 112 within 30 seconds as of the moment the call is made or SMS is received.

Technical solutions for the caller location system from paragraph 3 lines 2 and 3 of this Article must be in line with ETSI TS 143 059 for GSM networks and ETSI TS 125 305 for UMTS networks. Article 13 paragraph 3 of the Rulebook prescribes the features that must be met and functioning of devices and equipment needed to process and submit the data on caller location and data delivery to the OCC 112 on caller location while on the other side we have Article 143, paragraph 2 of the Law on electronic communications stating that these data, if available, are delivered by the operators „in line with technical possibilities“, which means based on technical possibilities of operator's network as sufficient one for the delivery of the needed data.

Agency for electronic communications and postal services.

When it comes to the Ministry of Interior, Directorate for Safeguard and Rescue, Office 112-OCC112 created all technical requirements to receive the data on caller location from operator network and complementary data from mobile devices. AML method in OCC 112 is in the test stage of release. The Ministry of Interior works on removal of the identified faults regarding the caller location.

This means that the Ministry of Interior, Directorate for Safeguard and Rescue, Office 112-OCC112 agree to amend the Rulebook and adjust it to the EU directives.

Answer of the Ministry of Economic Development and Tourism:

New Rulebook on 112 will be created, within the obligations of universal service, with detailed transposition of the directive so there is no much room to facilitate the obligations of the operators because of end users security.

So, the Law gives the possibility that the operator submits the data in line with technical possibilities and the Rulebook prescribes in advance technical possibilities and features that must be met so the Rulebook is contrary to the Law. In previous years, aware of the importance of 112 service in terms of availability and delivery of the required data to the OCC 112, Montenegrin telco operators worked on improvement of their systems and invested great resources to provide the data to 112 on caller location. The accuracy of the data submitted to the OCC 112 now corresponds to what can be provided at the network level and for the data on more specific caller location, complementary methods must be sought. It's been a while since operators communicate with the OCC 112 to provide AML method based on data sending from user device and this exceeds objective possibilities of operators. What the operators can do, and they do it, is to set their systems to send the data from the devices to the OCC 112 but this body must be able to accept these data. We point out here to the standards defined under the preamble of the European Electronic Code of Communications (so-called EECC i.e. EU Directive 2018/1972) which defines, among other things, that the term 'caller location information' means, in a public mobile network, the data processed, derived from network

infrastructure or handsets, indicating the geographic position of an end-user's mobile terminal equipment (point 40 of the Preamble)".

In addition, points 284, 286 and 290 of the Preamble specify the following:

„Providers of number-based interpersonal communications services have an obligation to provide access to emergency services through emergency communications. In exceptional circumstances, namely due to a lack of technical feasibility, they might not be able to provide access to emergency services or caller location, or to both. In such cases, they should inform their customers adequately in the contract...“ (Comment: it is clear that providing the data on location is not mandatory and such impossibility must be clearly defined under the contract with the customer.

... Member States should ensure that providers of number-based interpersonal communications services provide reliable and accurate access to emergency services, taking into account national specifications and criteria and the capabilities of national PSAPs...“ (what is equivalent to the OCC in our country).

... Caller location information, which applies to all emergency communications, improves the level of protection and the security of end-users and assists the emergency services in the discharge of their duties, provided that the transfer of emergency communication and associated data to the emergency services concerned is guaranteed by the national system of PSAPs. The re-

ception and use of caller location information, which includes both network-based location information and where available, enhanced handset caller location information, should comply with relevant Union law on the processing of personal data and security measures. Undertakings that provide network-based location should make caller location information available to emergency services as soon as the call reaches that service, independently of the technology used. However, handset-based location technologies have proven to be significantly more accurate and cost effective due to the availability of data provided by the European Geostationary Navigation Overlay Service and Galileo Satellite system and other Global Navigation Satellite Systems and Wi-Fi data. Therefore, handset-derived caller location information should complement network-based location information even if the handset-derived location becomes available only after the emergency communication is set up.

..... Furthermore, Member States should ensure that the PSAPs are able to retrieve and manage the caller location information available, where feasible.”

From these segments of the EU Code it can be concluded that the caller location information based on the network are provided only if it is technically possible or feasible what is also stated in Article 142 paragraph 2 of the Law on electronic communications („the operator shall forward all available data to the OCC... as well as the data on location from which the call is made in accordance with the technical possibilities“). It is also important to have in mind that the EECC defines that the state must ensure that PSAP as competent state body may retrieve available caller location information.

We believe that if potential lack of technical possibilities to provide caller location is recognized in the EU Code which is adopted five years before the Montenegrin Law is adopted, it proves that regardless of technology development more precise data cannot be provided at the network level but a complementary method such as retrieval of information based on mobile phone should be considered.

This practice from the EU Code is in line with the Law on electronic communications as it enables forwarding of available data in line with technical possibilities of the operator at the network level what brings to a conclusion that the obligations imposed to the operators under the Rulebook mentioned above are out of legal framework and the Rulebook should be amended to exclude the obligations imposed to telco operators which they cannot meet from objective reasons.



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## MINISTRY OF EDUCATION

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### RECOMMENDATION

Law on Archives - It is necessary to amend the Law to regulate electronic archive material, prescribe the obligations of creator and holder of archive material in electronic form as well as management of electronic documents. Bylaws should also be amended to regulate procedures and technological solutions for reliable electronic archiving of documents. In this way, the definition of electronic document would be completed regarding its keeping in electronic form, in accordance with the provisions of the Law on electronic document.

### ANSWER OF RESPONSIBLE INSTITUTION

The line ministry has not submitted their comments.

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## MINISTRY OF JUSTICE

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### RECOMMENDATION

Law on certification of signature, hand writing and transcript - It is necessary to amend the Law to define the manner of certifying the printed copy of electronic document and electronic copy of a document.

### ANSWER OF RESPONSIBLE INSTITUTION

The Ministry of Justice prepared the proposal of the Law and amended the Law on certification of signature, hand writing and transcript to harmonize it with the Law on electronic document. The proposal of the Law was submitted to the Government for analysis and decision-making and it was accepted by the Government. <https://www.gov.me/dokumenta/8e87e22b-986b-43cd-8000-efc6b282c49a>

However, after the election of 43rd Government of Montenegro, in line with the Government conclusion, the proposal was returned to obtain new opinions from the line ministries and after that, it was sent to the Government for analysis and decision-making. The procedure is ongoing.

The proposed amendments prescribe the manners of digital certification of signature, hand writing and transcript i.e. printed electronic document and digitalised act.

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## MINISTRY OF PUBLIC ADMINISTRATION

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### RECOMMENDATION

Law on Electronic Document - Telco operators used public debate on the Proposal of the Law held in 2021 to give specific comments to improve this document. We use the opportunity to point out that, despite the fact that we have waited for the amendment to this Law for ten years, it is needed to consider the possibility to regulate the issues under this Law within one law – Law on electronic identification and electronic signature, in accordance with eIDAS regulation and international

### ANSWER OF RESPONSIBLE INSTITUTION

To improve the Law on electronic document, the Ministry of Public Administration announced the public call for early consultations and the public call for the draft Law amending the Law on electronic document, to all stakeholders to give their contribution in the elaboration of this Law.

During public debate, the Ministry of Public Administration consulted the public by:  
- organizing focus groups composed of industry repre-

practice for easier and more efficient application.

representatives, business and academic community, with the live stream,

- Initiating direct meetings on this topic,
- organizing round tables,
- discussing submitted remarks, proposals and suggestions,
- Organizing meetings with these who submitted their remarks and suggestions to the draft Law for better understanding and exchange of opinion.

All submitted proposals and suggestions were analysed and the Report on public debate was prepared and published.

Some comments of one electronic communications operator were accepted while explanation is given for proposals related to amendment of regulations on certification of signature hand-writing and archives – these regulations do not fall within the responsibility of the Ministry of Public Administration but of the Ministry of Justice and the Ministry of Culture. The responsibilities of the ministries are defined under special regulations and the Decree on public administration organisation and work. After having analysed and adopted the comments and suggestions, this Law has the concept of the new Proposal of the Law on electronic document even though the Ministry's plan was to amend it.

Since it is necessary that the Law on electronic document complies with the Law on certification of signature, handwriting and transcript (responsibility of the Ministry of Justice) in terms of certification, the Ministry of Public Administration launched an initiative to amend the Law on certification of signature, handwriting and transcript.

Ministry of Justice accepted this initiative and together with the representatives of the Ministry of Public Administration, they worked on the amendments to the Law on certification of signature, handwriting and transcript so that these two laws comply.

Both laws are defined at the session of the 42nd Government but for technical reasons, like all other regulations, those were withdrawn from Parliament procedure and will be submitted again to the Government for analysis and adoption.

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## MINISTRY OF FINANCE

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### RECOMMENDATION

Implementation of the Law on consumer protection - users of financial services - The Law on Consumer Protection - users of financial services ("OGM", No. 43/15 of 31st July 2015), has been

brought and entered into force on 8th August 2015. In accordance with Article 48 of the Law, it should have started to apply after the expiration of a six-month period from the date of its entry into force (in February

### ANSWER OF RESPONSIBLE INSTITUTION

The Law on consumer protection - users of financial services was proposed by the members of Montenegrin Parliament and the Parliament adopted it even though the opinion on the law was negative.

This Law is not within the responsibilities of the Ministry of Finance but of the Ministry of Economic Development and Tourism so they are competent to answer to the given recommendation together with the Central

2016). Pursuant to Article 45 it is stipulated that “The regulations for the implementation of this Law will be adopted within three months from the date of its entry into force”, but they were not brought yet. Having this in mind, we believe that it is necessary to define the official status of this Law and a clear regulatory framework for the conduct of banks. We also consider that this Law is highly contradictory and non-compliant with other applicable laws and it contributes to legal uncertainty in the banking sector (especially in court proceedings). This Law is significantly overlapping with the Law on Consumer Loans and both laws regulate issues such as the publication of advertising messages and their content, information at the pre-contractual stage and contractual stage in different ways, which is the source of legal uncertainty and legal risk for all banks. This Law excludes the possibility for banks to charge tariffs related to payment transactions, and tariffs for closing accounts and sending funds to another bank, for cancelling the payment cards and withdrawing funds from the account which is opposite to Article 10 of the Law on Payment Transactions. We also believe that the manner and

deadlines for informing about conditions and their modification related to banking services provision are in conflict with the Law on Payment Transactions.

We also point out that the Law on consumer protection – users of financial services is contradictory to itself in many provisions, and as an example we point out to Article 3 which states that the Law does not apply to mortgage loans, and in articles 7 and 26 the Law deals with mortgage loans. In Article 15, the Law determines the “Agency” as the regulator, and not CBM. The provision regarding the content of the banking service contracts, the guarantors, the content of informing the users at the pre-advertising stage and in the negotiating phase, the time limits for the complaint, the rights and obligations of banks in relation to the provisions regulated by other valid regulations are contradictory.

In this regard, the provisions of this Law are in conflict with the provisions of the Law on Obligations (“OGM”, No. 47/08, 04/11 and 22/17) and the Law on Misdemeanors (“OGM”, No. 1/11, 39/11 and 32/14).

The existence of this Law is a source of legal and reputational risk and we believe that the Central bank of Montenegro and competent national authorities should take steps to resolve the status of this Law and define a clear regulatory framework.

Bank of Montenegro.

Answer of the Ministry of Economic Development and Tourism: The proposal of the Law on consumer loans, in transitional and final provisions, sets out the removal from effect of the Law on consumer protection – users of financial services in the part related to consumer lending. Public debate is finished regarding the Proposal of the Law and the Report was made. Harmonization of its text with the Legislation Secretariat is ongoing as well as harmonization between the sectors. After that, the Proposal will be submitted to the EC for opinion and then sent to the Government for approval. It is expected that this will be done in Q4 2022.

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## MINISTRY OF INTERIOR

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### RECOMMENDATION

Law on ID card - In December 2018 the Government of Montenegro passed the Law amending the Law on

### ANSWER OF RESPONSIBLE INSTITUTION

The Law amending the Law on ID card („Official gazette of MNE“ number 18/2019) prescribing that the ID

ID card which will enter into force as of March 2020. The goal of this Law is to improve the standards regarding the issuance of ID documents in line with the latest trends and to reduce the possibilities to abuse IDs. As it was explained from the Ministry of Public Administration, the Law sets out that the ID card is electronic official document containing a chip that stores electronic identification certificate and the certificate for qualified electronic signature used to norm a digital identity of citizens. In this way, a new stage in development of service quality in public administration will start, with the establishment of the systems for e-identification and e-payment. The MFIC addressed the line institutions, the Ministry of Public Administration and the Ministry of Internal Affairs, with the initiative to amend the Law regarding the very template of a new ID card.

Our members, electronic communication operators and banks, pointed out to the fact that some laws regulating electronic communication and banking operations prescribe the obligation to register the address of their service users. Since the template of the valid ID card does not contain the information about the user permanent residence, our members face problems with registration of this information which can be obtained based on personal statement of the user. We stress out that this way of collecting the information does not guarantee the accuracy of the information and the question arises if this obligation of electronic communication operators and banks makes sense bearing in mind that the accuracy of the information cannot be guaranteed as it is not registered based on official document. At the same time, we would like to emphasize that the ID cards of all neighboring countries, including Croatia as the EU member, as well as other EU countries, have the permanent residence of the ID card holder.

We also point out that the Law on anti-money laundering and terrorism financing defines in Article 6 paragraph 2 that the reporting entities should identify the client and check their identity based on reliable, independent and objective sources and monitor customer's business activities.

Article 6 paragraph 2 of the Croatian Law on Identity Card reads as follows: The form of the identity card shall contain: the coat of arms of the Republic of Croatia, the title "Republika Hrvatska" (Republic of Croatia), the title "osobna iskaznica" (identity card) and the identity card number, the marking of an electronic document and the space for the entry of: surname, name, information on sex, information on citizenship, date of birth, personal identification number, period of validity, permanent residence, date of issue, the name of the police administration or a police station issuing the identity card and machine readable data. The form of the identity card shall also contain the space for a photo and the

is an electronic public document by which a citizen with the Montenegrin citizenship proves their identity and citizenship, started to apply six months after its coming into force i.e. as of 30th March 2020.

In accordance with these amendments, new ID cards offer numerous benefits to the Montenegrin citizens since they are chipped – they have electronic device with inbuilt certificate for electronic identification and qualified electronic signature, what would contribute to a better life quality of our citizens and improve communication and operations in the state.

By introducing the third-generation documents, Montenegro implements European and international standards from this area and this will ensure faster border controls, easier procedures in the areas of electronic business, electronic trade, payment systems without waiting for the services.

In line with the Law on registries on permanent and temporary residence, a Montenegrin citizen is obliged to report the change of address to the Ministry in a municipality when they intend to live permanently i.e. in a municipality where they have registered address within eight days as of the change occurred.

If the Law would be changed based on recommendations to include the address, a Montenegrin citizen would be obliged to submit the request to replace the ID card to include the new address, what would be costly.

In 2021 and 2022, the Ministry of Interior worked hard to establish new e-services which will require the use of electronic ID card which were released on 14th March 2022. By introducing certificates contained in the new ID card, citizens can perform the following operations online, without going to the counters:

- have insight in personal data kept in the registries of the Mol for adult citizens and their minor kids,
- have insight in electoral register i.e. data in the electoral register as well as voting place where a citizen can vote,
- submit the request on their behalf and on behalf of their minor kids for the following:
  - o residence address change,
  - o issuing of citizenship certificates with the possibility to collect the documents in the organisational unit of the Mol or at the address in Montenegro,
  - o issuing of birth certificates with the possibility to collect the documents in the organisational unit of the Mol or at the address in Montenegro
  - o Issuing of permanent residence certificate with the possibility to submit the documents in the Mol organisational unit or a municipality where the permanent residence is reported.
- Review the status of active requests for oneself and minor kids i.e. have insight in the stage of active procedure initiated based on the request submitted in local organisational units/branches.

person's signature.

With respect to the above mentioned, we suggest amending Article 6 paragraph 2 of the Law on ID card as soon as possible in a way to include the permanent residence in the ID card template.

By accepting this recommendation, the Ministry could not continue developing electronic services, including electronic services for changing the residence, as the data contained in the ID card and in the database would not match. Accordingly, the required amendment would result in the following issues:

- it would disable online change of address because the address in the registry would differ from the address entered into the ID chip or ID card template,
- There would be costs of post-personalization of the chip with the new data on address,
- a citizen would be obliged to go twice to the counter of the MoI (once to submit the request and the second time to personalise the chip)
- The Ministry has developed services allowing external entities (state institutions and other entities having the legal ground to have insight into the data) to have insight into the data on a person containing the address as well.

Accordingly, we believe that the request to extend the data in the ID card chip and to include the information on the address in the ID card template as mandatory is not justified.

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## OTHER BARRIERS

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### CENTRAL BANK OF MONTENEGRO

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#### RECOMMENDATION

The regulatory framework of Montenegro has enabled clients to do digital business through simple authentication systems. The Law on Payment Operations ("Off. Gazette of Montenegro", no. 62/13 and 6/14) recognizes and defines the meaning of the terms "means of distance communication" and "payment transactions performed via telecommunications, digital or information technology devices". Also, the Law on Consumer Loans ("Off. Gazette of Montenegro", no. 35/13, 73/17, 72/19 and 8/21) defines and allows the "use of means of distance communication", while the Law on Obligations ("Off. Gazette of Montenegro", no. 47/08, 4/11 and 22/17) describes the conclusion of a contract electronically by introducing the notion of electronic signature. Consumer Protection Act ("Off. Gazette of Montenegro", no. 2/14, 6/14, 43/15, 70/17 and 67/19) describes in detail the processes of concluding distance contracts, and the provisions of this law apply to banks and other economic entities. Digital communication channels are recognized in national regulations, so today it is possible to transfer money through online banking - at home and abroad, create time deposits, create standing orders and other advanced functionalities that have a fi-

#### ANSWER OF RESPONSIBLE INSTITUTION

CBMNE supports the amendment to the Decision on Credit Registry in the part related to getting the consent of the client electronically. This amendment has already been planned and it is prepared for the next amendment to the Decision on Credit Registry.

financial effect on the client - all completely online - without coming in the branch. Clients sign all instructions online within the Internet and mobile banking, using tokens, biometrics (behind which the token is unlocked) or some other type of two-factor authentication. At the same time, we find the need to further regulate the field of online lending and thus provide customers with the same level of online experience that exists when transferring money and paying for products and services in online stores. Law on Obligations, Article 1169 and Law on Consumer Loans, Article 16, stipulate that the Loan Agreement must be “in writing, on paper or some other durable medium”. The Decision on the Credit Registry (“Off. Gazette of Montenegro”, no. 39/18 and 18/19), Article 11, prescribes the obligation of the client’s written consent for an inquiry into the credit registry, “given in the KR-SK Form”. The Law on Electronic Identification and Electronic Signature (“Off. Gazette of Montenegro”, no. 31/17 and 72/19), Article 14, stipulates that a qualified electronic signature (QES) “has the same legal effect as a personal signature”; however, this Law and the Article are in conflict with the aforementioned regulations and the eventual court proceedings on the loan would depend on the interpretation of the court, and for a specific area there is no precedent. Therefore, the obligation to use QES will continue to be a business barrier to the widespread use of digital services in the financial sector, and in the meantime some alternative solutions are needed.

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## MINISTRY OF FINANCE

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### RECOMMENDATION

Impossibility to inform electronically on the change of employer checking account via JPR application - Law on Tax Administration.

### ANSWER OF RESPONSIBLE INSTITUTION

Registration of checking account is done in the competent organizational units of Revenues and Customs Administration according to the registered seat for legal entities and residence or permanent residence for natural persons. JPR application is followed by certification on opening of the account (copy of the account opening contract or signature specimen list). The JPR template is prescribed by the Rulebook on form and content of the single application for registration of tax payers, payers of contributions and the insured with the Central Registry (“Official gazette of Montenegro”, no. 10/10 ... 008/22). Since there is no electronic version of this form, we point out that it is not possible to register banking accounts online. The activities are ongoing regarding electronic connection set-up between the CB-MNE and the Revenues and Customs Administration to get the data on the banking accounts (via web service). JPR template would be modified to exclude the obligation of the tax payers to submit this information.

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## MINISTRY OF FINANCE

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### RECOMMENDATION

Tax Consolidation: The interpretation of the tax authority of the law requirements on accepting a group for the purpose of tax consolidation is not allowing to add newly established subsidiaries after the issuance of the decision on accepting tax consolidation and for a period of 5 years from the date of issuing the decision. Such interpretation is hindering the benefit of the tax consolidation option as envisaged by the law. They should allow the automatic inclusion of any newly established subsidiary, by way of notification.

### ANSWER OF RESPONSIBLE INSTITUTION

The attitude of the Revenues and Customs Administration not allowing to add newly established subsidiaries after the issuance of the decision on accepting tax consolidation and for a period of 5 years from the date of issuing the decision is in accordance with the valid regulations.

The possibility to automatically add newly established related entity with the submitted request in writing will be discussed in the future amendments to the Law on Corporate Income Tax.

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## MINISTRY OF FINANCE

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### RECOMMENDATION

Presentation of the Income Statement: the currently binding statutory local chart of accounts, and the model financial statements issued by the institute of chartered accountants of Montenegro isn't adopting the two methodologies of income statement presentation (by nature and by function), and limits it to one methodology that doesn't necessarily suite the business nature of all companies, especially real estate development companies. They should allow the two methodologies based on the nature of business.

### ANSWER OF RESPONSIBLE INSTITUTION

The Ministry will review the possibility to amend the Rulebook on the content and form of the templates for financial statements for companies and other legal entities and depending on technical requirements related to delivery and announcement of financial statements, it will analyse how to solve the problem.

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## MINISTRY OF INTERIOR

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### RECOMMENDATION

Fire protection operations - obligation of the companies to hire legal entities meeting the requirements to perform these operations even though the Ministry of Interior does not keep any record although it is prescribed by Law that the records shall be kept and published on the MI website. The employers do not have clear information which legal entities meet the requirements prescribed by Law to perform competent operations under the Law – Law on safeguard and rescue.

### ANSWER OF RESPONSIBLE INSTITUTION

The information of two companies dealing with fire protection operations will be published on the webpage of the Ministry of Interior.

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## MINISTRY OF INTERIOR

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### RECOMMENDATION

Managing Director of Subsidiaries: Currently a foreign employee is not allowed to be a managing director of more than 3 companies, which doesn't facilitate the operations of a group of companies as it is the case with

### ANSWER OF RESPONSIBLE INSTITUTION

Ministry of Interior/Directorate for administrative affairs, citizenship and foreign nationals/Office for foreign nationals, migration and readmission points out that the Law on foreign nationals specifies the requirements for entry, exit, movement, residence and work of foreign nationals in Montenegro.

one our member. The managing director of the parent company should be allowed to serve as the managing director of all subsidiaries within the group.

Article 66 paragraph 3 of the Law on foreign nationals prescribes that a foreign national may be issued with a permit for temporary residence and work for the purpose of carrying out the duties of an executive director at several employers, in accordance with the regulations governing the area of employment.

Article 69 paragraph 3 of the Law on foreign nationals prescribes that the permit for temporary residence and work for entrepreneurs and executive directors of business entities where they are the only owners or where they own more than 51% of equity may be issued to a foreign national who is older than 67 years of age.

Article 69 paragraph 3 of the Law on foreign nationals prescribes that the permit for temporary residence and work for entrepreneurs and executive directors of business entities where they are the only owners or where they own more than 51% of equity may be extended as long as they meet legal requirements (there is no limitation as with other permits).

Article 78 paragraph 1 point 4 of the Law on foreign nationals prescribes that a temporary residence and work permit beyond the annual quota may be issued to a foreign national - an executive director of a company and an entrepreneur who is registered in Montenegro in accordance with the law governing the form of carrying out business activities and their registration (so there is no limitation regarding this matter either);

Accordingly, it is clear that the Law on foreign nationals does not limit the foreign nationals to be executive directors in more than three companies.

When it comes to the labor and legal status of the executive director, we believe that you should contact the Ministry of Labor and Social care.







# PRIORITIES FOR 2023

In its agenda for 2023 regarding economic policy and further improvement of requirements for the economic growth, the Government set out several activities which contain to a large extent the recommendations which the MFIC initiated through its materials in the previous years. The MFIC follows the activities of the government bodies to monitor if the recommendations of the MFIC are included in the measures to be implemented. The reason for this is a creation of business environment in the country that is at the level of the development as in the native countries of the investors. It is especially important to continue with these measures in the areas such as rule of law and efficiency of legal protection, improvement of economic conditions and business climate, improvement of infrastructure and implementation of new infrastructure projects, keeping the stability with the preservation of trust in the financial sector.

As it is stated in the Government Work Program, all the priorities and goals defined under the Mid-term Government Work Program 2022-2024 adopted on 26th January 2022 will be elaborated in detail through annual work programs containing specific activities in strategic and normative framework which contribute to achievement of the set goals. Successful implementation of

these activities reflects in their respective implementation and in reaching planned values of performance indicators.

The Work Program 2023 envisages 348 activities out of which 213 deal with content and 135 with normative matters, planned within six priorities:

▼ priority 1, rule of law and equal opportunities: 36 content and 31 normative matters;

▼ priority 2, Sound finance and economic development: 68 content and 63 normative matters;

▼ priority 3, Health and healthy environment: 46 content and 25 normative matters;

▼ priority 4, Education and knowledge-based society: 23 content and 9 normative matters;

▼ priority 5, Digital transformation: 18 content and 3 normative matters;

▼ priority 6, Montenegro - future EU member state with strengthened position on global scene: 22 content and 4 normative matters.

## **RULE OF LAW AND EQUAL OPPORTUNITIES**

The most important tasks related to this priority follow:

- ▼ ensuring equality of the citizens in the rights and before the law,
- ▼ building strong and efficient institutions,
- ▼ maintaining security,
- ▼ fight against corruption and organised crime,
- ▼ reinforcing the judicial independency,
- ▼ improvement of the status of the minorities' members,
- ▼ providing equal rights to all the citizens.

An equally important segment is the provision of social security to the vulnerable categories and those who need the support most.

## **SOUND FINANCE AND ECONOMIC DEVELOPMENT**

A part of this priority includes:

- ▼ improvement of competition,
- ▼ regional connectivity,
- ▼ green economy,
- ▼ activities on improvement of the implementation process of the pre-accession support funds of the EU through finalization of legal and institutions framework in terms of finalising the entire existing system with the focus on financial perspective IPA III; contracting the projects from the annual IPA 2020 program,
- ▼ development of tourist offer during 365 days for different target groups,
- ▼ introduction of innovative solutions and new technologies by implementing the Program on encouraging the innovations in energy efficiency in the sector of processing industry,
- ▼ solving current issues of unemployment of the youth and women in business.

In the following period, it is expected that the further

economic growth would be triggered by the continuation of the public investments, with the set of reform measures in traffic in order to increase the efficiency of infrastructure. This should be implemented through the Program of transport and trading facilities of the World Bank for the Western Balkans, with the set of reform measures in the energy market through additional support program of the European Union.

## **HEALTH AND HEALTHY ENVIRONMENT**

Within this priority, the following goals are defined:

- ▼ raising awareness of the citizens on preservation and protection of the environment,
- ▼ providing continuity in provision of medical services and equal availability of medical services to all patients.

## **EDUCATION AND KNOWLEDGE-BASED SOCIETY**

Within this priority, the following goals are defined:

- ▼ improvement of curricula and teaching,
- ▼ analysis of the effects of the professional development of teachers to the teaching quality and its improvement,
- ▼ improvement of quality of the professional education through further development of mechanisms of external and internal evaluation,
- ▼ improvement of quality of practical education through strengthening of the partnership between the school and the employers,
- ▼ promotion of manufacturing profiles and dual education,
- ▼ support in the education of the students with special education needs and of the vulnerable groups,
- ▼ support to long-life learning,
- ▼ improvement of legislation including the employees and institutional capacities related to the domain of protection and preservation of the cultural heritage, by applying international standards,
- ▼ by ensuring safe, annual financing of the projects of the protection and preservation of tangible and intangible cultural heritage,

▼ support to the development of innovation activity, in

order to strengthen cooperation between the science and economy.

## DIGITAL TRANSFORMATION

Within this priority, the following goals are defined:

- ▼ removal of the existing and early detection of future business barriers for the Montenegrin economy and foreign investors, with special focus on strengthening of digital infrastructure, cyber ecosystem and provision of electronic services to the citizens and economy,
- ▼ increase of coverage and modernisation of IKT infrastructure,
- ▼ development and improvement of digital skills,
- ▼ raising awareness of the citizens and economy on digital development importance,
- ▼ improvement of quality, amount and use of e-services.

## MONTENEGRO - FUTURE EU MEMBER STATE WITH STRENGTHENED POSITION ON GLOBAL SCENE

The following goals are defined within this priority:

- ▼ establishment of the framework that will treat this area in a comprehensive, systematic and coordinated manner,
- ▼ improvement of legislative and institutional framework for the external affairs and external and safety policies to ensure full harmonisation with the acquis communautaire and joint external and safety policy of the European Union,
- ▼ Further strengthening of the engagement and visibility of Montenegro on multilateral level via membership with the UN Council for human rights (2022-2024), active and systematic approach in the process of ensuring international support to the Montenegro being candidate for the membership in the UN Security Council.

When it comes to the normative part, we present below the overview of laws, programs and strategies (per quarters) to be adopted in 2023 which are important for the economic growth and development of the country, improvement of competitiveness and creation of favourable investment climate.

## I QUARTER

1. Proposal of the Law amending the Law on inspection supervision
2. Proposal of the Law on anti-money laundering and terrorism financing
3. Proposal of the Law on tourism and hospitality
4. Strategy for development of 5G mobile communication networks in Montenegro, 2023-2027
5. Program for improvement of economic competitiveness
6. Innovation Program 2023-2027

## II QUARTER

7. Strategy of development of micro, small and medium enterprises for 2023-2027, with preliminary Action plan 2023-2024
8. Strategy of regional development of Montenegro 2023-2027 and Action Plan for 2023

## III QUARTER

9. Proposal of the Law on personal data protection
10. Proposal of the Law amending the Law on efficient use of energy
11. Program of economic reforms (PER) for Montenegro 2024-2026

## IV QUARTER

12. Proposal of the Law amending the Law on business organisations
13. Proposal of the Law amending the Law on credit institutions
14. Proposal of the Law amending the Law on corporate income tax
15. Proposal of the Law amending the Law on insurance
16. Proposal of the Law amending the Law on internal trade
17. Proposal of the Law on electronic communications
18. Program for preventing informal economy in Montenegro
19. Action plan 2024-2025 for the implementation of the Strategy of digital transformation 2022-2026 with the Report for 2023
20. National strategy for the fight against corruption 2024-2028

# ANNEX

## Addiko Bank

**Addiko Bank AD** Podgorica is owned by Addiko Bank AG, headquartered in Vienna, Austria and is a part of a banking group operating in five SEE countries. The Group consists of six banks in Croatia, Slovenia, Bosnia and Herzegovina, Serbia and Montenegro, efficiently providing daily banking services for over 1.1 million clients. Since its successful re-branding in 2016, the Group has been operating under the Addiko brand.

As part of a financial group that is exclusively focused on markets and clients in the SEE region, Addiko Bank puts local customers at the core of its strategy: focusing on essential products and services relevant in the local economic environment, delivering efficient processes and ensuring faster decision making and simple communication.

The bank has branches in Podgorica, Niksic, Bijelo Polje, Herceg Novi, Pljevlja, Bar, Budva, Kotor and Tivat.

[www.addiko.me](http://www.addiko.me)



**Adriatic Marina** trading as, Porto Montenegro is a luxury, multiple award-winning marina, winning Super Yacht Marina of Distinction from TYHA (The Yacht and Harbour Association) from 2015 to 2017, located in Tivat on the South-west coast of Montenegro in one of the most sought-after property destinations in Europe. This cutting-edge yacht homeport and marina village has been specifically designed to cater for the meticulous needs of all yachts, their owners, guests and crews with specific infrastructure for the largest yachts afloat.

The marina is complimented by spacious waterfront residences, international restaurants, shopping, a wide range of sports, leisure and cultural activities, an international boarding school and a 5-star Hotel, Regent Porto Montenegro.

In 2016 Porto Montenegro was acquired by the Investment Corporation of Dubai (ICD), the principal investment arm of the Government of Dubai with investments spanning financial services, transportation, energy and industries, real estate and leisure and retail.

[www.portomontenegro.com](http://www.portomontenegro.com)



Limited liability company Adriatic Properties was established in 2006 and since then the company has been operating on the Montenegrin coast as the lessee of the hotel complex Sveti Stefan, Milocer and Queen's Beach.

Adriatic Properties introduced the world known brand AMAN to Montenegrin hospitality market and set new standards when it comes to supreme and luxurious guest experience. The company had successfully renovated hotel units in the island of Sveti Stefan, by blending tradition with modern trends in architecture and design. Besides the renovation of the existing facilities, which were enriched by a delicate touch of modern design, the company Adriatic Properties built SPA Centre, marvellous retreat that followed the architectural style of other facilities. Thus, the property of Sveti Stefan managed by Adriatic Properties is preserving its unique charm and untouched natural beauty and those are the values that the company cherishes through the years.

For the last couple of years the company has been engaged in the project of construction of the new hotel, JANU by Aman, which will be the successor of well-known Queen's Beach hotel. Since the vision of Adriatic Properties is to establish international exclusivity standards in the field of tourism and hotel industry in one of the most attractive locations in Montenegro, the operation of the upcoming hotel JANU by Aman will strive towards that goal as well. Adriatic Prop-

erties is constantly following up on new trends in the hotel industry worldwide and is providing training for both local and international staff. Our employees have grown through the years, since they have the opportunity to visit other AMAN resorts, to be professionally engaged there and to return to Sveti Stefan in order to implement their knowledge here. Therefore, Adriatic Properties is a company which invests not only in the property that is under its management, but into human resources, considering good and properly trained employees one of its best qualities. Adriatic Properties employees from 100 up to 350 employees (year around or seasonally) and contributes to the local community, by sponsoring various events, groups or individuals, which are considered to be prosperous not only for the community of Budva, but for the whole country.

Having been recognized as a "trend setter" company, Adriatic Properties managed to bring a famous chain of restaurants to Montenegrin gastronomy map: restaurant NOBU MONTENEGRO. This pop-up restaurant opens every summer on a beautiful location overlooking the island of Sveti Stefan, so that our guests may enjoy the beauty of the scenery along with extraordinary culinary specialties of VIP chef Nobu Matsuhisa. The chain of NOBU restaurants obtains the highest ranking in the gastronomy field and this is what makes Adriatic Properties innovative and authentic: the constant demand for the excellent services and brands that had proven their quality around the world.



Adriatic Appraisal is an international real estate and engineering consultancy specialising in Southeast Europe (SEE). We are offering a wide range of innovative professional real estate services, mobilizing our locally-based teams and international know-how. Our teams of carefully selected real estate specialists with en-

gineering, economics and sales background have truly local, on-site experience, and include international members of the Royal Institution of Chartered Surveyors (RICS). We are experts in real estate valuation, market research, building surveying and in providing investment advisory services for banks, local and international investors, developers, property owners and corporate clients.

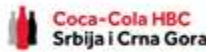
[www.adriaticappraisal.com](http://www.adriaticappraisal.com)



The astonishing beauty of Montenegro and the good business climate were what enabled **Azmont Investments**, a Montenegro-based company, to enter the market in 2012. The growing Portonovi Resort, worth €650 million, has been developed by Azmont Investments as the biggest investment project by Azerbaijan outside of the country and outside of the energy sector. This world-class resort with its state-of-the-art marina, the first One&Only resort in Europe, is being created as the Adriat-

ic's most sophisticated mixed-use resort destination. As a responsible corporate citizen, the company is doing its best to contribute to the good of society through well-planned and continuous CSR programmes. The Portonovi Resort remains the main project being carried out by Azmont Investments and as an investment company we are looking additionally for opportunities to invest even more in the future, not only in Montenegro, but in other countries as well.

[www.azmont.com](http://www.azmont.com)



**Coca-Cola HBC** is one of the world's largest bottlers of brands from the Coca-Cola Company. Coca-Cola HBC Serbia and Montenegro produces, sells and distributes a wide range of soft drinks, including leading brands such as Coca-Cola, Coca-Cola Zero, Fanta and Sprite.

Coca-Cola HBC Serbia and Montenegro is investing in the development of the community and supports projects and initiatives across the country. We have integrated sustainability and corporate responsibility into every part of our business, aiming to build long-term value for our stakeholders.

<https://rs.coca-colahellenic.com>



**Crnogorska Komercijalna Banka AD** Podgorica is a member of the Hungarian OTP banking and financial group, one of the leaders in the Central, Eastern and South-East Europe region. Successfully operating for more than 60 years, the OTP Group, with over 12 million customers in nine countries, 20,000 employees and over 1,000 branches, continuously provides for the secure growth and development of Crnogorska Komercijalna Ban-

ka, and guarantees quality services and stability of business to its customers. CKB is a universal bank and customers can use a whole range of different products and services. Friendly staff, developed network of 28 business units, over 4,500 POS terminals and nearly 100 ATMs successfully cover the territory of Montenegro and serve to satisfy all the banking and financial needs of its clients. CKB is the largest custody bank that offers the service of trading in securities

[www.ckb.me](http://www.ckb.me)



**Crnogorski Telekom** has been part of the DT Group since 2005. Crnogorski Telekom is proud to be part of an industry that is truly transforming and shaping the way world telecommunications changes peoples' way and pace of life. As a clear technology leader, CT is helping businesses in Montenegro to grow, helping the national economy to develop and improving the quality of Montenegrin citizens' lives through pioneering and secure technology and diverse products and services to suit their changing digital lifestyles. By shaping its business to respond to the demands of a changing world, and by always putting the customer at

the centre of its activities, CT has managed to preserve during all of these years its undisputed role of market leader in Montenegro. CT is the largest telecommunications company in Montenegro that provides a full range of fixed and mobile telecommunication services (voice, messaging, internet, TV, leased-line circuits, data networks and ICT solutions). More than 354,000 customers in mobile and more than 143,000 accounts in fixed line of business. Roaming services are provided in more than 140 countries, with almost 300 mobile operators.

[www.telekom.me](http://www.telekom.me)



[www.dukley.com](http://www.dukley.com)





**DHL** is the leading global brand in the logistics industry. Our DHL family of divisions offer an unrivalled portfolio of logistics services ranging from national and international parcel delivery, e-commerce shipping and fulfillment solutions, international express, road, air and ocean transport to industrial supply chain management. With about 350,000 employees in more than 220 countries and territories worldwide, DHL connects people and businesses securely and reliably, enabling global trade flows. With specialized solutions for growth markets and industries including technology, life sciences and health-care, energy, automotive and retail, a proven commitment to corporate responsibility and an unrivalled presence in developing markets, DHL is decisively positioned as “The logistics company for the world”. In January 2001, DHL Express was

registered in Montenegro as an independent legal entity. Numerous contracts were signed with various business entities on the development of international express transport on the territory of Montenegro. Cooperation with the Customs Administration of Montenegro and Public Enterprise Airports of Montenegro resulted in opening of DHL customs warehouse within the Podgorica airport. DHL Express in Montenegro hold active certification for standards such as ISO 9001 and ISO 14001 and as a member of TAPA organization successfully certified in accordance with TAPA C standard. With more than 1000 regular customers and 400 signed contracts with domestic and international companies DHL is the leader in Montenegro international express industry.

[www.dhl.com/en/me](http://www.dhl.com/en/me)



**BIG FASHION** Podgorica is the first shopping mall in Montenegro which includes the most diverse stores but also amusing contents for the families to have fun all day long. It is obvious that such a shopping concept has impacted the retail sale of the entire country and as such it has become a social phenomenon. By opening its door to all the institutions, individuals and organizations, it has grown together with the local community and became the community center.

BIG FASHION Podgorica has 80 stores half of which include international brands like Zara, Bershka, Stradivarius, Cineplexx, Cortefiel, Pull & Bear, Tommy Hilfiger, Guess, New Yorker, Mango, Under Armour, Nike, OVS Industry and many others.

In 2022, the shopping mall has become the part of the BIG

CEE group which is a part of the company BIG Shopping Centers Israel having the registered office in Belgrade, capital of Serbia, since 2007.

The company was established with the goal to develop BIG brand in the Balkan countries and it is focused on the implementation of the strategy and vision of the BIG Shopping Centers in Serbia and in neighboring countries like North Macedonia, Albania and Montenegro. BIG CEE owns and runs 10 active shopping malls – 9 in Serbia and 2 in Montenegro. There are 6 retail parks under the brand BIG, two shopping malls under the brand BIG FASHION and the only designer outlet in the country operating under the brand BIG FASHION outlet.

Focusing on basic product of the company – retail parks, the BIG CEE company has become one of the leading companies in the domain of retail real estate in the Balkans.



**doME n Ltd** is a Montenegrin joint venture, founded in 2008 by Afilijs Limited, GoDaddy.com and ME-net Ltd., that does business as a .ME Registry. The company was chosen by the Montenegrin Government to

operate the .ME ccTLD of Montenegro. Even though the .ME is a ccTLD, it soon opened its doors to worldwide registrations and has quickly achieved worldwide success.

Due to its deep inherent meaning in multiple languages

(English, Spanish, Dutch, Italian, Portuguese, Bulgarian and languages spoken in the former Yugoslavia) and limitless wording possibilities, just three days after its official launch, .ME recorded its 100,000th registration. .ME has continued its success over the years with a continuous and stable rise in registrations and more and more big brands being connected to .ME and its development programme – one of those being About.me, Facebook (fb.me, rooms.me, sling.me), Wordpress (wp.me), Time (ti.me), Mercedes (Mercedes.me) and others,

[www.domain.me](http://www.domain.me)



**ekonomik Accountants** was established in Montenegro in 2006 and represents 350+ companies in accounting, tax, human resource and adherent services. Our clientele represents a wide number of industries

originating from 40+ countries coming from 6 different continents. We are proud on the fact the company is recently awarded by the “Best performing companies in Montenegro” and became in 2020 officially market leader in the auditing &

accounting industry.

The drive for the highest Quality of Service is evident, represented by our qualitative team that consists of certified accountants, auditors, administrators, legal and court specialists for an exquisite business support that any company that is active in Montenegro deserves. The company works according the IAS and IFRS standards, the Institute of Certified Accountants of Montenegro, ICAM, IFAC, Institute of Accountants and Auditors of Montenegro, IRRCG and the Code of Ethics for Professional Accountants.



### The European Bank for Reconstruction and Development (EBRD)

is an international financial institution that was established in 1991. Initially focused on the countries of the former Eastern Bloc, the bank has expanded its operations to support development in more than 35 countries, from Central Europe to Central Asia and the southern and eastern Mediterranean. Through its financial investments, business services and involvement in policy dialogue, the bank supports its countries of operations on their path towards a sustainable market economy, one which is competitive, well-governed, green, inclusive, resilient and integrated.

In Montenegro, the EBRD has so far signed financing agreements for 56 projects, with a cumulative business volume of €538 million, while significant efforts have also been put into providing technical assistance and initiating policy dialogue. The bank's current portfolio amounts to €352.8 million, of which 49 per cent is in energy projects, 25 per cent in transport and municipal infrastructure, 14 per cent in financial institutions and the rest in agribusiness and general industry. For the coming period the bank will continue to support private-sector development in Montenegro, as well as the country's further EU and regional integration and the associated Western Balkan connectivity agenda.

[www.ebrd.com](http://www.ebrd.com)



**Erste Bank Montenegro** has been operating under this name since 2009, when Erste&Steiermaerkische

Bank d.d. acquired 100% of the share capital of Opportunity Bank AD Podgorica. It is a part of the Erste Group, which was founded 1819 as the first Austrian savings bank. Since 1997, it has developed into one of the largest financial services providers in the eastern part of the EU, with approximately 46,700 employees serving around 15.9 million clients in around 2,697 branches in seven other countries (Austria,

Czech Republic, Slovakia, Romania, Hungary, Croatia, Serbia). We offer a full range of financial solutions and services: deposits, loans, investments, consulting, advisory and other services. We are focusing on the Montenegrin market while offering clients who are active abroad financial services and advisory services via the Erste Group subsidiaries across the CEE region. The bank fosters long-term relationships with clients in all segments, offering accessible and transparent products as well as personalised consulting services.

[www.erstebank.me](http://www.erstebank.me)



**FINVEO Montenegro** is a multi-asset brokerage house regulated in

Montenegro, which started its activities in 2020 as a subsidiary of INVEO Investment Holding, a leading Financial Services Investment Holding company based in Istanbul, which has over 30 years of experience in providing financial services with further multi-asset brokerage houses around the globe. FINVEO provides multi-asset brokerage services to its clients across the globe with possibility to trade worldwide markets 24h for 5 days a week, offering a wide range of financial products, with low-cost and competitive pricing, fast and secure

executions, and excellent customer support in multiple languages. Licensed and regulated by Capital Market Authority of Montenegro, FINVEO also complies with international regulations prescribed by European Securities and Markets Authority (ESMA) which guarantees its clients with the most secure and safe investments in European Union standards. Having a larger vision from its mother company INVEO (BIST:INVEO), FINVEO brand aims to provide an easy multi-asset brokerage access to all size of clients on every asset class trading in global capital markets.

[www.finveo.mn](http://www.finveo.mn)



**Menzies Aviation** is a global leader in ground services, cargo and fuelling services.

The company has been developing since 1833. Today, Menzies Aviation delivers its services at 256 airports, in 58 countries, across 6 continents and it has 35 000 highly qualified employees. The company serves 600.000 flights and 2 million tons of cargo (freight) on annual basis.

The highest safety and security standards are our priority in

daily operations.

Our portfolio includes the recognised air operators such as American Airlines, United Airlines, Air Canada, Air France-KLM, Cathay Pacific, Emirates, Flydubai, Air China, Qatar Airways, Qantas, Southwest, Wizz Air, Air and many others. Menzies Aviation is present in Montenegro since August 2022 and it delivers its services at the airports Podgorica and Tivat.

[www.menziesaviation.com](http://www.menziesaviation.com)



With its great experience and professionalism in the insurance industry, acknowledged financial strength and strong partnership with its parent company, Generali Group, **Generali osiguranje Montenegro** offers all types of non-life insurance products. The business of Generali osiguranje Montenegro encompasses a broad range of products and services, from mass-risk products (e.g. motor third-party liability insurance and accident insurance) to insurance of very complex industrial plants, and from family protection insurance policies to insurance contracts which meet the complex needs of com-

panies. Generali osiguranje Montenegro offers good business solutions in the area of insurance for large companies, medium and small enterprises and institutions in all business areas. The recognisable market appearance of Generali osiguranje Montenegro is further strengthened by the company's claims payment efficiency. With the aim of becoming the market leader and in compliance with the responsibilities assigned to company by the Generali Group, Generali osiguranje Montenegro is actively working on developing new insurance products which have not been present in our market so far.

[www.generali.me](http://www.generali.me)



**HARRISONS** was the first international law firm to open offices in Montenegro, and remains the only English law firm practicing in Montenegro, where they have undertaken more high-level privatisations / foreign investment project since 2000, than any other law firm. The firm's principal, Mark Harrison, has been working in Montenegro since 1996, when he acted for the Government on the country's first ever privatization, that of the Niksic (Trebjesa) brewery to Interbrew. Thereafter Montenegro embraced privatisation and for 4 years Harrissons advised the Montenegrin Government, through the firm's appointment as sole legal adviser to the Tender Commission and the Privatisation Council. The firm is involved on almost every major Real Estate/Tourism matter on the coast in Montenegro. It has underlined its status as the leading law firm for MENA investors, as it

now acts for companies from, inter alia, Abu Dhabi, Dubai, Oman, Qatar and Egypt.

Their real estate practice is complemented by commercial work for major Montenegrin companies, in addition to advising EBRD, IFC and DEG on numerous financing and equity projects over the years.

Likewise, it is perceived as the market leader in Capital Markets work, and was appointed on the first two Eurobond issues by the Montenegrin Government and on other loans by commercial banks to the Government.

To complement their activities in the Balkans and in particular their position in the financial, banking and capital markets' sector, Harrissons has an office located in the financial heart of the City of London, giving them the unique advantage of being the only law firm with offices in England, Montenegro and Serbia.



**Henley & Partners** is the global leader in residence and citizenship planning. Each year, hundreds of wealthy individuals and their advisors rely on our expertise and experience in this area. Our highly qualified professionals work together as one team in over 30 offices worldwide.

The concept of residence and citizenship planning was created by Henley & Partners in the 1990s. As globalization has expanded, residence and citizenship have become topics of significant interest among the increasing number of internationally mobile entrepreneurs and investors whom we proudly serve every day.

Trusted by governments, the firm also runs a leading government advisory practise that has raised more than USD 8 billion in foreign direct investment. We have been involved in strategic consulting and the design, set-up, and operation of the world's most successful residence and citizenship programs. While its origins date back more than 45 years, Henley & Partners as it is today was formed in 1997 as a result of a merger between a private client immigration consultancy and a fiduciary company. The group companies, as well as most of our individual partners, directors, and senior officers, are, where applicable, regulated by the respective authorities in their countries of operation. They are also members of various professional associations such as the Investment Migra-

tion Council, the Society of Trust and Estate Practitioners, The International Tax Planning Association, the International Fiscal Association, and the Fédération Internationale des Administrateurs de Biens Conseils et Agents Immobiliers.

We provide a range of services that are essential to protecting and growing our clients' wealth. However, as we often act as close advisors to our clients, we intentionally refrain from offering investment advice or asset management. In these sectors, we work with many of the world's leading banks and most successful investment managers.

Henley & Partners' office in Montenegro was established in November 2018, and the Government of Montenegro officially launched its citizenship-by-investment program in January 2019 as part of its ongoing efforts to attract foreign direct investment and increase economic activity in the country. In March 2019, the government-appointed Henley & Partners as one of the official global concessionaires of the program.

The World Bank classifies Montenegro as one of the fastest-growing Balkan economies, and the nation is quickly establishing itself as a key strategic destination for some of the world's most important industries. Through our involvement in the citizenship-by-investment program, Henley & Partners aims to cement the country's global stature.



**Hipotekarna Bank** has a well-developed network of branches, sub-branches, multi-function ATMs and electronic banking (HB and mHB klik) services through which it provides to both retail and corporate clients a wide spectrum of financial services that range from traditional banking services to consultancy, but which also includes investment banking

services. With its state-of-the-art banking technologies and services, the bank is clearly focused on the future.

Our priorities remain unchanged and include the security of our clients, as well as the best and most innovative services, which has earned us a distinct reputation in the Montenegrin banking market.

[www.hipotekarnabanka.com](http://www.hipotekarnabanka.com)



**JUGOPETROL AD** is the largest petroleum products company in Montenegro, operating the country's largest installation in Bar. The company owns and operates a network of 40 EKO-branded petrol stations and supply facilities in three harbours and two airports. The EKO Retail Network offers EuroDiesel and Unleaded 95 and 98, using the Avio Diesel and EKONOMY 95 brands. JUGOPETROL was established in Kotor, Montenegro in

1947. In October 2002, HELLENIC PETROLEUM GROUP acquired 54.53% of JUGOPETROL A.D. KOTOR through HELLENIC PETROLEUM INTERNATIONAL AG. In December 2014, the company moved its seat and headquarters to Podgorica, the capital of Montenegro, and was renamed JUGOPETROL AD. JUGOPETROL AD is listed on the Montenegrin Stock Exchange.

[www.jugopetrol.co.me](http://www.jugopetrol.co.me)

karanovic/partners

**Karanovic & Partners** has been present in the Montenegrin market since 2006, operating from its office in the centre of Podgorica. Working in cooperation with the experienced Montenegrin lawyers, our legal advisors in Montenegro are ideally placed to provide a wide range of corporate

and commercial legal services to national and international clients. The Montenegrin team is specialised in providing investors, particularly those in the hospitality and tourist sectors, with legal support in the areas of corporate law, real estate, banking and finance and infrastructure development.

[www.karanovicpartners.com](http://www.karanovicpartners.com)



**Lovćen osiguranje AD Podgorica**, a member of the Triglav Group (Lovćen Insurance, joint stock company), a leading insurance-financial group in the Adriatic region and one of the leading groups in South-East Europe, is the first and the only insurance company in Montenegro to provide all types of insurance. As the leader in the Montenegrin insurance market, we are a byword for safety, responsibility, professionalism, simplicity and modernity.

The company's mission is BUILDING A SAFER FUTURE for its stakeholders, while being committed to responsible and

sustainable development. The cornerstone of the company is its team of over 350 employees, who achieve the Lovćen Group's (Lovćen osiguranje, Lovćen životna osiguranja and Lovćen auto) mission through their commitment, expertise and dedication. The company is distinguished by its knowledge, experience and excellence towards clients, employees, shareholders and other stakeholders.

We believe that with our knowledge in the field of insurance we can provide our clients from both the national and regional markets with products and services that can meet their life and business goals.

[www.lo.co.me](http://www.lo.co.me)



**Luštica Bay**, the biggest greenfield investment in Montenegro, is set to become the home of healthy, active living on the Adriatic coast. Designed to blend seamlessly into its surroundings, it will become a permanent home to several thousand residents. It comprises a variety of residential offers, hotels and lifestyle facilities, providing both: tranquility and privacy, discovery and adventure.

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Our properties are state-of-the-art both inside and out, impeccably designed and furnished, offering world-class amenities. Their positioning fits in with the topography of the hillsides so that all residences boast incredible views of the bay and the sea. They are surrounded by glorious open spaces, preserved in their natural state. Green trails and footpaths weave through the residential areas, connecting them to the wider community and main marina.

[www.lusticabay.com](http://www.lusticabay.com)



**Mastercard** (NYSE: MA), [www.mastercard.com](http://www.mastercard.com), is a technology company in the global payments industry. We operate the world's fastest payments processing network, connecting consumers, financial institutions, merchants, governments and businesses in more than 210 countries and territories. Mastercard products and solutions make everyday commerce activities – such as shopping, traveling, running a business and managing finances – easier, more secure and more efficient for everyone. Follow us on Twitter @MastercardNews, join the discussion on the Beyond the Transaction Blog and subscribe for the latest news on the Engagement Bureau.

Mastercard has been leading the development of a modern, digital and transparent payments ecosystem in Montenegro through building strong partnerships with the public and private stakeholders on the local market. In that sense, 2018 was a stand-out year with the Balkans premiere of introducing card payments with traffic wardens and border patrols, as well as the high growth of usage of Mastercard contactless technology of 133 percent per annum, above the European average of 97 percent. Mastercard continues to provide its global technologies, experience and expertise to ensure that the cashless society in Montenegro is realised in its full potential..

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[www.mastercard.com](http://www.mastercard.com)



**Montenegro Stars HG** was established in 2003. The initial capital of the company amounted to approximately €150 million. The company owns three hotels, which are located in Budva and Becici, namely:

- 5-star-category Hotel **SPLENDID** with a total capacity of 688 beds
- 4-star-category Hotel **MONTENEGRO** with a total capacity of 352 beds
- 4-star-category Hotel **BLU STAR** with a total capacity of 54 beds

The company has a total of 590 employees.

At the same time the company introduced all the HACCP and USALI business standards, standards in security and safety, and in the field of ecology and environmental protection that exist now in the tourist industry.

Montenegro Stars HG has won all the most important national and many prestigious international awards in the hotel industry, and is a leader in the tourist industry of Montenegro..

[www.montenegrostars.com](http://www.montenegrostars.com)



**M:tel** company was granted a licence for the third telecom operator in Montenegro in April 2007. The structure of m:tel owners is the following: 51% belongs to Telekom Srbija and 49% to Telecom of the Republic of Srpska. The network commenced commercial operations on 9 July 2007 and 16 branches have been opened in 14 cities of Montenegro so far. Even though m:tel is the youngest mobile operator in Montenegro, it has expanded the points of sale system to the extent of having the largest number of retail checkpoints. Apart from providing mobile telephony services, m:tel company has also offered services of landline telephony and Internet. In particular, we can highlight the competitive and high quality offer in the segment of cable services. With m:box packages that combine landline and mobile telephony, Internet and digital television, customers get a combination of all telecommunication services in one place with one bill

and excellent price.

Since entering the Montenegrin market, m:tel is recognized not only for its quality service, affordable prices, friendly, open relationship with its customers, but also for its leading role in introducing new technologies and services.

MTEL continuously invests in the development of technologies that allow access to the service portfolio in rural areas. In addition to further development of mobile networks, company invests significantly in the fixed network. We invest in the development of optical infrastructure and base stations for LTE signal.

As a socially responsible company, m:tel participates actively in the daily progress of the Montenegrin society, contributing to the development of the community, therefore the company provides special support for social, cultural, educational, health and sports programs and initiatives.

[www.mtel.me](http://www.mtel.me)



**NLB Banka AD Podgorica** is a member of the NLB Group, which is the largest Slovenian financial group comprising 369 offices, more than 6,000 employees and almost two million clients. Besides Slovenia, the NLB Group operates in six markets throughout South-East Europe. The tradition of NLB Banka AD Podgorica's presence is more than a century long and dates back to 1905. Nowadays it is one of the leading banks in the Montenegrin market in which, through its 19 branches

and offices, its more than 300 employees deliver services to clients in 13 cities throughout the country. NLB Banka operates as a universal banking institution offering banking services to private corporate clients and public institutions. With the implementation of the mBanking solution, the bank was a pioneer in offering mobile e-banking within the Montenegrin market, and innovations and digitalisation will also be the guiding strategic principles in NLB Banka's future.

[www.nlb.me](http://www.nlb.me)



**Ocean Montenegro** is company which performs port services of tug-ging/towing, pilotage and mooring/unmooring of the ships.

As daughter company of Port of Bar, it has been privatized on 2010 on a public tender by consortium Interlog doo Bar and Ocean Srl Trieste for 2.5 mil eur.

For this short period investors has significantly increased the quality of all three services and together with tariff policy they

gave to the port of Bar new dimension of competitive, high professional and above all, safe port.

Company has 35 employees and is acting as part of Ocean Team (16 companies) which, beside Bar, this kind of services performs in Trieste, Koper, Porto Nogaro and Monfalcone. Ocean Montenegro is proudly member of European associations such as EBA (european boatman association), ETA (european tugowner association) and EMPA (european marine pilots' association).

[www.ocean-montenegro.com](http://www.ocean-montenegro.com)



**The group Payten SEE** is one of the largest operators in South-Eastern Europe in terms of revenue derived from sales of its software and services. We came into being as a result of the integration of the experience, knowledge and solutions of major segment leading IT companies operating in the region.

Our vision is to become no. 1 solution provider by understanding and being able to support and subsequently outsource complete business processes of the clients.

Today ASEE Group operates mainly in the following segments of the information market:

Banking software solutions and services including omnichannel solutions, integrated core banking systems based on the Oracle and Microsoft platforms as well as authentication

security solutions, reporting systems for regulatory compliance and managerial information, as well as risk management systems.

Payment industry solutions, services and outsourcing for non-financial and financial institutions, including eCommerce related solutions, mPayments, Processing as well as ATM and POS related services.

System integration solutions and services for financial, industry, public administration telecommunication and utility sectors with the following business lines: development of IT infrastructure, implementations and support, ensuring continuity of business processes, automation of operations, and customized software development.

[www.payten.com](http://www.payten.com)



At **PwC**, our purpose is to build trust in society and solve important problems. We are a network of firms in 157 countries with more than 223,000 people, who are committed to delivering quality in assurance, advisory and tax services. At PwC Montenegro, our service offerings have been organ-

ised into Lines of Services: Audit Services, Advisory Services, Human Resource Services, Tax Services, Valuation and Strategy, Tax Management & Accounting Services and Risk Assurance. Each Line of Service is staffed with highly qualified, experienced professionals, whose aim is to help their clients build value, manage risk and improve performance.

[www.pwc.com](http://www.pwc.com)



**Ramada Podgorica** is situated in the heart of the city of Podgorica, a three-minute drive from the city centre and a five-minute stroll from the lush riverside. The hotel is located adjacent to the Mall of Montenegro and is only 15 minutes away from Podgorica International Airport. Ramada Podgorica City Hotel was the first international chain hotel in Podgorica, and as such it plays host to key business, government and media figures from around the globe.

Our local and international hotel staff and the high-quality service we offer will make your stay in Podgorica truly enjoyable. Ramada Podgorica features 110 modern hotel rooms in Montenegro designed in accordance with Ramada standards. With over 550 m<sup>2</sup> of conference and meeting space, Ramada Podgorica is the city's most sought-after venue for conferences, meetings, incentives and celebrations. The hotel features one ballroom, two meeting rooms and two boardrooms.

[www.ramadapodgorica.me](http://www.ramadapodgorica.me)



**Saga CG d.o.o.** Podgorica, founded by Saga d.o.o. Beograd, works from April 2007 with full support of mother company. In cooperation with Saga d.o.o. Beograd offers best solutions for clients in managing IT environment. In 2009, Saga has become a part of New Frontier Group - the most promising group of ICT companies in Central and Eastern Europe. Our representative clients are from telecommunications, fi-

ancial and public sectors and manufacturing industries. Activity: design, construction, integration and maintenance of IT systems • Network and Telecommunication Solutions (Telco / Carrier / Enterprise) • Systems to support operational and business processes of telecom operators (OSS / BSS) • Contact centers • Business Solutions (ERP, CRM, Content & Document Management., DWH / BI) • Development of business applications (e-banking, payment systems ...).

[www.saga.me](http://www.saga.me)



**The Joint Stock Company Sava Insurance** has been successfully operating in the Montenegrin market for 18 years, and provides non-life insurance of the highest quality and safety. Sava Insurance Company is 100% owned by Reinsurance Company Sava Re, which is Slovenia's largest reinsurer and also the largest reinsurer in the region. The company's key advantages include 40 years of experience, an international reputation, good performance and stability of operations. Under the auspices of the Sava Insurance Company, in addition to the Directorate, there are branch offices operating in Herceg Novi, Kotor, Tivat, Budva, Bar, Ulcinj, Podgorica, Nikšić, Danilovgrad, Cetinje, Bijelo Polje, Berane, Rožaje and Pljevlja.

Sava Insurance Company Podgorica provides property and personal insurance products. Its property insurance products include household insurance products; its personal insurance products include accident and travel health insurance products; and its motor vehicle insurance products include motor third-party liability and motor hull insurance products.

Each client is provided with unique coverage solutions tailored to their particular requirements and expectations. By customising the coverage, Sava Insurance ensures that its clients have the best protection available. Sava Insurance is dedicated to protecting its clients' best interests and to building partnerships for generations.

[www.sava.co.me](http://www.sava.co.me)



**VAS Invest D.O.O Budva** is SPV which develops luxury resort in Montenegro named – Smokva Bay Resort. Smokva Bay Resort will become Montenegro's most highly anticipated

premier development, overlooking the expansive beauty of the Adriatic Sea and anchored by the world-class Raffles hotel. It will become the first private, gated resort community in Montenegro offering luxury branded and private residences in the seclusion of a pristine, natural coastline.





**S & T** deals with realization of complete IT solutions, systems integration, providing IT consulting services,

and support in order to solve the business problems of their clients. S & T in Montenegro was established in August 2002 with 100% capital S & T Group AG. S & T Montenegro operates in business units: Business Solutions (network & security, enterprise systems and outsourcing) and Business Solutions (SW development).

In Montenegro, we offer solutions based on the products of our partners, world-renowned brands such as Microsoft, Oracle, Check Point, Juniper, Entrust, SafeNet, Trend Micro, Digi, ArcSight, Iron Mountain, VmWare, McAfee, Cisco, EMC, HP, IBM, Fujitsu, Hitachi, Imperva, Bosch, Cross-Match, MaxData ...

S & T Montenegro is a unique IT system integrator in Montenegro, with a reputation for reliability, due to the numerous successfully implemented projects in telecommunications

companies, financial institutions, government and public sector and the private sector, among which the most important projects that are of strategic importance for further progress of Montenegro:

- The web portal of the Government of Montenegro [www.gov.me](http://www.gov.me),
- Consolidation of DC and DR in NLB Montenegro,
- Central information corporate security solutions T-Com Montenegro,
- Web portal for On line services of the Government of Montenegro [www.euprava.me](http://www.euprava.me),
- SW solution for the project of vocational training of persons who acquired higher education,
- Implementation of the CA GOV state and central public space CA PKI system,
- Implementation of the SWIS, integrated hardware and software solutions for a system of social protection of Montenegro...



Foldana Financial Institution plays a significant role in the purchase of receivables and factoring operations

in Hungary. Based on the license issued by the Central Bank of Montenegro at the end of 2019, Foldana Financial Doo was registered in Montenegro for the purchase of active and overdue receivables from financial institutions, telecommuni-

cations, and public companies.

Our company primarily collects payment through out-of-court collection, in most cases by rescheduling payments or signing installment agreements, and by reduction of the debt, we try to reach an agreement with debtors. Only in extreme cases do we initiate legal or enforcement proceedings.



**Moravčević Vojnović and Partners in cooperation with Schoenherr**, as one of the largest offices of Schoenherr,

is a leading full-service law firm that has been active on the Montenegrin market since 2003, recognized as a Band 1 law firm by the relevant global legal directories. The office is acknowledged as a longstanding market leader because of its strong track record – regularly undertaking sophisticated

work, both for the Government of Montenegro and numerous prominent private-sector clients.

Our Montenegrin team offers tailor-made legal advice in respect of corporate law issues, high-end complex transactions in the fields of M&A, banking, finance & capital markets, dispute resolution, real estate, IP, competition, and employment matters, as well as legal support in connection with day-to-day business.



**Company Tara Resources AG** is a private, Swiss-based resources company, currently developing the Brskovo Project in Montenegro.

The Brskovo Project, located in Mojkovac Municipality, has the potential to be one of the largest and lowest cost open-pit zinc mines in Europe, producing zinc, lead and copper concentrates.

Mojkovac and the Brskovo mine has a long mining history, with silver mining and minting operations first recorded in the thirteenth century. These operations turned Brskovo into a

major European trade centre and a source of wealth in the local kingdom.

Since acquiring the project in 2018, Tara Resources has completed confirmatory resource drilling to confirm and grow the mineable resource, metallurgical test work and environmental studies, and a Preliminary Economic Assessment. Tara Resources is currently advancing the Feasibility Study for the project, as well as all requisite local project permits and approvals. The project is well serviced by road, rail and power, close to international ports, and has access to a local population experienced with mining.



**Terna Crna Gora** carries out activities regarding the implementation and management of the electricity interconnection between Italy and Montenegro, and promotes development opportunities in the transmission sector for the

Balkans area.

The company is entirely owned by Terna SpA, the top independent operator in Europe and sixth in the world by virtue of the length of HV transmission lines managed.

[www.terna.it](http://www.terna.it)

[www.terna.it](http://www.terna.it)



One brand in Montenegro is presented in 2022 as a part of 4iG group which is one of the leading companies in the Hungarian ICT market and at the same time it represents the tradition of the first mobile network in Montenegro established in 1996. Last year, it has placed itself at the market as a recognisable brand by bringing fresh and new way of communication, and by promoting transparency as one of its key values.

Putting its user experience as priority, One Crna Gora infrastructure covers all the municipalities in Montenegro with fast and reliable Internet. For two consecutive years (2020 and 2021) the company was awarded BEST IN TEST reward that includes independent measurement of the mobile networks quality conducted by the international company UMLAUT.

Focused on the future, One Crna Gora has provided the ideal resources for the implementation of 5G mobile network of high performance and capacities. At the successfully completed spectre auction organised by the Agency for electronic communication and postal services (EKIP), the company provided frequencies at 700 MHz and 3600 MHz for the period of 15 years. This investment of almost 3 million EUR is a resource for further strategic development of the company and at the same time it is just one of the steps towards further investments in infrastructure.

In 2022, the company generated sales income of 55 million EUR and showed a great social responsibility and it was given the award "Briga za zajednicu / Care for community" handed by the Employers' Association of Montenegro.

[www.one.me](http://www.one.me)



The brewery "Trebjesa" Ltd. Nikšić, producer of one of the most famous Montenegrin brands - Nikšićko Pivo, is a part of the Molson Coors Brewing Company, the world's third largest brewer. The origins of what we now know as Nikšićko Pivo date back to 1896. Trebjesa's portfolio consists of locally produced beers: Nikšićko Pivo, Nikšićko Gold, Nikšićko Cool Lemon, Nikšićko Cool Grapefruit, Nikšićko Nefiltrirano and Onogošt. Jelen and Apatinsko Pivo are brewed by licence and

our portfolio is enriched by some of the most famous world beer brands such as Staropramen, Corona, Becks, Leffe, Hoegaarden, Stella Artois and Löwenbräu.

Trebjesa plays a vital role in the national economy and contributes to development through various sponsorships, donations and local community projects.

The Chamber of Commerce gave an award to Trebjesa Brewery recognising it as the most successful company in 2016 in Montenegro.

[www.pivaratrebjesa.com](http://www.pivaratrebjesa.com)



Scotch Whisky International Montenegro is the part of the Scotch Whisky Investments. SWI is an international trading house for rare Scotch Single Malt Whisky - one of the most stable growing alternative investment globally. With more than 20 years of expertise, strong buying position with Scottish distilleries and sharp focus on the future, Scotch Whisky Investments has all the tools necessary to help investors diversify their investment portfolio.

Currently Scotch Whisky Investment manages whisky assets worth over 170 million euros. The Company also owns and

manages the first online whisky stock exchange The SWEX. In Montenegro, SWI established Scotch Whisky Investors Club in Luštica Bay complex, for the region of SEE Europe, acting as bypass between investors from SEE region and HQ in the Netherlands.

The company holds the license from the Dutch Authority for the Financial Markets (AFM) and all investment agreements are signed with the Dutch HQ and financial transaction are conducted with the SWI account in the Netherlands.

You are welcome to the Scotch Whisky International in Luštica Bay to talk about your possible investment in rare Scotch Single Malt Whisky.



Port of Adria JSC is a member of Global Ports Holding. Company's core business is handling and storing of containers and all types of general cargoes on the area of 520.000m<sup>2</sup>. It has completely equipped technological segments - Container Terminal, General Cargo Terminal, Timber Terminal, Ro Ro Terminal and Cruise Terminal with total of 9 berths. It has 12 warehouses with total area of 76.732m<sup>2</sup>, as well as open storage with

total area of 163.390m<sup>2</sup>. On all its piers, it is possible to moor different types of ships according to international standards. Complete area is fenced, covered by CCTV, thus providing high security for goods and provision of handling activities. The Company is doing business in accordance with the international standards IMS (ISO 9001, ISO 14001 i OHSAS 18001) and ISPS.

[www.portofadria.me](http://www.portofadria.me)







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